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TULE LAKE, LOWER KLAMATH, AND UPPER KLAMATH  
NATIONAL WILDLIFE REFUGES

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
IRRIGATION AND RECLAMATION  
OF THE  
COMMITTEE ON  
INTERIOR AND INSULAR AFFAIRS  
UNITED STATES SENATE  
EIGHTY-SEVENTH CONGRESS  
SECOND SESSION  
ON  
**S. 1988**

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A BILL TO AID IN THE ADMINISTRATION OF THE TULE LAKE,  
LOWER KLAMATH, AND UPPER KLAMATH NATIONAL WILD-  
LIFE REFUGES IN OREGON AND CALIFORNIA, AND FOR OTHER  
PURPOSES

FEBRUARY 23, 1962

Printed for the use of the  
Committee on Interior and Insular Affairs



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# TULE LAKE, LOWER KLAMATH, AND UPPER KLAMATH NATIONAL WILDLIFE REFUGES

FRIDAY, FEBRUARY 23, 1962

U.S. SENATE,  
SUBCOMMITTEE ON IRRIGATION AND RECLAMATION  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 3110, New Senate Office Building, Senator Clinton P. Anderson (chairman) presiding.

Present: Senators Clinton P. Anderson (New Mexico), John A. Carroll (Colorado), Thomas H. Kuchel (California), and James B. Pearson (Kansas).

Also present: Senators Alan Bible (Nevada) and Henry Dworshak (Idaho).

Also present: Stewart French, chief counsel; Roy M. Whitacre, professional staff member; Benton Stong, professional staff member; and Jerry Verkler, chief clerk.

The CHAIRMAN. The committee will please come to order.

The meeting this morning has been called at the request of Senator Kuchel to hear testimony on S. 1988, a bill to aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes.

Reports have been received from the Department of Agriculture and the Department of the Interior. Agriculture states that it has no objection to the enactment of the bill. The Department of the Interior urges the enactment if amended as suggested in the report.

For the convenience of the committee I have instructed the staff to have prepared a committee print of the proposed legislation including the suggested departmental amendments. These are now available to the committee and any interested persons.

Copies of the bills and the reports of the executive agencies will be placed in the record at this point, including the Executive orders of Presidents Theodore Roosevelt, Woodrow Wilson, Warren G. Harding, Calvin Coolidge, and Franklin D. Roosevelt.

(The material referred to by the chairman follows:)

[S. 1988, 87th Cong., 1st sess.]

A BILL To aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal Reclamation project, Oregon and California, as well as the administration and management of the Klamath Federal Reclamation project and the Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and*

Tule Lake National Wildlife Refuge, to preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific Flyway, and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States.

SEC. 2. Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Tule Lake National Wildlife Refuge are hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior primarily for waterfowl management purposes, and shall not be opened to homestead entry. The following public lands shall also be administered by the Secretary of the Interior primarily for waterfowl management purposes and shall not be opened to homestead entry: Hanks Marsh, and first form withdrawal lands (approximately one thousand four hundred and forty acres) in Klamath County, Oregon, lying adjacent to Upper Klamath National Wildlife Refuge; White Lake in Klamath County, Oregon, and Siskiyou County, California; and thirteen tracts of land in Siskiyou County, California, lettered as tracts "A," "B," "C," "D," "E," "F," "G," "H," "I," "J," "K," "L," and "N" totaling approximately three thousand two hundred and ninety-two acres, and tract "P" in Modoc County, California, containing about ten acres, all as shown on plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956, prepared by the U.S. Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States.

SEC. 3. Fifty cents per acre shall be paid on all reserved public lands lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge, to the counties within which such refuges are located, beginning with the fiscal year 1962: *Provided*, That the total annual payment per acre to each county shall not exceed three-fourths of the average per-acre tax levied on similar lands in private ownership in each county: *Provided further*, That no such payments shall be made which will reduce the contractual obligations of the United States with the Tulelake Irrigation District or the Klamath Drainage District.

SEC. 4. The Secretary of the Interior shall retain in the Bureau of Reclamation or other bureau or agency within the Department of the Interior the full authority to lease the reserved public lands lying within the Executive order boundaries of the Lower Klamath and the Tule Lake National Wildlife Refuges. Leases for agricultural purposes shall provide for the growing of grains, forage, and soil-building crops, except that not more than 25 per centum of the leased lands may be planted to row crops.

SEC. 5. The area of the water surface of the active sumps in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or any other means to less than the existing thirteen thousand acres.

SEC. 6. In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters under the control of the Secretary of the Interior shall be so regulated as to provide the quantity necessary (1) to maintain sump levels, as established by contractual rules and regulations, in the Tule Lake National Wildlife Refuge, and (2) to maintain the ultimate developments in the Upper and Lower Klamath National Wildlife Refuges which, in the judgment of the Secretary of the Interior, will provide biologically suitable habitat for waterfowl utilization.

[Committee Print, February 16, 1962]

[Amendments proposed by Interior Department shown in italic]

[S. 1988, 87th Cong., 2d sess.]

[Omit the part in black brackets and insert the part printed in italic]

A BILL To aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is hereby declared to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal Reclamation project, Oregon, and California, as well as the administration and

management of the Klamath Federal Reclamation project and the Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and Tule Lake National Wildlife Refuge, to preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific Flyway, and to prevent deprivations of migratory waterfowl on agricultural crops in the Pacific Coast States.

SEC. 2. Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Tule Lake National Wildlife Refuge are hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior [primarily for waterfowl management purposes, and shall not be opened to homestead entry. The following public lands shall also be administered by the Secretary of the Interior primarily for waterfowl management purposes and] *for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry. The following public lands shall also be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry: Hanks Marsh, and first form withdrawal lands (approximately one thousand four hundred and forty acres) in Klamath County, Oregon, lying adjacent to Upper Klamath National Wildlife Refuge; White Lake in Klamath County, Oregon, and Siskiyou County, California; and thirteen tracts of land in Siskiyou County, California, lettered as tracts "A," "B," "C," "D," "E," "F," "G," "H," "I," "J," "K," "L," and "N" totaling approximately three thousand two hundred and ninety-two acres, and tract "P" in Modoc County, California, containing about ten acres, all as shown on plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956, prepared by the U.S. Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States.*

【SEC. 3. Fifty cents per acre shall be paid on all reserved public lands lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge, to the counties within which such refuges are located, beginning with the fiscal year 1962: *Provided*, That the total annual payment per acre to each county shall not exceed three-fourths of the average per acre tax levied on similar lands in private ownership in each county: *Provided further*, That no such payments shall be made which will reduce the contractual obligations of the United States with the Tulalake Irrigation District or the Klamath Drainage District.】

SEC. 3. *Subject to conditions hereafter prescribed, and pursuant to such regulations as may be issued by the Secretary, 25 per centum of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each full fiscal year after the date of this Act to the counties in which such refuges are located, such payments to be made on a pro rata basis to each county based upon the refuge acreage in each county: Provided, That the total annual payment per acre to each county shall not exceed 50 per centum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary: Provided further, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulalake Irrigation District or the Klamath Drainage District, and the priority for the use of the net revenues shall be—(1) to pay or credit to the Tulalake Irrigation District the amounts already committed to such payment or credit, and (2) to pay to the Klamath Drainage District the balance thereof until the sum of \$180,000 shall have been paid as full reimbursement for the construction of irrigation facilities to the lands involved.*

SEC. 4. 【The Secretary of the Interior shall retain in the Bureau of Reclamation or other bureau or agency within the Department of the Interior the full authority to lease】 *In carrying out the policy of this Act, the Secretary of the Interior shall retain full authority to lease for agricultural purposes the reserved public lands lying within the Executive order boundaries of the Lower Klamath and the Tule Lake National Wildlife Refuges. Leases for agricultural purposes*

shall provide for the growing of grains, forage, and soil-building crops, except that not more than 25 per centum of the leased lands may be planted to row crops.

Sec. 5. [The area of the water surface of the active sumps in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or any other means] *The areas of sumps 1(a) and 1(b) in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or by any other construction to less than the existing thirteen thousand acres.*

Sec. 6. In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters under the control of the Secretary of the Interior shall be so [regulated as to provide the quantity necessary (1) to maintain sump levels, as established by contractual rules and regulations, in the Tule Lake National Wildlife Refuge, and (2) to maintain the ultimate developments in the Upper and Lower Klamath National Wildlife Refuges which, in the judgment of the Secretary of the Interior, will provide biologically suitable habitat for waterfowl utilization.] *regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by contract and regulations pursuant thereto, which shall be levels that in the judgment of the Secretary are adequate and practicable for waterfowl management purposes.*

Amend the title so as to read: "A bill to promote the conservation of the Nation's wildlife resources on the Pacific Flyway in the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California."

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., November 14, 1961.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR ANDERSON: Your committee has requested a report on S. 1988, a bill to aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes.

We urge the enactment of this proposal, if amended as hereafter suggested in this report.

The purpose of this bill is to provide a more permanent basis for the management of resources within three national wildlife refuges in the Klamath Basin area of California and Oregon. This would be accomplished in part by stabilizing the ownership of land in the Klamath Federal reclamation project. These wildlife refuges are important segments of the Nation's wildlife refuge system because of their strategic location on the Pacific flyway, as hereafter explained. This Department is concerned with the effective operation of the wildlife refuges as well as the reclamation project.

Operation of these refuges is closely interwoven with operations of the Klamath reclamation project and related activities. For this reason, we believe this proposed legislation should give due emphasis to wildlife conservation as well as to reclamation activities in the area. Our proposed amendments to this bill are designed to accomplish this purpose. If this bill is enacted in the form that we recommend, we believe that a satisfactory basis will be established for cooperative operation of natural resources in the area.

Administration of natural resources within this region necessarily requires adjustments relating to the use of such resources. Wildlife conservation has been carried out satisfactorily most of the time since the three refuges were established. Reclamation activities also have proceeded satisfactorily. However, questions have arisen from time to time relating to the availability of land and water for wildlife refuge purposes and the procedures under which such resources are to be made available for such purposes. In the circumstances, we believe the enactment of this bill, with the amendments that we suggest, will establish suitable guidelines for harmonious and cooperative use of natural resources in the area. The critical needs of wildlife conservation and the advanced stage of the reclamation project indicate the desirability of this proposal.

We are confident that with the full cooperation of the particular Federal agencies concerned and the private irrigation districts, who are contracting parties with the Secretary of the Interior pursuant to the Reclamation law, that satisfactory operation of all conservation activities in the basin can be accomplished.

Section 2 of the bill, if amended as we recommend, will provide that the lands owned by the United States within the boundaries of the three wildlife refuges shall be administered for the major purpose of waterfowl management but with full consideration to optimum agricultural use that is consistent therewith. The bill provides that such lands shall not be open to homestead entry. This section also lists a number of tracts of public land lying adjacent to the three refuges. Some of these tracts should be developed as waterfowl habitat or to augment public shooting grounds. Additional tracts should be developed intensively for waterfowl use. The latter group includes the Klamath Straits unit, the Sheepy west unit, the Sheepy east unit, and the Miller Lake tract, all lying within the boundary of the Lower Klamath refuge.

Section 3, if amended in accordance with our recommendations, will provide for the payment of a portion, not to exceed 25 percent, of the net revenues collected from the leasing of lands within the boundaries of the Lower Klamath and the Tule Lake refuges to the counties in which such refuges are located. Expenditures by local governments in the refuge areas for education, highways, public welfare, hospitals, fire protection, sewage and water supply would be small to negligible. As these items comprise approximately 75 percent of the total local governmental expenditures, we believe that payments to the counties of a portion of the lease revenues should not exceed 50 percent of the taxes on similar private land. Our revision contains provisions that are designed to assure the carrying out of contractual obligations of the United States with the Tulelake Irrigation District or the Klamath Drainage District by virtue of their construction of irrigation facilities over Federal lands in the area.

Section 4, which we recommend be amended for purposes of clarification, would merely reaffirm the present authority of the Secretary of the Interior to lease reserved Federal lands within the boundaries of the wildlife refuges for the growing of grain and other crops consistently with the procedures that are now being followed.

Sections 5 and 6, with the amendments that we suggest, will be helpful in stabilizing wildlife operations generally, with full recognition to contractual obligations entered into or established pursuant to reclamation law.

We recognize the need to provide permanency to the operations of the three wildlife refuges in question. These refuges are among the Nation's most important and are vital to the welfare of the waterfowl population of the Pacific flyway. At times this area provides feeding and resting facilities for more than 7 million ducks and geese during migration. This is the greatest concentration point for waterfowl in North America. About 80 percent of the waterfowl in the Pacific flyway pass through the area, and nine-tenths of the birds that use the Upper Klamath Basin concentrate on Tule Lake and Lower Klamath, the two principal Federal refuges. For these reasons, it is highly important that the availability of resources for waterfowl management be stabilized as much as possible.

In addition to their conservation value, the waterfowl resource has a significant economic and recreational value. The sport of waterfowling at refuge public shooting grounds and throughout the Pacific flyway from Alaska and Canada to Mexico brings into commercial channels substantial sums of money each year. Also, the spectacular sight of millions of ducks and geese, and thousands of other water and marsh birds in one area on the Federal refuges of the Upper Klamath Basin, is a prime tourist attraction.

These wildlife refuges perform an additional important service in preventing crop depredations. Refuge crops not only hold the birds until local fields can be harvested, but also delay their migration to the wintering grounds. While the birds are stopping over in the basin, farmers in the Central and Imperial Valleys of California can harvest their crops without serious depredation problems. Any substantial reduction in the food supply for waterfowl in the Upper Klamath Basin would cause an earlier migration to the Central Valley with serious losses to ripening rice and other crops.

This proposal with our suggested amendments will give due emphasis to reclamation and agricultural benefits as well as wildlife conservation activities in the Klamath Basin. This is desirable because the Klamath Federal reclamation project has made many important contributions to the Klamath Basin

area. In fact, development of the Klamath project has benefited greatly our wildlife conservation activities and is the principal basis for the stable economy of the area. Prior to the Federal reclamation project, which began shortly after the turn of the century, the area consisted of an isolated frontier town of 450 persons. There were few roads and no railroads in the area. The town was supported by a few scattered ranches and a struggling lumber industry. Construction of the Federal project began in 1906 with the building of the main A canal and water was made available in 1907 to the lands now known as the main division. Subsequent development of the construction features of the project includes 3 storage dams, 5 diversion dams, 29 pumping plants, 120 miles of canals, 477 miles of laterals, and 644 miles of drains that serve more than 215,000 acres of productive farmland that provides homes for some 3,000 farm families. Principal crops from these developments are potatoes, vegetables, alfalfa, small seeds, grain, and pasture. In addition to the agricultural and wildlife benefits that have been the outgrowth of the reclamation project, recreational benefits have expanded rapidly in recent years. Picnicking, camping, boating, and fishing are becoming popular in the basin area.

Water supplies for the Klamath project are provided by two main watercourses. One is the Klamath River with its tributaries along the northwest edge of the project. Another is a closed basin consisting of Clear Lake, Tule Lake, and the connecting Lost River, together with tributaries and minor sump lakes. Klamath project facilities divert and distribute water from both of these watercourses to irrigate surrounding lands and control floods in the project area. Through these irrigation developments, the area of the lower Klamath and Tule Lakes has been reduced from 187,000 acres of uncontrolled, alternately flooded, and dry areas of rangeland to approximately 25,000 acres of stabilized lake and marshland that can be managed efficiently for waterfowl purposes.

By 1960, this former undeveloped area produced crops valued at more than \$25 million. The accumulated value of crops grown in the project area has aggregated almost \$443 million, or about 30 times the original project costs. Livestock production also is important in this region. More than a fourth of the project acreage is devoted to the production of feed and forage crops that put 43 million pounds of finished beef on our dining tables—enough to feed 663,000 people for a year. Such beef production provides a saving in transportation costs by providing a local supply for the meat-deficient west coast area. This saving is passed on to the consumer at lower prices. Project farms also furnish winter and emergency feed to the surrounding rangelands, making possible a more efficient use of the range. Lacking this dependable source of feed, ranchers would have to ship in supplementary feeds or liquidate herds at times when natural feed is in short supply.

Retail trade in the area by some 1,200 businesses adds up to almost \$100 million annually. Farmers and the businessmen in the area have returned about \$100 million in Federal internal revenue payments since 1940. Also, more than three-fourths of the cost of Federal construction on the reclamation project has been returned to the Treasury. In these circumstances, we believe it is obvious that the economic growth of the Klamath area had its beginning with the development of irrigation. Such growth has paralleled the increase in irrigated acreage. These reclamation benefits should continue in harmony with other conservation activities in the basin. Equitable use of land and water resources is desirable for both agricultural and wildlife conservation purposes.

Some of the agricultural lands within the reclamation project boundaries have been retained in Federal ownership and farmed pursuant to lease agreements in the best interest of waterfowl management. The key lease area consists of some 15,000 acres within the Tule Lake refuge which has the best production of barley. Approximately 8,800 additional acres within the lower Klamath refuge (principally the Klamath Straits unit) are leased to farmers for agriculture. Also, about 6,000 to 8,000 acres of the less productive lands in these two refuges are farmed by our field personnel or sharecropped under agreement. The grain produced is used by waterfowl, thus aiding in preventing damage to private crops in the vicinity and elsewhere. The marsh and impounded pools of the Klamath refuge also produce vast quantities of essential aquatic duck foods which are heavily used by waterfowl in addition to the grain provided by farming activities.

Upper Klamath Basin continues to be an important concentration area for migratory waterfowl along the Pacific flyway. In addition to the millions of ducks and geese that use the area, Tule Lake and lower Klamath, the two prin-

cial Federal refuges, are important nesting grounds for waterfowl, shore birds, and various marsh-dwelling species. The two refuges produce annually an average of 3,000 Canada geese and 112,000 ducks. Many of these ducks are redheads, a species which is dwindling in numbers over much of its range.

At present, the bulk of the waterfowl (geese, pintails, and mallards) feed largely on waste grain on leased fields in the Federal refuges after the crops are harvested and on unharvested grain grown in the refuges to control crop damage elsewhere. The leases require that a substantial portion of the lands be in cereal crops which provide most of the waterfowl food. These lands are unoccupied and contain no farm structures. The leases also restrict posting of lands, and portions of the leased fields are available to public shooting during the hunting season. If homestead entry were permitted on the presently leased croplands their value as waterfowl habitat would be reduced seriously. Acreages of row crops would be increased, and occupancy of farmsteads by humans and domestic animals would keep much of the wildlife off these lands. The present large units would be broken up by public roads and power and telephone lines—all a hazard to wildlife. In addition, opportunities for public shooting would be lost.

For the convenience of your committee, we enclose a redraft of this bill which incorporates our suggested amendments to carry out the objectives stated in this report. Our amendments, which we believe will be self-explanatory, are as follows:

(1) Page 2, revise lines 9 through 14 to read as follows: "hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry. The following public lands shall also be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened".

(2) Revise section 3 of the bill to read as follows:

"SEC. 3. Subject to conditions hereafter prescribed, and pursuant to such regulations as may be issued by the Secretary, 25 per centum of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each full fiscal year after the date of this Act to the counties in which such refuges are located, such payments to be made on a pro rata basis to each county based upon the refuge acreage in each county: *Provided*, That the total annual payment per acre to each county shall not exceed 50 per centum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary: *Provided further*, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulelake Irrigation District or the Klamath Drainage District, and the priority for the use of the net revenues shall be—

(1) to pay or credit to the Tulelake Irrigation District the amounts already committed to such payment or credit, and

(2) to pay to the Klamath Drainage District the balance thereof until the sum of \$180,000 shall have been paid as full reimbursement for the construction of irrigation facilities to the lands involved."

(3) Page 3, revise lines 19 through 24, inclusive, to read as follows:

"SEC. 4. In carrying out the policy of this Act, the Secretary of the Interior shall retain full authority to lease for agricultural purposes the reserved public lands lying within the Executive order boundaries of the Lower Klamath and the Tule Lake National Wildlife Refuges. Leases for agricultural purposes shall pro—"

(4) Page 4, revise section 5 to read as follows:

"SEC. 5. The areas of sumps 1(a) and 1(b) in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or by any other construction to less than the existing 13,000 acres."

(5) Page 4, revise lines 14 through 20 to read as follows: "regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by contract and regulations pursuant

thereto, which shall be levels that in the judgment of the Secretary are adequate and practicable for waterfowl management purposes."

(6) Amend the title of the bill to read as follows:

"To promote the conservation of the Nation's wildlife resources on the Pacific Flyway in the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California."

While we do not consider this amendment to be essential, we believe that it will more accurately describe the purpose of this legislation, and would be a desirable revision.

We have been advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JAMES K. CARR,

*Under Secretary of the Interior.*

A BILL To promote the conservation of the Nation's wildlife resources on the Pacific Flyway in the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is hereby declared to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal reclamation project, Oregon and California, as well as the administration and management of the Klamath Federal reclamation project and the Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and Tule Lake National Wildlife Refuge, to preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific Flyway, and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States.

SEC. 2. Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Tule Lake National Wildlife Refuge are hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry. The following public lands shall also be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry: Hanks Marsh, and first form withdrawal lands (approximately one thousand four hundred and forty acres) in Klamath County, Oregon, lying adjacent to Upper Klamath National Wildlife Refuge; White Lake in Klamath County, Oregon, and Siskiyou County, California; and thirteen tracts of land in Siskiyou County, California, lettered as tracts "A," "B," "C," "D," "E," "F," "G," "H," "I," "J," "K," "L," and "N" totaling approximately three thousand two hundred and ninety-two acres, and tract "P" in Modoc County, California, containing about ten acres, all as shown on plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956, prepared by the United States Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States.

SEC. 3. Subject to conditions hereafter prescribed, and pursuant to such regulations as may be issued by the Secretary, 25 per centum of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each full fiscal year after the date of this Act to the counties in which such refuges are located, such payments to be made on a pro rata basis to each county based upon the refuge acreage in each county: *Provided*, That the total annual payment per acre to each county shall not exceed 50 per centum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary: *Provided further*, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulelake Irrigation District or the

Klamath Drainage District, and the priority for the use of the net revenues shall be—

(1) to pay or credit to the Tulelake Irrigation District the amounts already committed to such payment or credit, and

(2) to pay to the Klamath Drainage District the balance thereof until the sum of \$180,000 shall have been paid as full reimbursement for the construction of irrigation facilities to the lands involved.

SEC. 4. In carrying out the policy of this Act, the Secretary of the Interior shall retain full authority to lease for agricultural purposes the reserved public lands lying within the Executive order boundaries of the Lower Klamath and the Tule Lake National Wildlife Refuges. Leases for agricultural purposes shall provide for the growing of grains, forage, and soil-building crops, except that not more than 25 per centum of the leased lands may be planted to row crops.

SEC. 5. The area of sumps 1(a) and 1(b) in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or any other construction to less than the existing thirteen thousand acres.

SEC. 6. In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters in Tule Lake under the control of the Secretary of the Interior shall be regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by contract and regulations pursuant thereto, which shall be levels that in the judgment of the Secretary are adequate and practicable for waterfowl management purposes.

DEPARTMENT OF AGRICULTURE,  
Washington, D.C., September 15, 1961.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: This is in response to your request of June 2, 1961, for a report on S. 1988, a bill to aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes.

We would not object to enactment of this bill.

S. 1988 would declare it to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal reclamation project as well as the administration and management of the Klamath Federal reclamation project and the Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and Tule Lake National Wildlife Refuge; to preserve the existing migratory waterfowl habitat in these areas; and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States.

The bill would dedicate all lands owned by the United States within the above-named wildlife refuges to wildlife conservation; would direct that the Secretary of the Interior administer these lands together with certain other public lands in Klamath County, Oreg., Siskiyou County, Calif., and Modoc County, Calif., primarily for waterfowl management purposes; would direct that all of these lands shall remain permanently the property of the United States.

The bill would provide that annual payments be made to the counties in which the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge are located; would provide for the retaining of authority in the Bureau of Reclamation or other bureau or agency within the Department of the Interior to lease these lands for agricultural and other purposes; would maintain sump levels and stabilize the area of the water surface in the Klamath project lying within the Tule Lake National Wildlife Refuge by prohibiting reduction of the area by diking or any other means to less than the existing 13,000 acres; and would direct the Secretary of the Interior to so regulate water in the area as to provide the quantity necessary to maintain ultimate developments in the Upper and Lower Klamath National Wildlife Refuges which would provide biologically suitable habitat for waterfowl utilization.

S. 1988 affects this Department in only one respect. The Tule Lake National Wildlife Refuge overlaps the proclaimed boundary of the Modoc National Forest in California. The overlap involves some 400 acres in three separate

parcels. We would construe the bill to eliminate this acreage from the national forest and to dedicate the areas to wildlife conservation to be administered by the Secretary of the Interior as a part of the Tule Lake National Wildlife Refuge. The present effective use of these parcels is for waterfowl management purposes. We therefore have no objection to their dedication to that use.

Lot 10 of sec. 15, T. 46 N., R. 4 E., one of the affected parcels, is traversed by a nonprimary transmission line of the California-Oregon Power Co. under special use permit issued by the Forest Service in 1958. We would assume that the permittee would be permitted to continue such use.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

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EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., March 7, 1962.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 988, a bill to aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes.

The purpose of this bill is to provide a more permanent basis for the management of resources within three migratory waterfowl refuges located in the Klamath Basin area of California and Oregon. This would be accomplished in part by stabilizing the ownership of land in the Klamath Federal reclamation project and within the refuge boundaries. This public land would remain permanently the property of the United States and would not be opened to homestead entry. The land would be administered for the major purpose of waterfowl management, but with full consideration to continuing such agricultural use as is consistent with the major purpose. One section of the bill establishes a policy for payments to the counties within which two of the refuges are located. Other sections reaffirm present authority of the Secretary of the Interior and establish a number of guides for the Secretary in the administration of these refuges.

The provisions of this bill in which the Bureau of the Budget has the greatest interest relate to the restriction on homestead entry and the establishment of payments to counties.

The Bureau of the Budget concurs with the views of the Secretary of the Interior that allowing homestead entry on the lands in these refuges could easily endanger the effectiveness of the waterfowl management program in the entire Pacific flyway. At a time when the Federal Government is making a significant effort to preserve remnants of our waterfowl habitat, it would seem contradictory and undesirable to allow the removal of this key waterfowl land in the Klamath Basin from Federal ownership and conservation management.

A general policy for payments to counties from the revenues of national wildlife refuges was established by the Migratory Bird Conservation Act in 1935 (16 U.S.C. 715(s)). This act provides that 25 percent of the net revenues from refuge operations shall be paid to the counties in which the refuges are located. To date these revenues, mostly from the occasional sale of refuge products, have been fairly modest providing a total annual payment of about \$500,000 to all the counties concerned. On the other hand, two of the refuges in the Klamath Basin, i.e., Lower Klamath and Tule Lake Refuges, contain relatively productive agricultural lands which are leased to private operators by the Bureau of Reclamation. This provides a return of about \$500,000 per year to the reclamation fund. At the present time, none of this revenue is paid to the counties. Under the provisions of the payment policy proposed in the bill and the version recommended by the Secretary of the Interior, a portion of this money going into the reclamation fund would be paid to the three counties concerned—Klamath County in Oregon, and Modoc and Siskiyou Counties in California. The effect of the provisions of S. 988 would be a total annual payment to these counties under present conditions of about \$40,000. The policy proposed by the Secretary would result in an annual payment in the neighborhood of \$60,000.

These provisions for annual payments to the counties inevitably raise the question of whether any new authorizations for Federal payments in lieu of taxes (or payments computed on the basis of taxes) should be made on a piecemeal basis instead of in a general enactment. Also, we do not have sufficient information to evaluate (1) the extent to which the county governments are actually incurring expenses in furnishing governmental services to or because of the lands in question, or (2) the extent to which the lands in question and economic activity thereon result in local governmental revenues. We believe that a final decision on the merits of any particular proposal on this problem should reflect, among other considerations, some specific showing on the above questions by the local governments involved. As has been noted, the information furnished to us indicates that the cash income from the reclamation project lands which would be dedicated to the major purposes of waterfowl management by S. 1988 is and will continue to be unusually large by comparison with the cash income derived from most migratory bird refuge lands. We believe that if a specific formula is considered necessary in this case, it should be examined in the light of its practical effect when applied to this relatively large cash income.

While we are not in a position at this time to relate the specific proposal in section 3 to the entire problem of payments in lieu of taxes, we believe it is fair to point out that one of the considerations to which importance has usually been attached in dealing with this problem is whether the lands in question have actually been removed from a taxable status as a result of actions of the Federal Government. We understand that these lands, wholly or for the most part, have not been in a taxable status.

It is noted that the out-leased lands which would be affected by these payment provisions are located in counties already receiving other payments from the Federal Government. The Bureau of Land Management makes payments to Klamath County from revenues produced by operations on Oregon and California grant lands and the Forest Service makes similar payments to Klamath, Modoc, and Siskiyou Counties because of national forest lands. Your committee may wish to consider the equities and merits of additional payments in the light of other Federal payments that are already being made to the counties involved.

The Bureau of the Budget favors the objectives of S. 1988 and, subject to your committee's consideration of the above comments concerning section 3, would not object to enactment of legislation along the lines of this bill.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

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FIRST EXECUTIVE ORDER

[No. 924]

It is hereby ordered that all islands situated in Lower Klamath Lake, and the marsh and swamp lands unsuitable for agricultural purposes in townships thirty-nine, forty, and forty-one south, ranges eight and nine, and township forty-one south, range ten, all east of the Willamette Meridian, Oregon, and in townships forty-seven and forty-eight north, ranges one, two and three east of Mount Diablo Meridian, California, and situated within the area segregated by a broken line, as shown upon the diagram<sup>1</sup> hereto attached and made a part of this order, are hereby reserved and set aside for the use of the Department of Agriculture as a preserve and breeding ground for native birds. The taking or the destruction of birds' eggs and nests, and the taking or killing of any species of native bird for any purpose whatever is prohibited, and warning is expressly given to all persons not to commit within the reserved territory any of the acts hereby enjoined. This order is made subject to and is not intended to interfere with the use of any part of the reserved area by the Reclamation Service acting under the provisions of the act approved June 17, 1902, or any subsequent legislation. This reserve to be known as Klamath Lake Reservation.

THEODORE ROOSEVELT.

THE WHITE HOUSE,  
August 8, 1908.

<sup>1</sup> Filed with the committee.

## SECOND EXECUTIVE ORDER

[No. 2200]

It is hereby ordered that the Klamath Lake Reservation, in California and Oregon, for the protection of native birds, created by Executive Order dated August 8, 1908, be and the same is hereby reduced in area by the elimination therefrom of all of the lands lying between the boundary established by said Executive Order and the new boundary thereof, established by this Order, which is described as follows:

In township forty-eight north, range one east of the Mount Diablo Meridian, California. Beginning at the point where the existing boundary of the reservation intersects the line between sections twenty-two and twenty-seven; thence east along the north boundary of section twenty-seven to the northeast corner thereof; thence south to the quarter section corner between sections twenty-six, and twenty-seven; thence east through the centers of sections twenty-six and twenty-five to the northeast corner of the northwest quarter of the southeast quarter of section twenty-five; thence south to the center of the southeast quarter of section twenty-five; thence east to the east boundary of said section; thence south to the corner to sections twenty-five, thirty, thirty-one and thirty-six, on the east boundary of the township.

In township forty-eight north, range two east. Beginning at the corner to sections twenty-five, thirty, thirty-one and thirty-six, on the east boundary of the township, thence east to the northeast corner of lot two in section thirty-one; thence south to the southeast corner of lot five, said section, on the south boundary of the township; thence along said boundary to the point intersected by the line which forms the west boundary of the first subdivisions or lots adjoining on the west the north and south line drawn through the quarter section corners on the south boundaries of sections six and seven in township forty-seven north, range two east.

In township forty-seven north, range two east. From the intersecting point above referred to on the south boundary of township forty-eight north, range two east, allowing for offset, if any, on the township line, thence south to the middle line of section seven; thence east through the quarter section corners and centers of sections seven, eight and nine to the center of section nine; thence south to the quarter section corner between sections nine and sixteen; thence east to the northeast corner of section sixteen; thence south to the point on the old boundary of the reservation where the same intersects the east boundary of section sixteen in the southeast quarter thereof.

In townships forty-seven north, ranges two and three east, and township forty-eight north, range three east. Thence from said intersection with the east boundary of section sixteen, along the old boundary of the reservation, through townships forty-seven north, ranges two and three east, to the point in section sixteen, range three east, due south of the northeast corner of the northwest quarter of the northeast quarter thereof; thence north through sections sixteen and nine to the northeast corner of the northwest quarter of the southeast quarter of said section nine; thence east to the east boundary of said section; thence north between sections nine and ten, and three and four, in township forty-seven north, and between sections thirty-three and thirty-four and twenty-seven and twenty-eight in township forty-eight north, allowing for offset on the township line, to the northeast corner of section twenty-eight; thence west on section line to the southeast corner of section nineteen; thence north between sections nineteen and twenty and seventeen and eighteen to the point of intersection with the old boundary near the boundary line between California and Oregon.

The Klamath Lake Reservation hereby reduced in area embraces the lands segregated by the broken line up on the diagram hereto attached<sup>1</sup> and made a part of this order. The shaded portion shows the lands eliminated.

It is unlawful for any person to hunt, trap, capture, wilfully disturb, or kill any birds of any kind whatever, or take the eggs of such birds, within the limits of this reservation, except under such rules and regulations as may be prescribed by the Secretary of Agriculture. Warning is expressly given to

<sup>1</sup> Filed with the committee.

all persons not to commit any of the acts herein enumerated, under the penalties of Section 84, United States Criminal Code, approved March 4, 1909, (35 Stat. 1088).

THE WHITE HOUSE,  
14 May, 1915.

WOODROW WILSON.

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THIRD EXECUTIVE ORDER  
KLAMATH LAKE RESERVATION

[No. 3422.]

IT IS HEREBY ORDERED that Lot 3, in the W $\frac{1}{2}$  of Sec. 23, T. 40 S., R. 8 E., Willamette Meridian, Oregon, be eliminated from the Klamath Lake Reservation, established as a preserve and breeding ground for native birds by Executive Order No. 924 of August 8, 1908, as reduced in area by an Executive Order No. 2200 of May 14, 1915.

WARREN G. HARDING.

THE WHITE HOUSE, March 28, 1921.

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EXECUTIVE ORDER  
UPPER KLAMATH WILD LIFE REFUGE, OREGON

[No. 4851]

It is hereby ordered that the unappropriated public lands in Oregon hereinafter described and outlined by the broken line upon the diagram hereto attached<sup>1</sup> and made a part of this order be, and the same are hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for birds and wild animals:

In T. 35 S., R. 6 E., W. M., Sec. 1, NE $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$  and SE $\frac{1}{4}$  Sec. 2, Secs. 12, 13, 24 and 25, E $\frac{1}{2}$  Sec. 35, Sec. 36;

In T. 36 S., R. 6 E., W. M., Sec. 1, E $\frac{1}{2}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  Sec. 2, E $\frac{1}{2}$  SE $\frac{1}{4}$  Sec. 3, E $\frac{1}{2}$  and SW $\frac{1}{4}$  Sec. 11, Sec. 12, N $\frac{1}{2}$  and E $\frac{1}{2}$  SE $\frac{1}{4}$  Sec. 13, NE $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  Sec. 14.

All of the lands involved have been withdrawn for reclamation purposes in connection with the Klamath irrigation project, Oregon-California, and are primarily under the jurisdiction of the Department of the Interior. The reservation of these lands as a wild life refuge is subject to the use thereof by said Department for irrigation and other incidental purposes, and to any other valid existing rights.

It is unlawful, within this reservation, (a) wilfully to set on fire or cause to be set on fire any timber, underbrush, or grass; (b) wilfully to leave or suffer fire to burn unattended near any timber or other inflammable material; (c) after building a fire in or near any forest, timber, or other inflammable material, to leave it without totally extinguishing it; (d) to hunt, trap, capture, wilfully disturb, or kill any wild animal or bird of any kind whatever, or take or destroy the eggs of any wild bird, except under such rules and regulations as may be prescribed by the Secretary of Agriculture; and (e) wilfully to injure, molest, or destroy any property of the United States.

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<sup>1</sup> Filed with the committee.

Warning is expressly given to all persons not to commit any of the acts herein enumerated, under the penalties prescribed by Sections 52, 53, and 84, as amended April 15, 1924, of the United States Penal Code.

This refuge shall be known as the Upper Klamath Wild Life Refuge.

THE WHITE HOUSE,  
April 3, 1928.

CALVIN COOLIDGE.

EXECUTIVE ORDER  
TULE LAKE BIRD REFUGE, CALIF.

[No. 4975]

It is hereby ordered that the area in the State of California in Ts. 46 and 47 N., R. 4 E., M. D. M., within the boundary indicated by the broken line upon the diagram<sup>1</sup> hereto attached and forming a part of this order be, and the same is hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for birds, the northern boundary of the reservation in T. 47 N., R. 4 E., M. D. M., being defined as follows:

Beginning at the north one-sixteenth corner common to Secs. 4 and 5 of the township and running thence S. 89° 56' E. 94.8 feet; thence S. 73° 43' E. 5405.7 feet to a point on the east boundary of Sec. 4; thence in Sec. 3 S. 73° 43' E. 2454.1 feet; thence S. 71° 10' E. 951.5 feet; thence S. 70° 41½' E. 2150.3 feet to the east boundary of Sec. 3; thence in Sec. 2 S. 70° 41½' E. 1398.9 feet; thence S. 0° 2' E. 279.4 feet to the west one-sixteenth corner common to Secs. 2 and 11 of the township, as shown upon said diagram.

All of the lands involved have been withdrawn for reclamation purposes in connection with the Klamath irrigation project, Oregon-California, and are primarily under the jurisdiction of the Department of the Interior. The reservation of these lands as a bird refuge is subject to the use thereof by said Department for irrigation and other incidental purposes, and to any other valid existing rights.

It is unlawful, within this reservation, (a) wilfully to set on fire or cause to be set on fire any timber, underbush, or grass; (b) wilfully to leave or suffer fire to burn unattended near any timber or other inflammable material; (c) after building a fire in or near any forest, timber, or other inflammable material, to leave it without totally extinguishing it; (d) to hunt, trap, capture, wilfully disturb, or kill any wild animal or bird of any kind whatever, or take or destroy the eggs of any wild bird, except under such rules and regulations as may be prescribed by the Secretary of Agriculture; and (e) wilfully to injure, molest, or destroy any property of the United States.

Warning is expressly given to all persons not to commit any of the acts herein enumerated, under the penalties prescribed by Sections 52, 53, and 84 as amended April 15, 1924, of the United States Penal Code.

This refuge shall be known as the Tule Lake Bird Refuge.

CALVIN COOLIDGE.

THE WHITE HOUSE,  
October 4, 1928.

EXECUTIVE ORDER  
TULE LAKE WILD LIFE REFUGE, CALIFORNIA

[No. 5945]

It is hereby ordered that the following-described area in Siskiyou County, Calif., be and the same is hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for wild birds and animals:

<sup>1</sup> Filed with committee.

## MOUNT DIABLO MERIDIAN

T. 46 N., R. 4 E., sec. 2, lots 3, 4, 5, and 6, S.  $\frac{1}{2}$  NW.  $\frac{1}{4}$ , and N.  $\frac{1}{2}$  N.  $\frac{1}{2}$  N.  $\frac{1}{2}$  SW.  $\frac{1}{4}$ .

T. 47 N., R. 4 E.,

- Sec. 2, lot 7;
- Sec. 3, lots 11, 14, 15, 16, and 18, and SW.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ ;
- Sec. 4, lots 6, 9, and 12, SW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ , and SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$ ;
- Sec. 5, E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  SE.  $\frac{1}{4}$  and NE.  $\frac{1}{4}$  E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ ;
- Sec. 8, E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  SW.  $\frac{1}{4}$  SE.  $\frac{1}{4}$ , and SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ ;
- Sec. 9, NW.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , W.  $\frac{1}{2}$ , and what will probably be, when surveyed, NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ , and SE.  $\frac{1}{4}$ ;
- Sec. 10, NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  and what will probably be, when surveyed, W.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , W.  $\frac{1}{2}$ , and SE.  $\frac{1}{4}$ ;
- Sec. 11, lot 4, NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ , and what will probably be, when surveyed, SW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  SW.  $\frac{1}{4}$ , and SE.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ ;
- Sec. 14, what will probably be, when surveyed, W.  $\frac{1}{2}$ ;
- Sec. 15, all (unsurveyed) ;
- Sec. 16, W.  $\frac{1}{2}$ , W.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ , and what will probably be, when surveyed, NE.  $\frac{1}{4}$  and E.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ ;
- Sec. 17, NE.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  E.  $\frac{1}{2}$  W.  $\frac{1}{2}$ , and SE.  $\frac{1}{4}$ ;
- Sec. 20, NE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , and SE.  $\frac{1}{4}$ ;
- Secs. 21 and 22, all ;
- Sec. 23, W.  $\frac{1}{2}$  ;
- Sec. 26, W.  $\frac{1}{2}$  ;
- Secs. 27 and 28, all ;
- Sec. 29, E.  $\frac{1}{2}$  ;
- Sec. 32, N.  $\frac{1}{2}$  NE.  $\frac{1}{4}$  and N.  $\frac{1}{2}$  S.  $\frac{1}{2}$  NE.  $\frac{1}{4}$  ;
- Sec. 33, N.  $\frac{1}{2}$  N.  $\frac{1}{2}$  and N.  $\frac{1}{2}$  S.  $\frac{1}{2}$  N.  $\frac{1}{2}$  ;
- Sec. 34, N.  $\frac{1}{2}$  and E.  $\frac{1}{2}$  NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  ;
- Sec. 35, W.  $\frac{1}{2}$ .

All of the lands involved have been withdrawn for reclamation purposes in connection with the Klamath Irrigation Project, Oregon-California, and are primarily under the jurisdiction of the Department of the Interior. The reservation of these lands as a wild-life refuge is subject to the use thereof by said department for irrigation and other incidental purposes, and to any other existing valid rights.

It is unlawful within this reservation (a) to hunt, trap, capture, willfully disturb, or kill any wild animal or bird of any kind whatever, to take or destroy the nests or eggs of any wild bird, to occupy or use any part of the reservation, or to enter thereon for any purpose, except under such rules and regulations as may be prescribed by the Secretary of Agriculture; (b) to cut, burn, or destroy any timber, underbrush, grass, or other natural growth; (c) willfully to leave fire or to suffer it to burn unattended near any forest, timber, or other inflammable material; (d) after building a fire in or near any forest, timber, or other inflammable material, to leave it without totally extinguishing it; and (e) willfully to injure, molest, or destroy any property of the United States.

Warning is given to all persons not to commit any of the acts herein enumerated under the penalties prescribed by sections 106, 107, and 145 of chapter 4, title 18, United States Code (35 Stat. 1098 and 43 Stat. 98), or by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; U.S. Code, Supp., title 16, sec. 715i).

This order supersedes Executive Order No. 4975, of October 4, 1928, establishing the Tule Lake Bird Refuge.

This refuge shall hereafter be known as the Tule Lake Wild Life Refuge.

HERBERT HOOVER.

THE WHITE HOUSE, November 3, 1932.

## EXECUTIVE ORDER

## ENLARGING TULE LAKE WILDLIFE REFUGE, CALIFORNIA

[No. 7341]

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described lands in Modoc and Siskiyou Counties, California, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the Tule Lake Wildlife Refuge established by Executive Order No. 4975 of October 4, 1928, as amended by Executive Order No. 5945 of November 3, 1932:

## MOUNT DIABLO MERIDIAN

## T. 46 N., R. 4 E.

- sec. 1, all;
- sec. 2, all not included in Tule Lake Wildlife Refuge;
- secs. 3 to 8, inclusive;
- sec. 9, lots 2 to 7, inclusive,  $S\frac{1}{2}N\frac{1}{2}$ ,  $SW\frac{1}{4}$ , and  $N\frac{1}{2}SE\frac{1}{4}$ ;
- sec. 10, lots 2 to 6, inclusive,  $S\frac{1}{2}N\frac{1}{2}$ ,  $N\frac{1}{2}SW\frac{1}{4}$ ,  $SE\frac{1}{4}SW\frac{1}{4}$ , and  $SE\frac{1}{4}$ ;
- sec. 11, lots 4 to 11, inclusive,  $S\frac{1}{2}N\frac{1}{2}$ , and  $N\frac{1}{2}S\frac{1}{2}$ ;
- sec. 12, lots 7 to 19, inclusive;
- sec. 13, lot 17;
- sec. 14, lots 17 and 18;
- sec. 15, lots 9 to 14, inclusive,  $W\frac{1}{2}NE\frac{1}{4}$ , and  $E\frac{1}{2}NW\frac{1}{4}$ ;
- sec. 16, lots 6 to 17, inclusive;
- sec. 17, all outside Lava Beds National Monument, established by Proclamation No. 1765 of November 21, 1925;
- sec. 18, lots 1 and 2,  $NE\frac{1}{4}$ , and  $E\frac{1}{2}NW\frac{1}{4}$ ;
- sec. 20, all outside Lava Beds National Monument;
- sec. 21, lots 3, 4, and 5.

## T. 47 N., R. 4 E.,

- sec. 3, lot 6;
- sec. 5, all  $S\frac{1}{2}N\frac{1}{2}$  and all  $S\frac{1}{2}$  not included in Tule Lake Wildlife Refuge;
- sec. 6, lots 4, 5 and 6,  $S\frac{1}{2}NE\frac{1}{4}$ , and  $SE\frac{1}{4}$ ;
- sec. 7, all;
- sec. 8, all not included in Tule Lake Wildlife Refuge;
- sec. 11, lot 5,  $S\frac{1}{2}NE\frac{1}{4}$ , and  $SE\frac{1}{4}$ ;
- sec. 12, lots 2, 7, and 9,  $SW\frac{1}{4}$ ,  $NW\frac{1}{4}SE\frac{1}{4}$ , and  $S\frac{1}{2}E\frac{1}{4}$ ;
- sec. 13, all;
- sec. 14,  $E\frac{1}{2}$ ;
- sec. 17, all not included in Tule Lake Wildlife Refuge;
- secs. 18 and 19;
- sec. 20, all  $W\frac{1}{2}$  not included in Tule Lake Wildlife Refuge;
- sec. 23,  $E\frac{1}{2}$ ;
- secs. 24 and 25;
- sec. 26,  $E\frac{1}{2}$ ;
- sec. 29,  $W\frac{1}{2}$ ;
- secs. 30 and 31;
- sec. 32,  $S\frac{1}{2}S\frac{1}{2}NE\frac{1}{4}$ ,  $W\frac{1}{2}$ , and  $SE\frac{1}{4}$ ;
- sec. 33,  $S\frac{1}{2}S\frac{1}{2}N\frac{1}{2}$  and  $S\frac{1}{2}$ ;
- sec. 34, all  $S\frac{1}{2}$  not included in Tule Lake Wildlife Refuge;
- sec. 35,  $E\frac{1}{2}$ ;
- sec. 36, all.

## T. 46 N., R. 5 E.

- sec. 4, all west of the westerly right-of-way line of the Great Northern Railway;
- secs. 5 and 6;
- sec. 7, lots 5 to 20, inclusive;
- sec. 8, all;
- sec. 9, all west of the westerly right-of-way line of the Great Northern Railway;
- sec. 15, all  $W\frac{1}{2}SW\frac{1}{4}$  lying west of the westerly right-of-way line of the Great Northern Railway;
- sec. 16, all west of the westerly right-of-way line of the Great Northern Railway;
- sec. 17, all;
- sec. 18, lot 6;
- sec. 20, lots 5 to 13, inclusive;
- sec. 21, all;
- sec. 22, all west of the westerly right-of-way line of the Great Northern Railway;
- sec. 27, all lot 6 lying west of the westerly right-of-way line of the Great Northern Railway, and lots 7 to 10, inclusive;
- sec. 28, lots 5 to 14, inclusive;
- sec. 29, lots 3 and 4.

## T. 47 N., R. 5 E.

- sec. 7, lot 17;
- sec. 17, all  $SW\frac{1}{4}$  lying southwest of the dike;
- sec. 18, lots 1, 2, 3, 4, 9, 10, and 11,  $SE\frac{1}{4}NW\frac{1}{4}$ ,  $E\frac{1}{2}SW\frac{1}{4}$ ,  $W\frac{1}{2}SE\frac{1}{4}$ , and  $SE\frac{1}{4}SE\frac{1}{4}$ ;
- sec. 19, all;
- sec. 20, all southwest of the dike and west of the westerly right-of-way line of the Great Northern Railway;
- secs. 29 to 32, inclusive.

The lands herein reserved have been withdrawn or were purchased for reclamation purposes in connection with the Klamath Irrigation Project, and they are primarily under the jurisdiction of the Department of the Interior. The reservation of these lands as a wildlife refuge is subject to the use thereof by the said Department for reclamation purposes, and also to the provisions of the act of March 23, 1933 (48 Stat. 1295), entitled, "An Act providing for an exchange of lands between the Colonial Realty Company and the United States, and for other purposes."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
April 10, 1936.

## EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER No. 924 OF AUGUST 8, 1908, ESTABLISHING THE KLAMATH LAKE RESERVATION, OREGON

[No. 8475]

By virtue of the authority vested in me as President of the United States, Executive Order No. 924 of August 8, 1908, establishing the Klamath Lake Reservation, in Siskiyou County, California, and Klamath County, Oregon, is hereby revoked as to the following-described lands in Klamath County, Oregon:

## WILLAMETTE MERIDIAN

T. 40 S., R. 9 E., sec. 28, lot 5, comprising 7.80 acres, more or less.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
July 10, 1940.

The CHAIRMAN. The purpose of the bill as indicated in the reports is to provide a more permanent basis for management of the three national wildlife refuges in the Klamath basin area of Oregon and California.

The witness list shows that witnesses from both the Tule Lake Irrigation District and the Klamath Drainage District have come from the West to testify on behalf of their organizations. There are also representatives of conservation groups as well as departmental witnesses.

I would suggest that where possible written statements be submitted for the record with whatever explanation those testifying care to add.

Anyone who desires to testify and has not as yet so indicated, should contact Mr. Whitacre, professional staff member, so that time can be allocated for the presentation.

Mr. Secretary, you are the first witness this morning. We would be very glad to have you start off the testimony.

**STATEMENT OF HON. STEWART L. UDALL, SECRETARY, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY ROBERT M. PAUL, SPECIAL ASSISTANT TO THE ASSISTANT SECRETARY, OFFICE OF THE ASSISTANT SECRETARY FOR FISH AND WILDLIFE**

Secretary UDALL. Thank you very much, Mr. Chairman. I would like to, in the interest of saving the time of the committee, discuss some of the highlights in my testimony. I have a prepared statement and will have it filed.

(The Secretary's statement follows:)

STATEMENT OF SECRETARY OF THE INTERIOR STEWART L. UDALL

Mr. Chairman, the Department of the Interior urges this committee to approve Senate bill 1988 with the amendments suggested in our report of November 14, 1961, to your committee. This involves a controversy over land utilization which has been unresolved for nearly 20 years. Basically, the question is what is the best manner of using about 20,000 acres of public land in these refuges. Should the land be homesteaded or should it be dedicated primarily for waterfowl purposes? We advocate the latter position after the most careful study. The Department believes that if this legislation is approved it will represent a significant conservation achievement. The Department believes that approval of the legislation is essential to protect the most important wildfowl refuges in the Pacific flyway. More specifically, the bill is needed to provide that:

(1) The public lands within the boundaries of the executive orders establishing the Tule Lake, Upper Klamath, and Lower Klamath refuges in California and Oregon will be retained in Federal ownership with the major purpose of waterfowl management.

(2) The agricultural use of these lands will be continued under the present leasing system.

(3) The Department of the Interior will be able to round out the refuges by additions of other small tracts of public lands.

(4) The revenues from the leases will be shared equitably with the local counties.

(5) The established rules and regulations for operation, regulation of sump levels, and maintenance of Klamath project works transferred to the irrigation districts will have congressional approval.

These objectives are in keeping with the recent action of the Congress in directing the Department of the Interior to meet the critical need for providing and keeping an adequate amount of waterfowl habitat in public ownership. There is probably no more important waterfowl area in the country than these refuges in the Upper Klamath Basin. These refuges act like the waist of an hourglass and all the birds of the Pacific Flyway funnel through this area in their annual migrations. These refuges harbor as many as 7 million migrant ducks and geese at one time. Proper management of these areas is essential to hold these birds until the rice harvest is completed in the Central Valley of California and any loss of refuge lands would inevitably cause great losses to California's agricultural economy. In addition, the Klamath-Tule Lake lands are extremely important breeding grounds for ducks and geese—particularly the diving species that are the most severely depleted at the present time.

Another consideration for keeping these lands in Federal ownership is to insure that the public hunting areas will be maintained. The contribution that visiting hunters make to the economy of the Tule Lake area is extremely important to all of the towns in the basin.

We believe this bill is particularly timely because the objectives are in harmony with the views of the Senate Select Committee on National Water Resources and the Outdoor Recreation Resources Review Commission. Both of these reports point out that outdoor recreation and fish and wildlife conservation deserve full consideration in the planning, construction, and operation of Federal water resources projects.

The basic question is what will be the ultimate use of the 15,000 acres of leased agricultural land within the Tule Lake refuge and 6,400 acres in the Klamath Straits unit within Lower Klamath refuge. Local interests have held that these lands should be sold or made available for homesteading. Conservation and farm groups in California have consistently urged maximum use of these lands for waterfowl. The Department of the Interior must, of course, recognize its obligations to both the reclamation project and waterfowl.

We believe this bill offers a sound solution with no additional costs to the Government, except for that portion of the lease revenues that would be apportioned to the counties under the bill. The threat to proper waterfowl management is removed, and the agricultural use will be protected. The bill clearly recognizes that the Federal Government has obligations to the local irrigation districts that must be fulfilled. At the same time, the bill enables us to meet our international treaty responsibilities for the conservation of migratory waterfowl.

This bill proposes to stabilize land tenure and regulate sump levels and allow both the Bureau of Sport Fisheries and Wildlife and the Bureau of Reclamation of our Department to proceed with sound programs. Careful studies over the years have shown conclusively that there is no other acceptable solution. There are no other substitute lands that can be developed regardless of cost that can meet our national needs for waterfowl management. The often-discussed proposal of developing Clear Lake for waterfowl so that the Tule Lake lands could be disposed of under reclamation law is not a feasible alternative.

We also can understand the desire of the counties to realize some revenue from these lands in order to offset the costs of services provided by the counties. S. 1988 with our suggested amendments would provide a sharing of the revenues that we believe is fair. In addition, this bill with our suggested amendments also recognizes that the United States has certain financial obligations to the Klamath Drainage District and the Tulelake Irrigation District which must be met.

We believe that the bill, with our amendments, successfully overcomes all the objections that have been raised and will result in maximum values for both waterfowl management and agricultural production. The Solicitor of the Department of the Interior has carefully reviewed the bill and has advised us that there are no legal obstacles to its passage. In his opinion the bill does not adversely affect valid, existing water rights or conflict in any way with the 1905 Cession Acts or the Tulelake Irrigation District's contract with the United States.

We are confident that the record will demonstrate that S. 1988 with the amendments we have suggested is a fair, equitable solution that is clearly in the public interest.

## KLAMATH BASIN NATIONAL WILDLIFE REFUGES

The Klamath Basin, in northern California and southern Oregon, contains one of the outstanding waterfowl areas in North America. This valley of nearly a million acres was formerly a land of large shallow lakes and extensive marshes. Its rich soils, abundance of feed, and widespread water areas were ideal for waterfowl. So attractive was the basin that tremendous flocks of ducks and geese, migrating within the Pacific Flyway, gathered here for resting and feeding.

During the past 50 years, most of the wetlands of the area have been drained and converted to agricultural use. This has not, however, altered the paths of migration. Birds continue to fly their ancestral routes and crowd into the remaining habitat.

In fall migration, thousands of birds winging southward along the Pacific coast turn inland and cross the Cascade Range to stop and rest within the Klamath Basin. Other waterfowl from the east edge of the flyway veer westward at the Snake River in Idaho, or Great Salt Lake in Utah, to reach this ancestral gathering area. Banding has shown that many ducks and geese come from the marches of Malheur National Wildlife Refuge in southeast Oregon and Bear River Migratory Bird Refuge in Utah.

From their nesting grounds in Alberta and Saskatchewan, millions of pintails follow invisible pathways through the skies to the basin. Because of their converging pattern of migration, the Klamath Basin has been compared to a funnel or hourglass through which pours a major part of the waterfowl of the Pacific Flyway, estimated at times as high as 70 to 80 percent.

So important is the basin to the waterfowl within the flyway, that the Federal Government established five refuges here to provide food and protection and to preserve the wetland habitat. One of these was established over 50 years ago, one in 1911, two in 1928, and the most recent in 1958. These refuges have developed into focal points of waterfowl use, and are now widely known for the great bird concentrations which they attract. The number of waterfowl using these areas at the height of the fall migration is almost unbelievable. Concentrations of 7 to 8 million birds have occurred, including 5 million pintails, 500,000 mallards, 250,000 American widgeons, 300,000 white-fronted geese, 200,000 cackling geese, 150,000 snow geese, 5,000 Canada geese, and as many as 400,000 ducks of other species. At the same time, the open waters of Upper Klamath Lake often hold 200,000 shovelers and more than half that many ruddy ducks.

Four of the national wildlife refuges within the basin are superimposed upon lands under the primary jurisdiction of the Bureau of Reclamation. By terms of an agreement, the Bureau of Sport Fisheries and Wildlife manages designated land and water resources for the benefit of wildlife, subject to regulated use of the reservoir areas by the Bureau of Reclamation for control and disposition of irrigation waters.

Lower Klamath refuge, set aside by Theodore Roosevelt in 1908, was the first national wildlife refuge established for waterfowl. Today this refuge contains 22,800 acres of water, marsh, and upland, some of which is suitable for agriculture. It is famous for the great number and diversity of nesting waterfowl, and for the variety of marshbirds and shorebirds which are attracted by its diverse habitat. The Lower Klamath marshes are maintained through the use of surplus irrigation water pumped from the Tule Lake sump via a 6,600-foot tunnel through the intervening Sheepy Ridge, and by water diverted from the Klamath River through the Ady Canal.

Clear Lake refuge was established 3 years later, in 1911. This area of over 33,500 acres consists of an open, windswept lake surrounded by sagebrush-covered uplands. It contains one of the principal nesting colonies of white pelicans in North America. Clear Lake provides important watering areas and range for a large herd of pronghorns as well as the courtship grounds for a large sage grouse flock.

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Source: U.S. Department of the Interior, Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife.

Tule Lake refuge, established in 1928, is famous as the site of the largest annual concentration of waterfowl on the continent. This refuge of more than 37,000 acres is set in the midst of rich grainlands that were once the bed of Tule Lake. The 13,000-acre sump filled with aquatic food plants, and the surrounding fertile grainfields, provide ideal habitat for waterfowl. Here the photographer can find flocks of ducks and geese that darken the sky—for millions of pintails and hundreds of thousands of mallards and geese gather in the refuge during fall migrations.

The Upper Klamath refuge, containing 12,500 acres and lying on the Oregon side of the basin in the marshy shallows of upper Klamath Lake, was established in 1928. Upper Klamath is unique among the basin refuges for its vast Tule Marsh, drowned stream channels outlined with willow-lined banks rising above the impounded waters, and coniferous forests on the steep mountain slope along the west boundary. These distinct ecological environments attract birdlife not found on the other refuges.

The 15,200-acre Klamath Forest refuge, established in 1958, was acquired from private holdings and the Klamath Indian tribe. It provides a nesting ground for Canada geese, sandhill cranes, and several species of diving ducks presently in need of assistance.

The marshes of the Klamath Basin refuges rank among the best waterfowl production areas in the Nation, with the last 10-year average being 78,000 ducks and geese produce annually and peaks up to 112,000 earlier due to better nesting conditions. The redhead, a species which is dwindling in numbers over much of its range, is the most abundant nester. Tule Lake, Lower and Upper Klamath, and Klamath Forest are key refuges in the preservation of their species, which requires large marsh areas for survival. Other conspicuous nesters are the gadwall, mallard, cinnamon teal, and ruddy duck. Lesser numbers of shovelers, pintails, scaups, canvasbacks, and blue-winged teal rear their young within these refuges.

During the months of July and August, a drive along the Stateline highway, where it transects the north end of the lower Klamath refuge, will reveal dozens of broods swimming in the open waters or resting at the very edge of the road. Nearly 250 different kinds of birds have been recorded on these refuges including 22 kinds of shorebirds, a considerable segment of the entire Ross' goose population, and 26 different species of hawks and owls. Over 160 species have been recorded as nesting.

These refuges are important production areas for Canada geese. Because of its size and table qualities, this species is avidly hunted and is a prized trophy. Since it does not mate and rear young until the third year of life and is subjected to heavy gunning pressure, this goose is having difficulty maintaining its numbers in the Pacific Flyway.

Many other kinds of birds nest in the refuge marshes. Thomas Creek, on upper Klamath refuge, supports a colony of several hundred nests of double-crested cormorants, great blue herons, black-crowned night herons, and common egrets. Islands on Clear Lake refuge attract nesting white pelicans and great colonies of California and ring-billed gulls plus smaller numbers of Caspian terns, cormorants, and great blue herons. Thousands of grebes—eared, western, and pied-billed—nest on Tule Lake. These species are again becoming common on lower Klamath where they once nested in great numbers. This lake was drained and remained dry from 1921 to 1942, and bird populations have, in many instances, been slow in recovering.

The most important management objectives of basin refuges are the maintenance of suitable habitat, production of food, and sanctuary. However, the refuge program encompasses other activities as well. One of the most important is the control of waterfowl crop damages. Depredations to the agricultural crops of basin farmers by grain-eating mallards, pintails, and geese have long been an economic problem. This conflict of waterfowl and agricultural interests has been largely overcome by growing grain crops on the refuges for the hungry ducks and geese. An abundance of this available grain furnishes feed for waterfowl during the critical period each fall which lasts until privately-owned crops can be harvested. Refuge crops not only attract and hold the birds until local fields

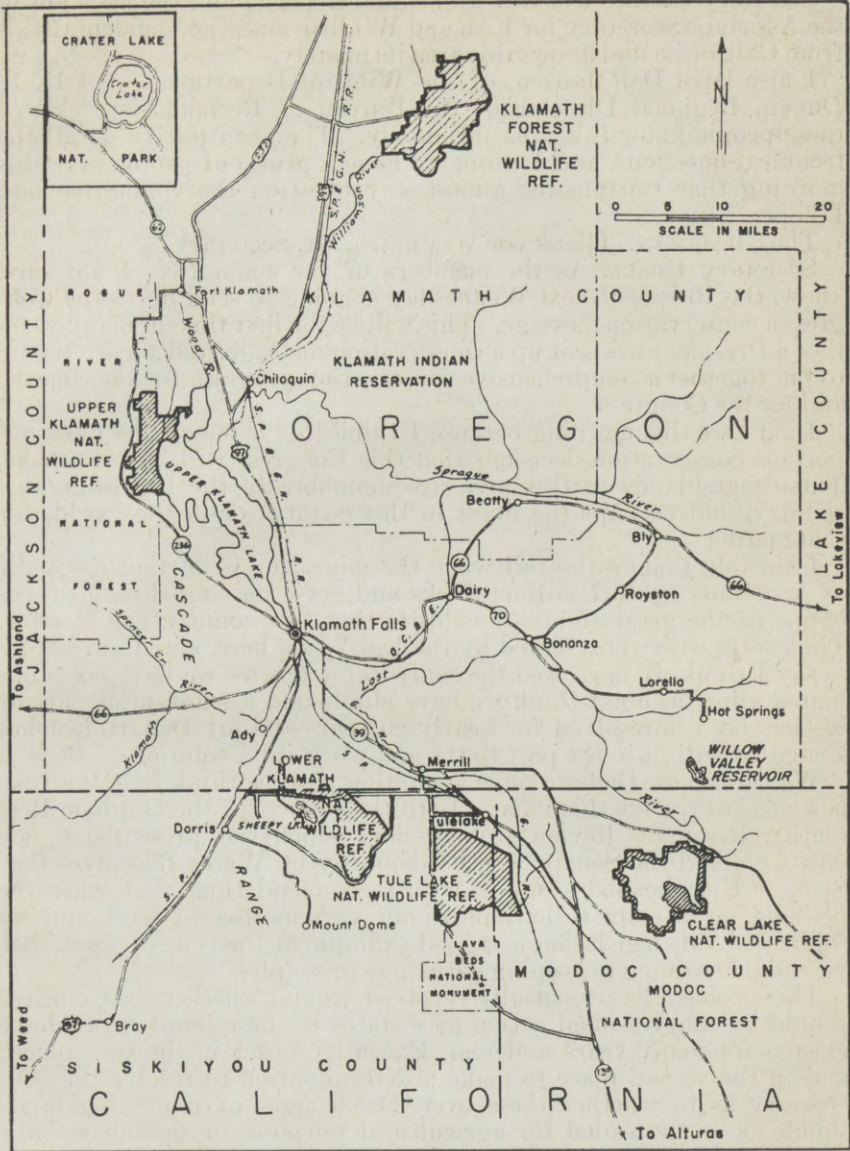
can be harvested, but also retard their southern migration, thus alleviating depredation damage to rice-growing areas in the Sacramento Valley in central California, as well as the lettuce-growing areas of the Imperial Valley in the southern part of the State.

With the drastic reduction in waterfowl habitat which has resulted from the agricultural development of the Klamath Basin, there is no longer sufficient living space to accommodate migrant waterfowl, except on the refuges. This limitation in waterfowl habitat is reflected in the shortage of hunting areas surrounding the refuges. The Bureau of Sport Fisheries and Wildlife allows hunting on designated parts of some of the basin refuges. Shooting without charge is permitted on portions of the Tule Lake, lower Klamath, and upper Klamath refuges. About 35,000 man-days of hunting occur on these public hunting areas each year.

Tule Lake and Lower Klamath refuges frequently produce excellent populations of ring-necked pheasants. When these birds are numerous and a harvestable surplus exists, hunting is authorized where it will not interfere with waterfowl.

Wildlife photography is encouraged. Great flocks of birds on the refuges during migration provide unusual opportunities for securing pictures, especially in autumn. Peak duck populations generally occur between October 1 and 15. Goose numbers are highest 1 to 2 weeks later. During the spring flight, waterfowl are present in greatest abundance the first of March. Travel at this time, however, may be restricted due to impassable roads and dikes. Permits for amateur photography are not necessary; however, permission is required to enter closed areas at certain seasons of the year. The Stateline Highway is open at all times and is one of the best places from which to see birds.

Copies of the bird list for the Klamath Basin refuges, information sheets on hunting regulations, and maps may be secured at refuge headquarters, 5 miles west of Tulelake, Calif. Visitors should contact refuge headquarters on special problems or to ascertain road conditions before making a trip to any of the refuges. Both Tule Lake and Lower Klamath refuges are accessible by paved roads, but interior roads may be poor in bad weather. The roads to Upper Klamath and Clear Lake may be temporarily blocked by snow during winter. The mailing address is Route 1, Box 74, Tulelake, Calif., and the telephone number, 7-3171.



Secretary UDALL. I have with me Mr. Robert Paul, the assistant to the Assistant Secretary for Fish and Wildlife and who, incidentally, is from California and knows this area intimately.

I also have Dan Janzen, of the Wildlife Department, and H. P. Dugan, Regional Director of the Bureau of Reclamation. All of these people know this area intimately. They can testify on all the technical questions, and I think we have a group of people here this morning that can answer almost any question the committee has, I hope.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Secretary UDALL. As the members of the committee, I am sure, know, the President next Wednesday is going to send up to the Congress a conservation message. This will be the first time in many years that a President has sent up a conservation message, and we are trying to put together a comprehensive conservation program for the country and for the Congress.

I am here this morning because I think this is one of the most important conservation decisions that this Congress will have to make. These marshlands in this area are undoubtedly the largest in this country, and perhaps the finest in this country or in the world, for that matter.

I am told that in the fall when the migration is on that the sight of sometimes up to 7 million ducks and geese moving through there is one of the great sights of wildlife that this country has to offer. The controversy represented by the legislation here, and I am happy to say I think we narrowed the controversy down—we have not eliminated all of it, but I think we have eliminated a substantial part of it—has been unresolved for nearly 20 years and my Department has struggled with it in the past to try and work out a solution.

We think now that we have a solution and we think that the time has come to resolve this issue. Both the reports of the Outdoor Recreation Resources Review Commission, which was presented a few days ago, and the Senate Select Committee on Water Resources that Senator Kerr headed, came in with recommendations that wherever possible we attempt to harmonize our various uses of land, and we think that this legislation is a good example of the type of work that we should be doing in keeping with these principles.

This problem has essentially revolved around whether the Congress should by congressional action give status to these lands which have existed for many years under an Executive order in the first place; and in the second place to make a determination to resolve the controversy as to whether these over 20,000 acres of remaining lands should be homesteaded for agricultural purposes or should be dedicated for waterfowl purposes, with the understanding that we continue the type of leasing program for agriculture that we have.

More specifically, the bill will provide that the public lands within the boundaries of the Executive order establishing the Tule Lake, Upper Klamath, and Lower Klamath Refuges in California and Oregon will be retained in Federal ownership with the major purpose of waterfowl management.

The agricultural use of these lands will be continued under the present leasing system. The Department of the Interior will be able to round out the refuges by additions of other small tracts of public

lands. The refuges under the proposed legislation from the lease will be shared equally with the local county.

The fifth point, a very important one, the established rules and regulations for the operation and regulation of sump levels and the maintenance of the Klamath project works transferred to the irrigation districts will have congressional approval.

This Congress authorized last year the Wetlands bill, under which we are now getting a new program ready to accelerate the acquisition of adequate waterfowl habitat in all of the major flyways, and this is going to involve acquisition of over 4 million acres of new land, which is a very vital program, and we are enthusiastically getting ready to carry it out.

Here is an example of an area where we don't have to acquire lands, but we do have to give them status. We have to lay out a permanent basis for a program and this is the reason that we are here today. We think that the bill that we have proposed and the amendments that we have proposed in it take care of many of the controversial issues which have previously existed.

I am not going to tell the committee here this morning that you are not going to encounter controversy. There are some remaining points that I know the committee will want to scrutinize, but I do think that we have competent people here to testify with regard to the detail and I simply wanted to come up here this morning to let the committee know that in our Department in the administration we consider this a major conservation problem and a major conservation opportunity.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kuchel, do you have any questions?

Senator KUCHEL. No, I have no questions.

Mr. Secretary, we are honored to have you appear in support of the legislation which I introduced last year. I thank you very much for your statement. I understand that we will have an opportunity for the able staff of the Secretary to participate in any of the examination we undertake.

The CHAIRMAN. Mr. Secretary, who is going to tell us what this land involves, why you are here with a bill, and what the area of controversy might be?

Secretary UDALL. Mr. Janzen will make the major presentation.

The CHAIRMAN. Thank you very much for coming. We are always glad to have you here, Mr. Secretary.

Secretary UDALL. Thank you.

The CHAIRMAN. Before we hear from Mr. Janzen, let me say that Senator Metcalf has sent a statement in support of S. 1988 and I will ask that that be put in the record at this point.

(The statement referred to above follows:)

STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

Mr. Chairman, as a Pacific flyway neighbor of the gentleman from California, Senator Thomas H. Kuchel, I welcome the opportunity to support S. 1988, a bill to aid in the administration of the Klamath Basin National Wildlife Refuges, and the amendments as recommended by the Department of the Interior.

You on this committee are well acquainted with my deep and abiding personal interest in sustained conservation of our Nation's natural resources. Thus, you can appreciate how gratifying it was to me to be appointed to the Migratory Bird Conservation Commission 1 year ago. Service on this com-

mission has convinced me of the urgent need for preservation of needed waterfowl habitat.

The Pacific flyway at present enjoys higher waterfowl population levels than any of the other three flyways in the Nation. We in the flyway are not gloating. The waterfowl come from grounds in Canada and Alaska that have not suffered drastic droughts or major human alteration. Past and continuing destruction of wintering habitat in the southern portion of the flyway is proceeding at an alarming rate. The Klamath Basin complex of waterfowl refuges is the most important migrational staging area within the flyway. Through these refuges each fall and spring pass 80 percent of the waterfowl populations of the Pacific flyway.

I would remind this committee that last year we Members of Congress heard testimony on the plight of continental waterfowl populations and the need for what might be a last all-out effort to acquire the needed remaining wetland habitat, if we are to preserve our Nation's waterfowl resource. We enacted Public Law 87-383, authorizing the Department of the Interior to accelerate a wetlands acquisition program for the preservation of waterfowl.

In the face of past and continuing actions of the Congress to preserve our Nation's waterfowl resources, I commend and support permanent protection of the remaining existing waterfowl benefits of the Klamath Basin refuges. I support S. 1988 which will accomplish needed preservation.

The CHAIRMAN. Also, I have received from Gov. Edmund G. Brown an airmail letter stating that he has publicly endorsed this bill and says he wants us to know that "we in California are continuing our support of this vital conservation measure."

Without objection his letter will be placed in the record at this point.

(Governor Brown's letter follows:)

STATE OF CALIFORNIA,  
GOVERNOR'S OFFICE,  
Sacramento, February 19, 1962.

HON. CLINTON P. ANDERSON,  
Member of the U.S. Senate,  
Senate Office Building,  
Washington, D.C.

MY DEAR SENATOR ANDERSON: It is my understanding that S. 1988, a bill to aid in the administration of the Tule-Klamath National Wildlife Refuges, will be considered on February 23 by your Subcommittee on Irrigation and Reclamation.

Earlier this year I publicly endorsed this bill and I want you to know that we in California are continuing our support of this vital conservation measure.

The Tule-Klamath refuge area is the single most important waterfowl gathering place on the North American Continent. The bulk of the millions of waterfowl that winter in California utilize this refuge area on their migrations.

It is particularly important that these millions of birds migrating southward in the fall be held on the Tule-Klamath refuges, as long as possible to avoid heavy waterfowl depredation on rice and other major agricultural crops in both the Sacramento and San Joaquin Valleys.

To perpetuate the esthetic and recreational values provided by California's waterfowl resources, and to protect the great Central Valley's established agricultural interests, I consider it necessary that the refuge areas covered by S. 1988 be permanently dedicated to the primary purpose of waterfowl management.

Your support of this much-needed legislation will be appreciated.

Sincerely,

EDMUND G. BROWN, Governor.

The CHAIRMAN. I am going to ask Senator Kuchel if he has any statement he wishes to make.

STATEMENT OF HON. THOMAS H. KUCHEL, A U.S. SENATOR FROM  
THE STATE OF CALIFORNIA

Senator KUCHEL. Yes, Mr. Chairman, a very brief one and I request that some newspaper comments be included.

Mr. Chairman, I am delighted today that the subcommittee is holding hearings on S. 1988, which I have introduced in this session of the Congress. It is designed to stabilize the Tule Lake-Klamath Wildlife Refuges which were established by Executive order in 1908 and 1928. They total almost 92,000 acres to which this bill would add some 6,891.

Some have labeled, I think erroneously, this matter a question of "people versus ducks." I believe this is untrue and I believe it is a disservice to those who have been long concerned with this matter. There is need for a balanced approach which will assure not just the preservation of this great wildlife refuge complex, but also its continued development and all that implies in terms of increased waterfowl conservation and public recreation opportunities. There is need not for the elimination of either the ducks or the people in this area but rather the recognition of the interdependence of both.

This interdependence is clearly illustrated by the importance of available feed for the wildlife which is concentrated there for part of each year. The capability of the Tule Lake-Klamath complex in holding the more than 7 million ducks and geese during their annual migration is vital to the successful harvesting of crops in the Sacramento, San Joaquin, and Imperial Valleys of California. In this feeding, the agricultural development of the area has been especially important. In addition, the public hunting opportunities which are available in these refuges bring many people from all over the Pacific coast to the area and is helpful in maintaining the local economy.

There can be no question as to the importance of these refuges to the conservation of our Nation's wildlife and waterfowl resources. It is difficult for one actually to visualize millions of ducks and geese concentrated in a relatively small area at one time unless you have been there. Almost 80 percent of the waterfowl in the Pacific flyway pass through the Tule Lake-Klamath complex and almost all of these are concentrated in the Tule Lake and Lower Klamath Wildlife Refuges alone.

Besides feeding and resting facilities, the marshy areas of the Tule Lake and lower Klamath refuges, in particular, provide excellent nesting grounds for various types of waterfowl and shore birds. Annual production in these refuges has averaged 3,000 Canada geese and almost 112,000 ducks, many of the latter being the now dwindling redheads.

Briefly, S. 1988 would stabilize the landownership within the Executive order boundaries of the Lower Klamath, Upper Klamath, and Tule Lake National Wildlife Refuges. This area along with specified additional public lands in the vicinity would be administered by the Secretary of the Interior primarily for waterfowl management purposes but with full consideration to the optimum agricultural use consistent with those purposes.

Provision is made for payment for local governmental services to the counties within the area. The contractual obligations of the United States with the Tulelake Irrigation District and the Klamath Drainage District are recognized. The Secretary of the Interior would retain full authority to lease for agricultural purposes the reserved public lands within the Executive order boundaries of the Lower Klamath and Tule Lake National Wildlife Refuges.

Sumps 1(a) and 1(b) in the Tule Lake refuge could not be reduced by diking or by any other construction to less than the existing 13,000 acres. Finally, the Secretary of the Interior, subject to various international migratory bird treaties and in accordance with domestic law, contract, and regulations, would be responsible for maintaining adequate and practicable sump levels in the Tule Lake National Wildlife Refuge in order to assure proper waterfowl management.

I am hopeful, Mr. Chairman, that this hearing will result in constructive legislation which will clarify the status of the three wildlife refuges and other public lands noted in my bill. In addition, I would hope that we could explore the development plans of the Department of the Interior for this area, including the adjacent Clear Lake National Wildlife Refuge. As a result, I believe the interests of conservation, recreation, and agriculture will be better served.

Mr. Chairman, I ask unanimous consent to have included in the hearing record, at the conclusion of my remarks, a number of articles and editorials from various newspapers in California in support of this legislation.

The CHAIRMAN. That will be done.  
(The material referred to follows:)

[From the San Francisco (Calif.) Examiner, Feb. 14, 1962]

#### SPORTS AFIELD—TOUGH FIGHT DUE ON TULE LAKE BILL

(By Walt Radke)

Senator Thomas H. Kuchel's bill to stabilize the boundaries of the Tule Lake-Lower Klamath Waterfowl Refuges has some massive support, but it also has formidable opposition.

Although S. 1988 has the backing of Secretary of the Interior Stewart Udall, Gov. Edmund G. Brown, and Senator Clair Engle, among others, both the Tulelake Irrigation District and Siskiyou County officials will protest mightily when the measure comes before the Senate Committee on Interior and Insular Affairs on February 23 in Washington.

In a recent issue of the California Farmer, Ed Lange, manager of the Tulelake Irrigation District said that if the Kuchel bill is passed "it is going to cause great conflicts and legal action between the farmers in the basin and the Federal Government."

Lester Cushman and the other TID board members have not budgeted an inch from their contention that Tule Lake belongs strictly to agriculture and not to wildfowl.

They contend that all legal documents, dating from the Reclamation Act of 1905 to the present, dedicate land within the boundaries of the irrigation district (including Tulelake) for reclamation purposes alone.

The documents also include a contractual agreement between the TID and the Department of the Interior and ratified by Congress. This was the contract, incidentally, the TID don't quite live up to in the Tulelake water level squabble a few years back.

As to the ducks and geese, the opponents to S. 1988 feel an intensive study of the Pacific flyway (an old delay tactic) might reveal that Tulelake "is in truth only a hypothetical paper bottleneck for the Pacific flyway."

Further, the opponents want the study to include the feasibility of other nearby areas being developed to take over from Tule as the Nation's leading duck hotel.

These include Malheur, Goose Lake, Sport Lake, Warner Valley, Clear Lake, Meiss Lake, Dorris Reservoir, and Gerber Reservoir.

They also cite economic values. The public lands involved have produced crops averaging \$2,180,000 yearly since 1952.

But if the farmers at Tule are adamant, so are the sportsmen, conservationists, and U.S. Fish and Wildlife Service. They don't believe the Klamath Basin is merely a "hypothetical bottleneck." As many as 7 million waterfowl have been counted there at one time. It is nationally recognized as one of the most important waterfowl sanctuaries in the Nation.

Further, the sportsman are a mite confused.

They can't understand why the peewee acreage at Tule needs to be reclaimed for agricultural purposes, when the Federal Government presently is paying farmers in the State handsomely to let over a million acres of agricultural land lay idle.

As to economic consideration, the Kuchel bill would continue present agricultural allowances on refuge lands. And while the farmers at Tule would be happy to see the refuge scuttled, their colleagues in the Sacramento and San Joaquin Valleys certainly wouldn't. If Tule didn't hold the birds until late autumn, the losses by rice and barley farmers to hungry clouds of ducks would run several times \$2 million crop production the TID now claims for refuge lands. And we haven't yet mentioned the amount of money duck hunters annually dump into the California economy. This again would be worth many times \$2 million.

Maybe the Tule Lake farmers do have present regulations on their side. But laws are revised to meet changing conditions. The Constitution is considered a legal masterpiece, but at last count it had been amended 23 times.

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[From the Fresno (Calif.) Bee, Feb. 23, 1962]

#### THE TULE SANCTUARY

Senator Thomas Kuchel's bill to keep the teeming Tule Lake and lower Klamath waterfowl sanctuaries undisturbed should pass. These colorful wildlife refuges are irreplaceable. There would be an ominous finality in their extinction.

The hazards confronting the sanctuaries are of major stature. Impending programs or reclamation and homesteading are not mere matters of turning the birds out and letting the farmers in. Basically, they would constitute the serving of small interests of a very few at the expense of the essential interests of future generations.

The Kuchel bill, by preserving the refuges, will be on the side not just of history and nature but of endless time. These were wildlife sanctuaries long before man made them so. They have served their primitive purpose since the beginning of time. Seven million waterfowl have been counted there at one time. The Nation has few comparable sanctuaries, none better.

The Tule refuges hold the birds until late autumn. If they went foraging earlier, the crop devastation in the San Joaquin and Sacramento Valleys would be many times greater than the value of new crops in the reclaimed refuges. So not all farmers want the sanctuaries converted. Few would, if all knew the full implications.

Governor Brown, Interior Secretary Udall, Senator Clair Engle, among many others, support the Kuchel bill. Sportsmen and conservationists are evangelical about it. We hope they prevail.

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[From the Stockton (Calif.) Record, Feb. 14, 1962]

#### TRAIL AND STREAM

(By Fred Gambold)

Duck hunters who like their sport and want to see it continued can aid themselves immeasurably in the next few days, simply by sitting down and writing a letter or two.

The letters should be sent the individual hunter's Congressman or Senator in regards to a Senate bill now being considered in Washington, D.C.

Number of the bill is 1988, and was authorized by California Senator Thomas Kuchel, and it regards protection of the Tule Lake-Klamath area for a waterfowl refuge.

Elmer Boss, local sportsman, and a member of the board of the California Duckhunters Association, stresses importance of Kuchel's bill because of the importance of the Tule Lake-Klamath area for migratory waterfowl.

"The area is twofold in purpose," says Boss.

"It prevents crop depredations by migrating birds, and it provides a natural flyway resting spot for birds that eventually find their way down to the Central Valley.

"Support of Senate bill 1988," Boss adds, "will prevent opening of the area to the homesteading of 14,000 acres in 160-acre sections, as asked by the U.S. Bureau of Reclamation.

"The Tule Lake area is very vital to our own Central Valley farmers. Tule Lake offers a detention spot for ducks and geese in their southward flights, thus allowing full harvest of Central Valley crops, and yet it remains an attraction for waterfowl on their annual migratory treks.

"Any reduction of the size of the Tule Lake-Klamath refuge area, would create just that more danger to our own Central Valley crops," he concluded.

Boss also said the allowance of the homesteading of 160-acre plots would not hamper a group banding together and setting up a big commercial duck-hunting area, and this certainly would not be to the advantage of sportsmen, who now use the general fringe area without charge.

The excellent habitat area would undergo vast changes, Boss said, if homesteading is allowed.

He advised all duck hunters and other sportsmen to write immediately to their Senators and Congressmen, backing passage of Kuchel's Senate bill 1988.

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[From the Bakersfield (Calif.) Californian, Feb. 15, 1962]

#### RANDOM NOTES ON THE DAY'S NEWS

Those interested in the progress of the efforts of Senator Thomas Kuchel and others to stabilize the boundaries and secure the permanence of the Tule Lake Wildlife Refuge in California will follow closely the progress of a hearing set for February 28 before the Senate Interior and Insular Affairs Committee on a bill introduced by Senator Kuchel for this purpose. The bill, endorsed by the Department of the Interior, would offer permanent protection for the area which is a vital breeding, resting, and nesting grounds on the Pacific wildfowl flyway.

Senator Kuchel urges interested parties to be represented at the hearing, pointing out that there are a number of amendments under consideration. There is no intention in the legislation to impair the position of farmers presently operating within the refuge and it is the hope of Mr. Kuchel and other supporters of the measure that "by writing into permanent statute the refuge boundaries, there will be a stabilization of the economy of the area as well as the establishment of a stronger foundation for measures to protect wildlife."

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[From the Los Angeles (Calif.) Times, Feb. 19, 1962]

#### OUTDOORS—TULE LAKE REFUGE FACES NEW THREAT

(By Lupi Saldana)

A new threat to the future of the key waterfowl refuge on the Pacific coast flyway—the famed Tule Lake Refuge—was disclosed Sunday by sportsmen.

The disclosure came practically on the eve of a showdown hearing in Washington on a bill aimed at saving the valuable area from commercial interests.

First shot in the fight to stabilize the boundaries of the Tule Lake-Klamath Refuges was fired last year when Senator Thomas H. Kuchel introduced S. 1988.

The senior Senator from California took this action at the urging of sportsmen and officials of the State department of fish and game, who pointed out that farming and homesteading were constantly nibbling away at the refuge.

## AMENDMENT

Later top Interior Department officials reviewed the situation at Tule Lake with State officials. This resulted in submission of an amendment to S. 1988 by Interior officials that would add 6,000 acres to the Tule Refuge.

This, of course, set the stage for agriculture interests in the Tule sector to start beating the war drums. This they did by passing resolutions opposing Kuchel's bill and also whipping up an amendment of their own.

Bill Lowrey, president of the Southern Council of Conservation Clubs, discloses that the proposed amendment cooked up by the agriculture interests would practically eliminate Tule Lake as it is known today.

This proposal calls for having the Government dispose of about 50 percent of Tule Lake for homesteading and farming purposes in exchange for less desirable terrain in the area, Lowrey declared.

## HEARING FRIDAY

These developments have set the stage for the showdown hearing on Kuchel's bill, which will be heard Friday at 10 a.m. in Washington by the Senate Committee on Interior and Insular Affairs.

So with the future of one of the country's most important waterfowl areas hanging in the balance, Lowrey is urging all conservationists in general and sportsmen in particular to immediately write or wire their Representatives to Congress urging them to support S. 1988 and the Interior Department's amendment.

Officials who should be contacted are: Kuchel, Senator Clair Engle, Senator Clinton P. Anderson, chairman of the committee, and your congressional Representative.

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[From the *Outdoorsman* (published by Associated Sportsmen of California), January 1962]

## INTERIOR DEPARTMENT SUPPORTS TULE-KLAMATH WATERFOWL REFUGES

Strong support for congressional dedication of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges, in California and Oregon, as permanent units of the national wildlife refuge system has been voiced by the Department of the Interior, the Wildlife Management Institute reports. The Department's position is stated in Interior Secretary Stewart L. Udall's report to the Senate Committee on Interior and Insular Affairs on S. 1988, introduced earlier this year by Senator Thomas H. Kuchel of California to "preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific flyway and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States."

The refuges were created by Executive order on lands under the primary jurisdiction of the Bureau of Reclamation. The Lower Klamath Refuge was established in 1908, and Tule Lake and Upper Klamath Refuges in 1928. The three comprise 91,619 acres which with the 6,891 acres that would be added by S. 1988, would dedicate 98,510 acres to permanent waterfowl-agricultural use.

Experts estimate that about 80 percent of the ducks and geese of the Pacific flyway use the refuges during the fall migrations. Many thousands of young ducks also are reared there each year. The pattern of farming in the refuges provides the birds with reliable sources of food at a key time of the year, and slows their southward flights into the Central Valley of California until after most of the crops have been harvested, thereby holding crop depredations to a minimum.

The three refuges are some of the most important waterfowl grounds in North America. Conservationists share the view of Secretary Udall and Senator Kuchel that congressional recognition, as sought by S. 1988, is the best means of preventing the dissipation of the refuges in future years.

The amendments proposed by Secretary Udall are said to "serve more clearly the Federal Government's contractual obligations to existing irrigation districts" \* \* \* "permit present agricultural use while protecting waterfowl use" \* \* \* and prevent "future sale or homesteading of lands which would be dedicated to providing essential nesting, feeding, and resting grounds for ducks and geese."

California's Fish and Game Commission has also taken a firm position in opposition to a U.S. Bureau of Reclamation proposal to remove approximately 14,000 acres from the present Tule Lake National Wildlife Refuge and place them in private ownership for agricultural purposes.

[From the Vallejo (Calif.) Times-Herald, Jan. 10, 1962]

THE SPORTSMAN'S CORNER

(By Rodan Gunn)

An important piece of legislation for western duck hunters is ready to come up in Congress—and it may very well have a good chance of passage.

The bill is Senate bill 1988, introduced by Senator Thomas H. Kuchel, of California, and recently supported by the California Wildlife Federation.

As it now stands, with a few amendments, it also has the support of the Kennedy administration.

Recently, Interior Secretary Stewart L. Udall passed along to the Congress some suggestions on the proposed legislation, which would safeguard the vital Klamath-Tule Lake wildlife area near the California-Oregon line.

And Udall said that if the lawmakers agree to his suggestions, the legislation will be a "significant conservation achievement" and "solve a problem that has been under discussion for more than 20 years."

It's pretty well known that the Klamath-Tule Lake area is a feeding area for nearly all the waterfowl that wing down the Pacific flyway. Most experts agree that without this area, there would either be no flyway or the number of ducks would be severely cut.

What were Udall's suggestions?

According to the Interior Department they were designed to "more clearly recognize the Federal Government's present contractual obligations to the Tule Lake Irrigation District in California and the Klamath Drainage District in Oregon.

The legislation is designed to permit present agricultural use while simultaneously protecting waterfowl use in three refuges," said the Federal agency.

"The legislation as advocated by Secretary Udall, prevents future sale or homesteading of lands which would be dedicated to provide essential nesting, feeding, and resting grounds for ducks and geese on the Pacific flyway."

The Federal Government agrees that the area is important.

"Waterfowl experts of the Department [of Interior] estimate the marshland is used by 80 percent of ducks and geese on the Pacific flyway during the fall migration," said the Federal agency.

"The area is generally regarded as one of the most important waterfowl grounds on the North American Continent."

What's the situation in the area and how did it come about?

The refuges were created by Executive order upon lands under the primary jurisdiction of the Bureau of Reclamation. By terms of an agreement, the lands designated as refuges are managed by the Fish and Wildlife Service.

But much of the remaining publicly owned project land—that not designated as a refuge—is leased to private individuals for farming.

And this works well, too. The harvested fields provide waste grain and stubble heavily utilized by ducks and geese.

There has been talk of turning more of the land over to private interests—and that's the problem the Kuchel bill reaches.

Under terms of the proposed legislation, the leasing would be continued and all public land within the boundaries of the refuges would be administered for the major purpose of waterfowl management—but with full consideration for the optimum agricultural use that is consistent with waterfowl conservation.

Some of the areas would be developed as waterfowl habitat or to augment public shooting grounds. Additional tracts—including the Klamath Straits unit, Sheepy West, Sheepy East, and Miller Lake tract—would be developed intensively for waterfowl use. They are all within the lower Klamath refuge.

There is a provision in the bill for turning over to county governments a percentage of the funds received from leasing agricultural lands. There also are provisions to assure carrying out the Government's contractual obligations with the Tulelake and Klamath Water Districts—and the right of the Secretary of Interior to continue the policy and practice of leasing land for agricultural uses is clarified.

[From the San Francisco Examiner, Feb. 18, 1962]

#### THE TULE SANCTUARY

Senator Thomas Kuchel's bill to keep the teeming Tule Lake and lower Klamath waterfowl sanctuaries undisturbed should pass. These colorful wildlife refuges are irreplaceable. There would be an ominous finality in their extinction.

The hazards confronting the sanctuaries are of major stature. Impending programs of reclamation and homesteading are not mere matters of turning the birds out and letting the farmers in. Basically, they would constitute the serving of small interests of a very few at the expense of the essential interests of future generations.

The Kuchel bill, by preserving the refuges, will be on the side not just of history and nature but of endless time. These were wildlife sanctuaries long before man made them so. They have served their primitive purpose since the beginning of time. Seven million waterfowl have been counted there at one time. The Nation has few comparable sanctuaries, none better.

The Tule refuges hold the birds until late autumn. If they went foraging earlier, the crop devastation in the San Joaquin and Sacramento Valleys would be many times greater than the value of new crops in the reclaimed refuges. So not all farmers want the sanctuaries converted. Few would, if all knew the full implications.

Governor Brown, Interior Secretary Udall, Senator Clair Engle, among many others, support the Kuchel bill. Sportsmen and conservationists are evangelical about it. We hope they prevail.

[From the San Francisco (Calif.) Examiner, July 23, 1961]

#### SPORTS AFIELD—AID NEEDED ON WATERFOWL BILL

(By J. P. Cuenin)

Everybody interested in the preservation of the ducks and geese of the Pacific flyway should take an active part in helping to pass Senate bill 1988, introduced by Senator Thomas H. Kuchel, of California.

The bill, if passed, will preserve intact the necessary existing habitat for migratory waterfowl in the Upper and Lower Klamath Lakes National Wildlife Refuges and the Tule Lake National Wildlife Refuge.

Those three Federal waterfowl refuges in northeastern California and southern Oregon are the main stopping place for waterfowl coming south from their nesting grounds to their wintering grounds in California.

#### CROPS RUINED

At times each fall there are from 4 to 7 million ducks and geese on these refuges. If these sanctuaries are reduced in size, it is possible that many of the waterfowl would stop there for only a few days, then pour into the Sacramento and San Joaquin Valleys before the main part of the rice crop is harvested and thus cause a loss of millions of dollars to the ricegrowers. The owners of cattle and sheep would also have a considerable loss because of the destruction of their irrigated pastures by waterfowl.

#### COMBINED REFUGES

As a protection from the early flight of ducks from Alaska, which begin arriving in August, we have in the Sacramento and San Joaquin Valleys more than 40,000 acres which are maintained on five State and four Federal properties as combined refuges and waterfowl management areas.

Rice, barley, and other duck foods are planted on these refuges to attract and hold the birds until the rice and other crops are harvested, but they can afford crop protection only for the numbers of waterfowl that reach here on the first flight.

In addition to preventing taking more land for farming from those vital waterfowl refuges, the Senator's bill will prevent lowering the water levels to a point which can and often does permit the water to reach a temperature that will bring up from the muddy bottom the botulism bugs which have killed hundreds of waterfowl on the refuges.

## INFECTION SPREADS

Botulism not only kills large numbers of waterfowl on these refuges but permits the spreading of this fatal infection to bodies of water at considerable distances from the Klamath Lakes and Tule Lake.

If migrating ducks coming down from the nesting grounds stop in those refuges for a drink and a rest, then rise to head south, they can reach the Sacramento Valley refuges and hunting waters and infect them before the disease stops their flight. From that beginning all of the waterfowl waters down to the lower end of the San Joaquin Valley could quickly become contaminated.

## NEED ALL CLUBS

Senator Kuchel's bill has been indorsed by the following organizations:

Fish and game commission, Associated Sportsmen of California, National Wildlife Federation, California Wildlife Federation, California Farm Bureau, California Agricultural Council, Joint Wildlife Management Committee of Farmers and Sportsmen, and the California Duck Hunters Association.

If this bill is to pass it is not enough to have those fine endorsements. It is necessary that the members of all sportsmen's clubs should contact their Congressmen and ask that they work for its passage.

Each club should appoint a committee composed of duck hunters and farmers, both of whom are, or should be, vitally interested in the passage of this bill.

Each club could adopt a resolution favoring the bill, make copies of it and have the constituents of the Congressman sign it, then deliver it to him, or send it to him in Washington if he is not at home.

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[From the Santa Monica (Calif.) Evening Outlook, June 8, 1961]

## ROD AND GUN

(By J. Charles Davis)

Permanent reservation of nearly 100,000 acres of land, marsh, and water constituting a vital habitat for migratory game birds on the Pacific flyway would be assured under the terms of a bill just introduced in Congress by Senator Thomas H. Kuchel, of California.

Threatened nibbling away of lands in three wildlife refuges prompted Kuchel to introduce legislation withdrawing from possible homesteading 91,619 acres in the upper Klamath, lower Klamath, and Tule Lake areas and extending protection to 6,891 more acres of adjacent land in northern California and southern Oregon. This bill was referred to the Senate Interior Committee, of which Kuchel is a member.

With the backing of the U.S. Interior Department and numerous conservation and sportsman groups, Kuchel asked Congress to declare a definite policy that ownership of public lands in the refuges must be stabilized in order to safeguard the most vital single area of the Pacific flyway. He also pointed out that adequate resting, nesting, and feeding places for migratory birds are essential to prevent depredations against grain and other agricultural crops.

## LONG HISTORY

Pointing to the importance of the Klamath-Tule reservation, the California Senator said experts estimate 80 percent of all waterfowl traveling the Pacific flyway pass through the area, and concentrations of birds are estimated to reach peaks of 7,500,000.

Since the refuges were created by Executive orders in 1908 and 1911, reclamation of land for farming, much of it under lease from the Federal Government, and settlement by homesteaders have shrunk the extent of the original reservations, Kuchel told the Senate. Constant encroachments have undermined the ability of the refuge to support the huge flocks and have resulted in increasingly frequent raids on growing crops.

No farmers will be driven out of the area, but if Congress enacts the bill a barrier will be provided against "windfall" homesteading. Lease-agriculture operations and substantial income derived from hunters will have more economic benefits than any other arrangement involving landownership in the area, it was stated.

## OTHER SECTIONS

Besides land presently included in upper Klamath, lower Klamath, and Tule Lake refuges, Kuchel's bill will prevent further homesteading on 1,440 acres in Klamath County, Oreg.; 13 tracts in Siskiyou County and 1 tract in Modoc County, Calif.; and White Lake in California and Oregon.

As our population increases more and more land is being converted to homes, industrial, and farming uses. We have frequently pointed out that our woods, waters, fish, and game are being driven farther and farther back and that unless a stop is put to destruction of lands and water their survival is endangered.

With all our fight to preserve a free world it would seem that we should make sure that we have a world worth preserving, not a concrete jungle.

It does not make much sense to this reporter to fight for a 4-day week and then not have any place to enjoy our holidays.

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[From the San Francisco (Calif.) Chronicle, June 11, 1961]

## TULE BILL NEEDED

(By Bud Boyd)

Because my great-grandfather crossed the Sierra before the gold rush, our family is rich in stories of that time. And one of the most outstanding was when great-grandfather went to Tule Lake.

"That was Indian country then," he said. We could picture the lurking Modocs. He traveled down the tawny flanks of the Warner Range to ride his buckskin horse into the valley. It was a crisp October day—the moon of gathering waterfowl—and V-shaped lines of ducks and geese swarmed through the air. Tan tules stretched as far as the eye could reach, and when he rode into the marsh where waterfowl were talking, there was an instant hush.

Then suddenly the air was filled with sound. Geese, by the uncountable thousands rose into the sky with a querulous honking noise, and the roar of their beating wings was like waves breaking on the shore. A million mallards rose in quacking protest at this intrusion.

To great-grandfather this was one more wonderful thing to find in this new and lovely land. Where men of greater foresight saw the sun-cured grass as cattle feed, and the reclaimed marsh as grain and potato fields, he only saw the wonderful free flying waterfowl.

But in the meantime, this fabulous rendezvous for birds which migrate in from Canada, became a place which men of commerce wanted. Men hacked away the tules and drained the marsh, and a sharp-eyed Federal Government saw this potential threat to one of the world's greatest waterfowl concentration areas, and so they created the Klamath and Tule Lake refuge, as a place to be secure from man.

This was accomplished by Executive order in 1908, but since that time a certain amount of land reclaiming has continued. Rich land has been put to the plow in many cases, and much of the marsh has vanished. Even today a few men still would like to use it all for agriculture.

Although the Federal Government has maintained ownership, and has only leased the agricultural rights, there is a continuing cry for more homesteading. So in an effort to completely safeguard this vital waterfowl habitat, U.S. Senator Thomas H. Kuchel has introduced a bill which would assure protection of the area.

With the backing of the U.S. Interior Department and numerous conservation and sportman groups, Kuchel took the step to ask Congress to declare a definite policy that ownership of public lands in the refuges must be "stabilized" in order to safeguard "the most vital single area of the Pacific flyway."

Kuchel's bill would withdraw from possible homesteading 91,619 acres in the upper Klamath, lower Klamath, and Tule Lake areas. It would also extend protection to 6,891 acres of adjacent land in northern California and southern Oregon. The bill has been referred to the Senate Interior Committee, of which Kuchel is a member.

Pointing to the importance of the Klamath-Tule reservation, the California Senator said, "experts estimate 80 percent of all waterfowl traveling the Pacific flyway pass through the area and the concentration of birds is estimated to reach peaks of 7,500,000." He adds: "Constant encroachments have undermined the

ability of the refuge to support the huge flocks and have resulted in increasingly frequent raids of growing crops."

In an effort to show fairness, the Senator pledged that "No farmers will be driven out of the area." But if Congress enacts the bill a barrier will be provided against windfall homesteading.

This certainly seems like a sensible effort on the part of Senator Kuchel, and would promise to eliminate senseless water level and landownership bickering, as occurred last year.

After all, how does one measure the worth of a resting spot for waterfowl which have winged there through the untold centuries? How does one evaluate the sight and the glorious sound? How do you put a price on something that great-grandfather saw in 1848—and still is a place where I can take my son to hunt today.

We went goose hunting last year, you know, and as we walked across the frozen ground at morning, the geese were milling like a windblown sheet across the distant stubble. The clamor sounded like a speeding freight train, and my age-8 son said softly, "Gee, Dad. I didn't know there were this many birds in all the world."

I pray we keep it that way.

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[From the Los Angeles (Calif.) Mirror, June 9, 1961]

PLAN LAUNCHED TO SAVE TULE LAKE DUCK REFUGE

(By Lupi Saldana)

A bill to permanently insure that the 100,000-acre Federal waterfowl refuge at Tule Lake, considered the most important waterfowl refuge in the Pacific Flyway, remain intact today has been formally introduced in Congress by Senator Thomas H. Kuchel.

The measure introduced by California's senior Senator has the backing of the Interior Department, State fish and game officials, and sportsmen's groups.

Actually, the Tule Lake-Klamath waterfowl area is the key to waterfowling in California, because it hosts about 80 percent of all waterfowl winging down the Pacific Flyway. It is estimated that concentrations of birds in the area hit peaks of 7,500,000.

The refuge is also vital from the standpoint of recreation, because it provides lots of hunting opportunities for unattached California and Oregon shotgunners. And in addition to the waterfowl sport, the area also provides some pretty fair pheasant hunting.

In the past years homesteading has been threatening the existence of the refuge. As a result, sportsmen and fish and game officials have been concerned that this great waterfowl sanctuary might be on its way out.

In his bill, Kuchel has asked Congress to assure the future of the refuge by "stabilizing" the ownership of public lands in the refuge in order to "safeguard the most vital single area of the Pacific Flyway."

The Senator also pointed out that adequate resting, nesting, and feeding places for migratory birds are essential to prevent depredations on grains and other agricultural crops. So in effect, the refuge serves many purposes.

Since the refuges were created in 1908 and 1911, reclamation of land for farming and settlement by homesteaders has shrunk the extent of the original reservations.

The Senator pledged that no farmers will be driven out of the area, added that the lease-agriculture operations and the substantial income derived from hunters will have more economic benefits than any other arrangement involving land-ownership in the area.

At any rate, sportsmen should throw their entire weight behind Kuchel's measure.

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[From the Sacramento (Calif.) Union, June 8, 1961]

(By Bob Rudy)

Duck hunters may get some needed protection. Permanent reservation of nearly 100,000 acres of land, marsh, and water constituting a vital habitat for migratory game birds on the Pacific Flyway would be assured under the terms of a bill just introduced in Congress by U.S. Senator Thomas H. Kuchel, of California.

Threatened nibbling away of the lands in the three existing wildlife refuges prompted the Senator to introduce this legislation withdrawing from possible homesteading 91,619 acres in the Upper Klamath, Lower Klamath, and Tule Lake areas and extending protection to 6,891 more acres of adjacent land in northern California and southern Oregon. The bill has been referred to the Senate Interior Committee, of which Kuchel is a member.

This area hosts 80 percent of California waterfowl every year. Peaks reach over 7,500,000 ducks and geese.

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[From the Los Angeles (Calif.) Mirror, June 12, 1961]

#### KEEP TULE LAKE FOR THE BIRDS

A bill introduced in Washington by Senator Tom Kuchel to preserve the Tule Lake waterfowl refuge deserves the support of all the public, as well as sportsmen.

The 100,000-acre area is a stopover point for millions of birds in migration—about 80 percent of all birds which travel the Pacific Flyway.

The size of the lowland watering area, mainly in Siskiyou County, has diminished over the years because of homesteading for farms.

Kuchel's bill would stop this and retain what is left, which is still a considerable area of natural beauty.

The necessity of providing natural nesting and feeding grounds for birds is a real problem to farmers who are invaded by the flocks.

In the north, depredations by game birds are a serious matter.

The Kuchel bill would help in that problem and also serve sportsmen and nature lovers by protecting our waterfowl from extinction.

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[From the Los Angeles Examiner, June 7, 1961]

#### TULE LAKE BILL GIVEN CONGRESS

U.S. Senator Tom Kuchel has introduced in the Congress a bill urged by California and Oregon sportsmen's groups to preserve 100,000 acres of land, marsh, and water on the Pacific Flyway against encroachment of homesteaders.

Kuchel's bill is aimed at protecting habitat for migratory game birds that yearly make use of the flyway.

It would withdraw from possible homesteading 91,619 acres in the Tule Lake, Lower Klamath, and Upper Klamath refuge areas. At the same time, it would extend protection to 6,391 more acres of adjacent land in northern California and southern Oregon.

These areas include 1,440 acres in Klamath County, Oreg., 13 tracts in Siskiyou County, 1 tract in Modoc County and White Lake in California and Oregon.

Kuchel's bill has been referred to the Senate Interior Committee of which the California Senator is a member.

His proposal has the backing of the U.S. Interior Department and numerous conservation and sportsmen groups in this State and in Oregon.

It asks that Congress declare a definite policy that ownership of public lands in the refuges must be stabilized in order to safeguard the "most vital single area of the Pacific Flyway."

The measure also points out that adequate resting, nesting, and feeding places of ducks and geese are essential to prevent depredations on grains and other agricultural crops.

Kuchel emphasized the importance of the Klamath-Tule Lake refuge by pointing out that experts estimate 80 percent of all waterfowl traveling the Pacific Flyway pass through this area and that the concentration of migratory flocks reaches an estimated peak of 7,500,000 each year.

#### HOMESTEADERS MOVE IN

The refuges were created by Executive orders in 1908 and 1911. Since then, reclamation of land for farming, much of it under lease from the Federal Government, and settlement by homesteaders, has shrunk the extent of the original reservations.

Constant encroachments, Kuchel told the Senate, have undermined the ability of the refuge to support huge flocks and have resulted in increasingly frequent raids on growing crops.

The California Senator pledged no farmers will be driven out of the area, but said the bill will provide a barrier against future "windfall" homesteading.

He commented that lease-agriculture operations and the substantial income derived from hunters will have more economic benefits than any other arrangement involving landownership in the area.

This bill has the full approval of the California Department of Fish and Game, which had a hand in drafting the basic policy. Walt Shannon, DFG director, and Jim Smith, the State fish and game commission president from Los Angeles, took up this matter specifically on a March 9 trip to Washington.

They met with Under Secretary of the Interior James Carr and Assistant Secretary of the Interior for Fish and Wildlife Frank Briggs and urged that the Tule Lake and Klamath refuges be placed permanently in the jurisdiction of the U.S. Fish and Wildlife Service.

Protection of ducks and geese at Tule Lake and Klamath means not only good hunting for those who make the long trip north but assures longer seasons and better bags for sportsmen the length of California.

Hunters from here can well remember the big water battle that took place in the fall of 1959 with the U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, the Tule Lake Irrigation District all involved. It took an order and court threat from the Secretary of Interior to finally bring the marsh water level back to stipulated elevations for the benefit of waterfowl nesting in the spring and shooting in the fall.

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[From the Napa (Calif.) Register, June 12, 1961]

#### PACIFIC FLYWAY

Permanent reservation of nearly 100,000 acres of land, marsh, and water constituting a vital habitat for migratory game birds and the Pacific Flyway would be assured under terms of a bill introduced in Congress by U.S. Senator Thomas H. Kuchel, of California.

Threatened nibbling away of lands in three wildlife refuges prompted the senior California Senator to introduce legislation withdrawing from possible homesteading 91,619 acres in the Upper Klamath, Lower Klamath, and Tule Lake areas and extending protection to 6,891 more acres of adjacent land in northern California and southern Oregon. The bill was referred to the Senate Interior Committee, of which Kuchel is a member.

With the backing of the U.S. Interior Department and numerous conservation and sportsman groups, Kuchel took the step of asking Congress to declare a definite policy that ownership of public lands in the refuges must be stabilized in order to safeguard the most vital single area of the Pacific Flyway. He also pointed out that adequate resting, nesting, and feeding places for migratory birds are essential to prevent deprecations on grains and other agricultural crops.

Pointing to the importance of the Klamath-Tule Reservation, the California Senator said experts estimate 80 percent of all waterfowl traveling the Pacific Flyway pass through the area and concentrations of birds are estimated to reach peaks of 7,500,000.

Since the refuges were created by Executive orders in 1908 and 1911, reclamation of land for farming, much of it under lease from the Federal Government, and settlement by homesteaders has shrunk the extent of the original reservation, Kuchel told the Senate. Constant encroachments have undermined the ability of the refuge to support the huge flocks and have resulted in increasingly frequent raids on growing crops, he added.

No farmers will be driven out of the area, the Senator pledged but if Congress enacts the bill a barrier will be provided against windfall homesteading. He commented that lease-agriculture operations and the substantial income derived from hunters will have more economic benefits than any other arrangement involving land ownership in the area.

Besides land presently included in the upper Klamath, lower Klamath, and Tule Lake refuges, Kuchel's bill will prevent further homesteading on 1,440 acres in Klamath County, Oreg.; 13 tracts in Siskiyou County, and 1 tract in Modoc County, Calif.; and White Lake in California and Oregon.

## WILDLIFE SANCTUARY BILL INTRODUCED

(By Walt Radke)

In a move to permanently reserve nearly 100,000 acres of land, marsh, and water along the Oregon-California border for migratory game birds, U.S. Senator Thomas H. Kuchel this week introduced a bill in Congress to have the areas named inviolate wildlife sanctuaries.

Under the provisions of the bill 91,619 acres in the upper Klamath, lower Klamath and Tule Lake areas would be withdrawn from possible homesteading.

Protection also would be accorded 6,891 more acres of adjoining land in northern California and southern Oregon. The measure has been referred to the Senate Interior Committee of which Kuchel is a member.

With the backing of the U.S. Interior Department, the California Fish and Game Department and Commission and organized sportsmen throughout the State, Kuchel took the step of asking Congress to declare a definite policy of ownership in the key refuge area.

At the present time the refuges exist only by Executive orders issued in 1908 and 1911, with the Bureau of Land Management, Bureau of Reclamation and the U.S. Fish and Wildlife Service having confused and overlapping authorities and purposes.

Sporadic land withdrawals for homesteading have nibbled away at the refuges through the years. Kuchel calls the Tule-Klamath region the most vital single area of the Pacific flyway.

He also points out that adequate resting, nesting and feeding places for migratory birds are essential to prevent depredations on grains and other agricultural crops throughout the lush central valley.

Experts estimate 80 percent of all ducks and geese traveling the Pacific flyway use the Klamath-Tule Reservation facilities. At times, as many as 7,500,000 migrating birds are in residence.

Since the refuges were set up a half century ago, reclamation of land for farming, much of it under lease from the Federal Government, and settlement by homesteaders, has shrunk the extent of the original reservations considerably. In the Tule area, there have been two withdrawals since World War II.

These constant encroachments have undermined the ability of the refuges to support the huge flocks and resulted in increasingly frequent raids on growing crops.

No farmers will be driven out of the area, according to Kuchel. But if Congress enacts the bill, a barrier will be provided against further agricultural encroachments.

He contends further that lease agriculture operations and the substantial income derived from hunters will have greater economic benefits than any other arrangement involving land ownership in the area.

Besides lands presently included in the upper Klamath, lower Klamath and Tule Lake region, the Kuchel bill will prevent further homesteading on 1,440 acres in Klamath County, Oreg., 13 tracts in Siskiyou County, 1 tract in Modoc County, and White Lake in California and Oregon.

The CHAIRMAN. I hope what you said about the excellent project in Clear Lake will be commented upon. I assume the witnesses will testify generally, but will add any comments on the matter.

Go ahead, Mr. Janzen.

**STATEMENT OF DANIEL H. JANZEN, DIRECTOR, BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE; ACCOMPANIED BY RICHARD DITTMAN, ENGINEER; RICHARD GRIFFITH, CHIEF, REGIONAL WILDLIFE DIVISION, PORTLAND, OREG.; ROBERT RUSSELL, REFUGE MANAGER, KLAMATH AND TULE LAKE WILDLIFE REFUGES; AND JEAN BRANSON, STAFF ASSISTANT, REGIONAL OFFICE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

Mr. JANZEN. Mr. Chairman, my name is D. H. Janzen, Director of the Bureau of Sport Fisheries and Wildlife. I have with me here to help with answering questions Richard Dittman, in charge of engineering; Richard Griffith, regional wildlife division chief from Portland, Oreg.; Robert Russell, refuge manager of the Klamath and Tule Lake Refuges; and Jean Branson, staff assistant of the regional office.

I have a rather lengthy and complete statement which in the interest of saving time I would like to place in the record and summarize a part, spending the rest of the limited time here commenting on S. 1988, using these charts, and I have a few slides which I would like to place in the record, with your permission.

I will proceed with my statement while they are setting up the exhibits.

The CHAIRMAN. Very well; is this as short as you can make the reason for this bill? Does it take all this to explain the bill?

Mr. JANZEN. No, sir. There are various comments on various features of these areas that I am sure will answer questions which would come up in the minds of the committee members. I have only a short summary I am going to make of my statement. There are about 15 pages of testimony I am submitting for the record.

The CHAIRMAN. All right.

(The statement referred to follows:)

**STATEMENT OF DANIEL H. JANZEN, DIRECTOR, BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

Our Department urges the early enactment of S. 1988, with the amendments suggested in our report to your committee. We consider this proposed legislation extremely important to our waterfowl conservation program.

As the members of this committee know, the Department of the Interior has the responsibility for managing all migratory birds protected by treaties between the United States and Canada, and with Mexico.

Aquatic migratory birds, such as wild ducks and geese, must have suitable marsh and water with an adequate food supply along their entire path of migration, from their breeding ground in the North to their wintering grounds in the South, or they cannot survive. The demands of civilization have eliminated much of this needed habitat. Congress has long recognized the needs of waterfowl and through the years has provided legislation designed to help safeguard wetlands. Last fall the Congress authorized an advance of \$105 million, to be expended over a 7-year period for the purchase of waterfowl habitat. This advance will be paid back from duck stamp receipts.

We believe this loan fund authorization, when implemented, will adequately meet the long-range needs of migratory waterfowl, providing that we take advantage of every opportunity of preserving habitat already under Government control and providing we take advantage of waterfowl conservation opportunities on water resource projects. The national wildlife refuges in the Klamath Basin under consideration in S. 1988, namely the Tule Lake, Lower Klamath, and Upper Klamath Refuges, fall in the category of existing Federal habitat. Tule Lake and Lower Klamath are the most important refuges in the Pacific flyway.

We estimate that approximately 80 percent of the ducks and geese in the Pacific flyway funnel through the Upper Klamath Basin during the migration periods. These refuges not only provide necessary protection and food for these birds, but play an essential part in keeping them out of ricefields of California's Central Valley during the fall until these rice crops are harvested. Because so much of the birds' natural habitat in California has been converted to other uses, depredations by ducks and geese on agricultural crops has become a serious problem. The annual fall duck and goose population on Lower Klamath and Tule Lake Refuges has ranged from peaks of  $3\frac{1}{4}$  to 7 million birds during recent years. It is easy to visualize the devastating effect the birds would have on ricefields farther south if they are not held up in their migration until the crops are safely in the bin.

The Klamath Basin was a magnificent resting and feeding ground for migratory and other birds long before white men settled this country. Around 1900, there were about 400,000 acres of marsh and water in the Upper Klamath Basin. Records of the Game Transfer Co. in San Francisco show that, during the late 1890's, market hunters shipped up to 120 tons of ducks to market in one season from this area.

#### TULE LAKE NATIONAL WILDLIFE REFUGE

Mr. William L. Finley, early-day naturalist, photographer, and writer, reports conditions on Tule Lake as follows: "When I cruised across Tule Lake in 1908 it was a body of water about 12 or 15 miles long and 10 or 11 miles wide. It was supplied by the water of Lost River entering from the north. It will be remembered that Lost River was the outlet of Clear Lake. The west side and the whole northern border was a vast tule marsh and a natural wildfowl nursery." There is every indication that Tule Lake had few equals as a mecca for waterfowl and myriads of marsh and waterbirds.

Drainage of the tule marshes on the north fringe of the lake for agriculture was undertaken by a few settlers in the early 1900's and later by the Reclamation Service following cession of the lands by Oregon and California and the implementing Federal act of 1905. Tule Lake National Wildlife Refuge was established by Executive order in 1928 on 10,585 acres. Subsequent orders brought the total to 37,337 acres, of which some 2,400 acres have since been homesteaded. Under early agreements with the Bureau of Reclamation, the Bureau of Sport Fisheries and Wildlife obtained joint use of 13,000 acres of marsh and water for wildlife management purposes. This marsh and water sump provides an extremely valuable resting and feeding area for waterfowl during migrations and also functions as primary habitat for most of the birds produced on Tule Lake. The agreement also gave the Bureau of Sport Fisheries and Wildlife administrative use of 2,500 acres of agricultural land adjacent to the sump areas for wildlife food production.

The remaining 15,000 acres within the refuge is cash leased to local farmers by the Bureau of Reclamation. Following the harvest, waterfowl glean the lease lands stubble fields for waste grain. The lease areas provide space for waterfowl to disperse, loaf, and feed, and are particularly attractive and valuable to geese and field feeding species of ducks, such as mallards and pintails. Waterfowl use records indicate that about 55 percent of all refuge goose use has occurred on the water and marsh of sump 1b and on reserve sump 3 which is lease land except for a small acreage farmed by refuge personnel for waterfowl. The combination of the water and marsh, refuge lands farmed for wildlife food, and lease lands complement one another and has proven to be one of the most attractive and heavily used waterfowl areas on the North American continent. S. 1988 would retain these lease lands in Government ownership in perpetuity, dedicate them to the major use of wildlife conservation, but with full consideration to optimum agricultural use consistent therewith.

Tule Lake National Wildlife Refuge, the very heart of the Upper Klamath Basin refuge system, has consistently been threatened by a variety of plans for partitioning and homestead or land disposal by sale. As mentioned earlier, about 2,400 acres of the refuge has already been homesteaded. The construction of homes and other buildings attendant with human habitation in the Panhandle, and other disturbance, have prevented waterfowl from using the area extensively. Waterfowl use on the homesteaded area, now minor during the critical period of the hunting season, is similar to use on other private lands outside the Executive order boundary of the refuge. The 13,000 acres of water and marsh, which section 5 of S. 1988 specifies shall not be reduced, furnishes tremendous quantities of aquatic food. This area (sumps 1a and 1b)

is a tremendous and valuable waterfowl attraction. Waterfowl use-days, the yardstick of the refuge's importance and value, totaled over 179 million for the year ending August 31, 1960. This exceeded use of any other areas on the North American Continent. The emergent marsh in the northeast portion of sump 1a also provides excellent meeting habitat, especially for diving ducks, when water elevations are at satisfactory levels. Redhead ducks, whose flyway population levels are unsatisfactorily low, have traditionally nested here in great numbers.

For years hunters from throughout California and many other States have come to Tule Lake to shoot on the famed Tule marsh. Hunter use-days on Tule Lake exceed that of any other public hunting area in the State of California, with the exception of lower Klamath, which has surpassed it in some years.

A key factor in the management of this vital segment of the Pacific flyway waterfowl habitat is the regulation of water elevations in sumps 1a and 1b to develop and maintain the best possible habitat and environment for waterfowl. S. 1988 would reemphasize the obligation of the Tulelake Irrigation District to maintain specified water elevations in accordance with the district's contract and secretarial regulations. S. 1988 provides that several scattered tracts of public land under Bureau of Reclamation withdrawal which are contiguous or adjacent to the Tule Lake Refuge, totaling 1,814 acres, be dedicated to wildlife conservation. This Bureau, under early agreements with the Bureau of Reclamation, has constructed housing and storage buildings on two of the tracts; two small tracts adjacent to the west boundary may be required if an existing road is improved and straightened; another is a pass shooting area on Sheepy Ridge between Tule Lake and Lower Klamath National Wildlife Refuges and should be retained as a public hunting area; the remaining tracts also on Sheepy Ridge have some potential for public hunting and were included to relieve the Bureau of Reclamation of these small scattered holdings.

#### LOWER KLAMATH NATIONAL WILDLIFE REFUGE

In its pristine state, Lower Klamath Lake was the ancestral breeding grounds for countless thousands of waterfowl and other water-loving birds. Migrant waterfowl in numbers described as "blackening the sky" gathered here fall and spring in passing to and from breeding and wintering grounds. Its outstanding value to waterfowl was recognized by ornithologists and conservationists, and through their influence President Theodore Roosevelt established it as the first waterfowl refuge in the United States by Executive order in 1908. At that time it was a vast water and marsh area of over 80,000 acres.

Attempts to reclaim the lake for agriculture began early in the 1900's. The water from the Klamath River was shut off from flowing into the lower Klamath Lake at the Southern Pacific Railroad and the lake dried up by evaporation. Peat fires developed as the soils dried and the attendant smoke and dust caused criticism and inconvenience in the basin. In 1925 the Bureau of Reclamation appointed a commission to report on the soils and conditions of lower Klamath Lake. Their report concluded that the marsh peatlands had agricultural value or at least a potential value as such.

The Bureau of Sport Fisheries and Wildlife through agreements with the Bureau of Reclamation attained intensive use of 29,700 acres in California, but with the requirement that the area serve as a sump for Tule Lake floodwaters.

There followed the construction of dikes and 13 management units designed to best utilize water supplies and minimize and control waterfowl losses from botulism or avian "duck sickness," and to farm the better agricultural lands so that the vast migrant hordes of waterfowl could be accommodated on these fewer acres and provided with food to avoid depredations to agricultural crops in the basin and in the Central Valley of California. Selected units interspersed among the farm tracts were then reflooded.

Lower Klamath land is less productive than the more fertile soils of Tule Lake, but new and improved farming techniques and practices have made agricultural crop production profitable on the better lands. The water and marsh and agricultural land development is supporting large waterfowl concentrations. For example, in the 12-month period ending August 31, 1960, about 147 million days of waterfowl use occurred. Waterfowl production is also important. Our records indicate that more waterfowl were produced on the refuge than taken by hunters on the refuge public hunting area and contiguous lands. Incidentally, lower Klamath ranks second only to Tule Lake in the number of hunters accom-

modated on a single area in California. The 6,366-acre Klamath Straits tract which is within the Executive order boundary of the Lower Klamath Refuge but outside the intensive use area is available to Oregon sportsmen for waterfowl hunting. It should remain in public ownership as a hunting area for the public, and continue to be leased for agricultural purposes by the United States as provided for in S. 1988. Should this tract be converted to private ownership, farm residences and other buildings and the attendant increased human disturbance and interference would depreciate its waterfowl values.

Miller Lake (Oreg.) tract will, with development of Miller Lake (Calif.) tract as refuge, offer an additional important shooting area for Oregon hunters. Total acreage of the Miller Lake tract is 2,311.

Other tracts of public land under Bureau of Reclamation withdrawal within the Executive order boundary dedicated to wildlife conservation by S. 1988 are Sheepy West (3,925 acres) and Sheepy East (1,902 acres). These areas contiguous to the refuge, will provide lands for expansion of the Lower Klamath Refuge and additional hunting areas in California. Outside the Executive order boundary are White Lake (1,189 acres) and scattered tracts totaling 1,561 acres. White Lake, when flooded, is a natural marsh dotted with innumerable small hummocks and islands and the most productive nesting habitat in the basin. The lettered tracts include portions of the P irrigation and drainage canal and join private lands on the west which later should be acquired to block out the Lower Klamath Refuge.

Through increased crop production, in recent years the acreage farmed has been as high as 10,500 acres cropped by local farm cooperators and farmed by the refuge staff, lower Klamath has attained equal status with Tule Lake as a key refuge area. However, despite total crop production exceeding that of lands administered by our Bureau on Tule Lake in some recent years, lower Klamath has not proven as attractive to geese which continue to show a pronounced preference for Tule Lake. Moreover, crop production is more variable on lower Klamath than on Tule Lake because of the higher frost hazard. Erratic food production has resulted in corresponding highs and lows in waterfowl use, not found on Tule Lake. The Lower Klamath Refuge with the additional lands included under S. 1988 cannot be considered substitute habitat for Tule Lake. Despite extensive development on Lower Klamath Refuge, diving ducks, especially redheads which are now on the critical list and afforded complete protection the last two hunting seasons, continue to favor the more important Tule Lake marshes. The additional lands thus acquired and their development will no more than offset the continued drainage in the basin. Approximately 34,000 acres of wet lands in the Upper Klamath Basin have been drained since 1940.

#### UPPER KLAMATH NATIONAL WILDLIFE REFUGE

The Upper Klamath National Wildlife Refuge of 8,140 acres was established by Executive order in 1928, and enlarged to about 12,500 acres in 1952 by purchase of additional land. The refuge, located in a narrow strip within the 28,000-acre bulrush marsh north of upper Klamath Lake and west of Agency Lake, is subject to maximum annual fluctuation of about 6 feet as water is drawn from upper Klamath Lake for irrigation and hydroelectric power. During low-water years, this marsh is largely a seasonal mudflat. Low water levels discourage nesting and result in waterfowl losses from botulism. Hunting has generally been poor because of low water and lack of refuge development.

Development to permit stabilization of water levels and improvement of the marsh has not been undertaken to date because of the high cost of such construction and the need for additional lands to block out the refuge to form a more operable unit.

S. 1988 would add 1,440 acres adjoining the refuge and dedicate this tract and Bureau of Reclamation lands within the Executive order boundary to wildlife conservation. This addition and further development could greatly increase the area available for public hunting opportunity.

Upper Klamath National Wildlife Refuge has outstanding potential for diving duck nesting if water levels can be stabilized during the critical nesting period. We do not anticipate that it will be practical to develop and operate this area in a manner that will serve large concentrations of birds as is the case at Klamath and Tule Lake Refuges. It is evident from nearby private land reclamation that cereal grain production is possible, but that it is marginal and expensive. Because of the high cost involved and the frost hazard, refuge farming should

be limited to that necessary to most local depredation need and provide food for moderate numbers of fall and spring migrants.

Consideration of Upper Klamath National Wildlife Refuge should include Hank's Marsh, 1,050 acres of Bureau of Reclamation first form withdrawal land on the east edge of Upper Klamath Lake, north of the city of Klamath Falls. Hank's Marsh has outstanding waterfowl nesting potentials. It suffers from annual fluctuations of Upper Klamath Lake which, in dry years, lower the marsh level during the nesting season and the summer botulism period. The correction of this situation will be a part of our long-range plan.

Hank's Marsh is a popular public waterfowl hunting area for sportsmen of Klamath Falls. It should be retained in public ownership, dedicated to wildlife conservation (S. 1988 would do this), and developed as a nesting area for diving ducks and Canada geese, and as a public hunting area.

#### CLEAR LAKE NATIONAL WILDLIFE REFUGE

Clear Lake National Wildlife Refuge, established by Executive order in 1911 to protect colonial nesting birds, particularly white pelicans, and comprising 7,440 acres of rocky upland terrain and 25,500 acres of impounded water under normal conditions, is superimposed on a Bureau of Reclamation storage reservoir. Excessive wind and wave action, combined with fluctuating water levels and extreme turbidity, have precluded the establishment of aquatic plant growth. Common Canada geese nest to some extent on the refuge and the vast open expanse of water is used to a minor degree as a resting area by fall waterfowl migrants. Sage grouse and pronghorn antelope occupy the rocky, sagebrush uplands.

In 1960 and 1961, extremely low water levels prevailed and the small islands used by colonial nesters became a peninsula. Marauding coyotes thus gained access to the colonies and some of the birds shifted to other areas on the lake; some others moved to the Sheepy Lake colony on Lower Klamath National Wildlife Refuge.

Prior to the construction of the dam at the outlet of the lake by the Bureau of Reclamation and the raising of the water elevation for storage purposes, a sizable marsh existed in the northeast portion of the lake. Waterfowl used this marsh extensively for nesting.

The Bureau of Reclamation has given some consideration to the feasibility of partitioning the water area of Clear Lake and draining a portion of the lake bottom to make it available for agricultural use. We have considered these suggestions to determine the wildlife values which might accrue from this development.

Cooperative studies by the Bureau of Reclamation and the California Agricultural Extension Service on a 2-acre plot on the gravelly shoreline of Clear Lake indicated that this area has cereal grain production potential. However, the plot findings are not indicative of the agricultural potential for the lake bottom which is a clay soil more suited to pasture than cereal grain production.

Clear Lake is over 400 feet above the Tule Lake Basin and is subject to freezing temperatures every month of the year. The reclamation of a portion of Clear Lake for agriculture would reduce the moderating effect of this 25,000-acre body of water, increase the frost hazard, and reduce the assurance of sustained annual crop production.

It is our Bureau's conclusion that while proposals to develop Clear Lake could enhance its wildlife values, the development would be costly, and the enhancement of wildlife values would not be of sufficient magnitude to materially affect and induce redistribution of the vast waterfowl concentrations on Tule Lake and Lower Klamath refuges and thus could not be considered as substitute habitat.

#### KLAMATH FOREST NATIONAL WILDLIFE REFUGE

The Klamath Forest National Wildlife Refuge, commonly referred to as Klamath Marsh, was formerly a part of the Klamath Indian Reservation. It was made available for acquisition by the Klamath Termination Act. Transfer of the 14,641 acres of tribal lands to the Bureau of Sport Fisheries and Wildlife was accomplished September 7, 1960, by the payment of duck stamp funds under the Migratory Bird Hunting Stamp Act, as amended. The refuge acreage has been brought to 15,226 by the purchase of private lands to help block out refuge holdings.

This round-stem bulrush marsh, situated at the extreme upper end of the Upper Klamath Basin at the foot of the east slope of the Cascade Mountain Range, is a productive nesting area for waterfowl, as well as for many species of marsh and water birds including common snipe and greater sandhill cranes. Migrant waterfowl, particularly ducks, use it spring and fall but it is not a principal stopping place and staging area for birds of the Pacific Flyway, nor will it ever be because of the rigorous climate which precludes the growing of cereal grain which is so essential to feed mass waterfowl concentrations. The marsh freezes at an early date each fall pushing the birds southward.

This new refuge was acquired primarily to preserve historically valuable and productive marsh habitat in public ownership. Klamath Forest National Wildlife Refuge will never accommodate masses of waterfowl on the scale of the lower refuges of the basin and it cannot be considered as replacement habitat.

#### CONCLUSION

In conclusion, we believe that S. 1988 with our Department's recommended amendments is a reasonable and equitable solution to the problem of joint use of the Upper Klamath Basin area for waterfowl and agricultural purposes.

As called for in the contract between the United States and the Tule Lake Irrigation District, studies have been made of existing and potential wildlife habitat in the Upper Klamath Basin, which might be substituted for wildlife habitat within the Tule Lake refuge but without success. The Secretary has determined that there is no area suitable as substitute wildlife habitat for the public lands and waters within the Executive order boundary of the Tule Lake National Wildlife Refuge, that these lands and waters are needed to meet waterfowl management requirements, and that the refuge area must not be reduced.

Mr. JANZEN. Our Department urges the early enactment of S. 1988, with the amendments suggested in our report to your committee. We consider this proposed legislation extremely important to our waterfowl conservation program. As the members of this committee know, the Department of the Interior has the responsibility for managing all migratory birds protected by treaty between the United States and Canada, and with Mexico.

Migratory birds, such as wild ducks and geese, must have suitable marsh and water with an adequate food supply along their entire path of migration, from their breeding ground in the North to their wintering grounds in the South, or they cannot survive.

The demands of civilization have eliminated much of this needed habitat. Congress has long recognized the needs of waterfowl and through the years has provided legislation designed to help safeguard wetlands.

Last fall the Congress authorized an advance of \$105 million to be expended over a 7-year period for the purchase of waterfowl habitat, this advance to be paid back from duck stamp receipts.

We believe this loan fund authorization, when implemented, will adequately meet the long-range needs of migratory waterfowl, providing that we take advantage of every opportunity of preserving habitat already under Government control, and providing that we take advantage of waterfowl conservation opportunities on water resource projects.

The national wildlife refuges in the Klamath Basin under consideration in S. 1988, namely the Tule Lake, Lower Klamath, and Upper Klamath Refuges, fall in the category of existing Federal habitat. Tule Lake and Lower Klamath are the most important refuges in the Pacific Flyway and, in our estimation, in the entire United States.

We estimate that approximately 80 percent of the ducks and geese in the Pacific Flyway funnel through the Upper Klamath Basin during the migration periods. These refuges not only provide necessary protection and food for these birds, but play an essential part in keeping them out of the ricefields of California's Central Valley during the fall until these rice crops are harvested.

Because so much of the birds' natural habitat in California has been converted to other uses, duck and geese deprivations on agricultural crops have become a serious problem. The annual fall duck and geese population on Lower Klamath and Tule Lake Refuges has ranged from 3½ to 7 million birds during recent years. It is easy to visualize the devastating effect the birds would have on ricefields farther south if they are not held up in their migration until the crops are safely in the bin.

Now, I would like to call the committee's attention to this large map.

The CHAIRMAN. May I stop you there for a minute? Senator Kuchel introduced one bill, S. 1988. When the Department reported it sent over another bill. We have this committee print on S. 1988. Will you indicate which you are testifying on as you go along?

Mr. JANZEN. Sir, that is my error. I so stated in the first paragraph, but that applies all the way through my statement. I am referring to S. 1988, with the amendments suggested in the report to the committee.

The CHAIRMAN. That is the committee print, so called?

Mr. JANZEN. I will refer to it from now on as amended or suggested bill.

The CHAIRMAN. I am trying to get you to use the words "committee print." Are you allergic to that?

Mr. JANZEN. Committee print?

The CHAIRMAN. That is right. That is what this is labeled. Show him one of these.

Mr. JANZEN. All right, sir; committee print.

The CHAIRMAN. What we did was reprint the bill with the amendments incorporated into it. I assume you know what the Department of the Interior reported; do you not?

Mr. JANZEN. That is right, sir.

The CHAIRMAN. Did that not include a suggested bill?

Mr. JANZEN. That is correct.

The CHAIRMAN. That is what we have here in the print.

Mr. JANZEN. We will call it the committee print; yes, sir. I have not seen this particular printing.

The CHAIRMAN. It is the same thing that was sent up here by the Department of the Interior so we could study the full bill.

Mr. JANZEN. I will refer to it as the committee print for the testimony.

The CHAIRMAN. All right.

Mr. JANZEN. If you will turn to this large map, all of the blue of original waterfowl habitat in the Klamath Basin before it was reclaimed for agriculture. The Klamath Basin was a magnificent resting and feeding ground for migratory and other birds long before the white man settled this country.

Around 1900 there were about 400,000 acres of marshland in the upper Klamath Basin. Records of the Game Transfer Co. in San Francisco show that, for example, during the late 1890's, market hunters shipped up to 120 tons of ducks to the market in one season from this area. This would represent over 100,000 ducks shipped by one company.

Mr. William L. Finley, early-day naturalist and photographer, reported conditions on Tule Lake, this area here, the original lake, as follows:

When I cruised across Tule Lake in 1908 it was a body of water about 12 or 15 miles long and 10 or 11 miles wide. It was supplied by the water of Lost River entering from the north. The west side and the whole northern border was a vast tule marsh and a natural wildlife nursery.

There is every indication that Tule Lake had few equals as a mecca for waterfowl and myriads of marsh and other aquatic birds.

I simply point this out to make clear that these birds were not attracted into the basin because of these refuges superimposed on reclamation projects. They have always been here, and we must provide ways and means of taking care of them here in the fall until the agricultural crops are out of the way to the south and to do this in such a way as to keep depredations to a minimum on the crops in the Klamath Basin.

You will note there in orange the boundaries of the Executive orders drawn up in the early days which were designed to protect as much as possible migratory waterfowl. Now, if we can turn the map around to show the situation as it is today, I would like to start with Tule Lake National Wildlife Refuge being pointed out here, originally representing the original Executive order and as added to it. This area receives greater waterfowl use than any other refuge in the Nation. Since this area is the one that has been under such heavy pressure to be homesteaded in the past, and which homesteading will not be permitted by this committee print, I will come back and discuss this area more thoroughly after I have pointed out the other areas in question.

Next we go to the Lower Klamath Refuge nearby. President Theodore Roosevelt established this area as the first waterfowl refuge in the United States by Executive order in 1908. At that time Klamath Lake was a vast water and marsh area of over 80,000 acres, as you noted on the previous map. It serves as a sump for waters pumped from Tule Lake uphill.

Around 10,000 acres are farmed, which, together with the water area, makes it a very important waterfowl property. When I say "farmed," I mean primarily for waterfowl use. Together with Tule Lake Refuge it holds 3½ to 7 million ducks out of the California agricultural fields until the rice crops are out.

Klamath Straits, which often comes into the discussions, is leased by the Bureau of Reclamation to local agricultural people. It is open for public hunting. There are no buildings on the area that at least would interfere with any operations, and the present handling of this area as now managed is very satisfactory.

I will point out these various features that are mentioned in this committee print so that you will be more familiar with them. White Lake, which is mentioned in the committee print, when flooded will probably be the most productive and is the most productive domestic

habitat in the basin when flooded. Miller Lake, Sheepy West, and Sheepy East, all of which have been discussed at times in the past in this controversial problem, have potential for the waterfowl if developed, but any additional development of lands for waterfowl because of the bill as indicated in the committee print can in no sense be considered as possible substitute lands for Tule Lake.

The additional lands that might be developed will no more than offset the drainage of waterfowl habitat which is still continuing in the basin on private lands. Approximately 34,000 acres of wetlands in the Upper Klamath Basin have been drained since 1940. The small alphabetical tracts A and N referred to in the committee print have various uses. There is the need for canal rights-of-way, road right-of-way, and possible future blocking out on the edges, because they are close to our refuge boundaries.

One of them is now being utilized with refuge buildings, and so forth.

To go to the upper Klamath, to hurry along, this area adjoins the upper Klamath Lake. Because of the fluctuating water levels of Klamath Lake, as the water is needed for irrigation and hydroelectric power, this area does not have very much value for waterfowls unless fully developed. We have plans for future development, but they will be very costly. Agriculture in most of this is marginal. It would be outstanding for diving duck production, but never support large masses of birds, such as we find on the Tule and Lower Klamath Refuges.

We have concluded it cannot be considered as substitute habitat for Tule Lake.

Next, I would like to point out Hanks Marsh, which is dry or wet, depending upon the fluctuations of Klamath Lake. It is now used for public hunting, susceptible to being made into a good marsh with development, and we propose in the long range, if the committee print is adopted, to develop it for waterfowl and to be used for public hunting.

Next is Klamath Forest National Wildlife Refuge. This was bought from the Klamath Indian Reservation with duck stamp funds. It is valuable for waterfowl production. It is not an important stopping place for birds. It freezes up early. It will be, however, a valuable waterfowl breeding area, and it was purchased for this reason.

Now we go to Clear Lake, which also enters into the discussion. I am sorry this is so low that you cannot see it.

The CHAIRMAN. That is all right.

Mr. JANZEN. While Clear Lake is not mentioned in the committee print, I wanted to say a few words about it because it has been advocated as a possible substitute area for the Tule Lake Refuge. This is an Executive order refuge superimposed upon a Bureau of Reclamation storage reservoir in 1911 primarily to protect colonial nesting birds, particularly white pelicans. The Bureau of Reclamation has given consideration to the feasibility of partitioning the water area of Clear Lake and draining a portion of the lake bottom to make it available for agricultural use. We have considered the suggestion to determine the wildlife values which might result from this development.

Cooperative studies by the Bureau of Reclamation and the California Extension Service on a 2-acre plot near the gravelly shoreline of Clear Lake indicate that this soil adjoining the lake has cereal grain production potential.

However, the plot findings are not indicative of the agricultural potential of the lake bottom which is a heavy clay soil more suitable to pasture than grain production. Moreover, Clear Lake is over 400 feet above Tule Lake Basin and is subject to frost during the growing season.

The reclamation of a portion of Clear Lake for agriculture would reduce the moderating effect of this 25,000-acre body of water, increase the frost hazard, and reduce the assurance of sustained annual crop production.

The CHAIRMAN. Would you read that last sentence again?

Mr. JANZEN. The reclamation of a portion of Clear Lake for agriculture would reduce the moderating effect of this 25,000-acre body of water and increase the frost hazard.

The CHAIRMAN. That is what I wondered about. How does reclamation increase the frost hazard?

Mr. JANZEN. In this case it is our opinion that the large body of water helps to reduce the possibilities of frost in the area adjoining the lake. If a substantial part of the lake is drained, then that part that is drained becomes more of a frost pocket. It is our Bureau's conclusion that while proposals to develop Clear Lake could enhance its wildlife values, the development would be costly and the enhancement of wildlife values would not be sufficient to consider it as substitute habitat for Tule Lake or a part thereof.

Now, I would like to introduce for the record a little folder we have prepared of photographs of Clear Lake and also a folder we have prepared—

The CHAIRMAN. Would you mind introducing for the files of the committee? We do not want to reprint those.

Mr. JANZEN. For the files of the committee?

The CHAIRMAN. Yes. Introduce them so we have them here available for committee use. If I accept them for the record then we have to reproduce them in the final report of the hearing. We cannot do that.

Mr. JANZEN. They are so presented.

The CHAIRMAN. Could you tell me what are the principle changes in the committee print from Senator Kuchel's original bill and why are they deemed essential?

Senator KUCHEL. Mr. Chairman, if I may say so, if the witness would take the recommended amendments seriatim commencing with section 2 and indicate what your proposed amendment does, what the bill originally proposed to do, and how your amendment would change it, I think then we can have a fairly good record.

Mr. JANZEN. Yes, sir. Section 2 of S. 1988 states—

Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive Order boundaries of the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Tule Lake National Wildlife Refuge are hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior primarily for the waterfowl management purposes, and shall not be opened to homestead entry.

Now, we have changed this in the committee print to read—

Shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith.

It is the intention that on the leased lands in question which have been the primary point of controversy they shall be continued to be leased by the Bureau of Reclamation and in such fashion as they are now, that they will produce crops which the residual part left as a result of harvesting will be of most value to migratory birds, and by being kept under Federal ownership they will be subject to less harassment on the part of private land owners, and buildings, and so forth, human habitations, which would be there if they were converted to private ownership.

Senator KUCHEL. Would you say that was a clarification of the language in the original bill?

Mr. JANZEN. I believe so. I would say that it clarifies the language, sir.

The CHAIRMAN. Your primary change is changing the words "shall be administered primarily for waterfowl purposes" to "the major purpose shall be waterfowl purposes"? Is that right?

Mr. JANZEN. That is correct. It is the intention that migratory waterfowl will receive the fullest consideration in any further planning within the Executive order boundaries on those lands owned by the Federal Government.

The CHAIRMAN. Just how would your administration differ if you administer it primarily for wildlife purposes and administer it for the major purpose of wildlife? How would that differ? What would be the difference?

Mr. JANZEN. Sir, that is a new point. I think I could say there that we wanted to be certain that we were still giving full consideration to agricultural use of these areas consistent with the waterfowl use.

The CHAIRMAN. That is what I hoped you would say. It is not the words "primarily" and "major purpose," but the fact that you want some consideration for the agricultural area.

Mr. JANZEN. That is correct. We want to be certain that it is fully considered.

The CHAIRMAN. All right. Are you satisfied?

Senator KUCHEL. Yes, sir.

The CHAIRMAN. May we go to the second one, now, your section 3?

Mr. JANZEN. We believe this change or modification in the committee print as compared with S. 1988 in this section is designed to provide for what we believe is a fair payment to the counties to take care of such services as they might furnish to these Federal lands which cannot be taxed, and we believe that the modification is a fairer approach.

The CHAIRMAN. Let us see here, does not the original bill start off—

Fifty cents an acre shall be paid on all reserved public lands.

Is that in the final draft of the committee print? What happened to the 50 cents is what I am trying to get to.

Mr. JANZEN. We have substituted therefor—

25 per centum of the net revenues collected during each fiscal year from the leasing of the Klamath project reserved Federal lands within the Executive Order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each fiscal year after—

this bill.

The CHAIRMAN. The original language was that 50 cents an acre would be paid to the counties?

Mr. JANZEN. That is correct, sir; 25 percent is more in line with the policies now being followed with respect to paying counties all over the Nation in lieu of taxes.

The CHAIRMAN. It will not change the amount, though, will it?

Mr. JANZEN. It will not change the amount?

The CHAIRMAN. It will not be a fixed amount?

Mr. JANZEN. It will not be a fixed amount; no, sir. It will depend upon the revenues that accrue. It is however with this provision—

That the total annual payment per acre to each county shall not exceed 50 percentum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary.

The CHAIRMAN. Very well. Go on to the third one, if you will. It is at the bottom of page 3 of the original bill. While we are here, in the Wetlands Act which was passed last fall it provides in section 3 of Public Law 87-383 as follows:

Funds appropriated pursuant to this Act shall be treated as an advance without interest to the Migratory Bird Conservation Fund. Such appropriated funds beginning with fiscal 1969 shall be repaid to the treasury of the Migratory Board Conservation Fund and such payments shall be made in annual amounts comprising 75 percentum of the moneys obtained annually for such fund.

That has any bearing on this?

Mr. JANZEN. That has no bearing on that. That is entirely from duck stamp funds, returns from duck stamp funds.

The CHAIRMAN. Your amendment 3.

Mr. JANZEN. In section 4 the committee print says:

In carrying out the policy of this Act the Secretary of the Interior shall retain full authority to lease for agricultural purposes the reserved public lands.

This is simply to reaffirm present authority of the section.

Senator KUCHEL. Would you say that was simply a clarifying amendment?

Mr. JANZEN. I would say this is a clarifying amendment.

The CHAIRMAN. In other words, it is much the same as the original Kuchel bill, but clearer to administer it for your Bureau?

Mr. JANZEN. That is right, sir. In our opinion it clarifies the language.

The CHAIRMAN. Why do you take the "Bureau of Reclamation" out? The original bill says:

The Secretary of the Interior shall retain it in the Bureau of Reclamation or other Bureau or agency within the Department.

Mr. JANZEN. We believe that the Secretary of the Interior should have authority to make such determination of such leasing as he now has.

The CHAIRMAN. You do not think he has any influence over the Bureau of Reclamation?

Mr. JANZEN. I think this is clarifying.

The CHAIRMAN. I do not think it makes any difference because it does say "The Bureau of Reclamation or other bureau or agency."

Mr. JANZEN. I want to clarify one point too. If I mentioned the Bureau of Sports Fisheries and Wildlife as managing or doing this or that with respect to migratory birds, I am speaking in the name of the Secretary, who has this authority. I am just delegated by him to do this.

The CHAIRMAN. You recognize that those of us who have been here more than 6 months know how these bureau fights develop inside the agencies. You had a little struggle with the Bureau of Reclamation on this section, did you not?

Mr. JANZEN. There are always differences of opinion among my own staff, sir.

The CHAIRMAN. I would say that is a thoroughly evasive answer.

Mr. JANZEN. I would say very seldom does an important problem come to me that does not have at least two members of my staff at odds with somebody else.

The CHAIRMAN. I am not worried about your staff. I was talking about the Bureau of Reclamation.

Mr. JANZEN. I think that the same would apply to the Secretary's staff.

The CHAIRMAN. You would not care to comment on whether there was a struggle between your office and the Bureau of Reclamation on this?

Mr. JANZEN. No, sir; I would not care to.

The CHAIRMAN. But you are not unconscious of the fact?

Mr. JANZEN. I am not unconscious of the fact that there were some differences of opinion.

The CHAIRMAN. Good. It took a long time to get to it. All right.

Mr. JANZEN. Section 5 has a small change which is for purposes of clarification. In section 6 the modifications are again for clarification purposes, to emphasize that the Secretary of the Interior is recog-

nizing all existing contracts and regulations that are now in effect.

Senator KUCHEL. You are talking about section 5?

Mr. JANZEN. Section 6.

Senator KUCHEL. We did not go into section 5.

Mr. JANZEN. Pardon me. We will take up section 5. It is a minor modification there which is for the purposes of clarification.

Senator KUCHEL. In the original bill the words "active sumps" are used. You restrict the purposes of section 5 in your suggested amendment to sumps 1 (a) and (b). Are there any more active sumps in existence now?

Mr. JANZEN. Not within the Tule Lake Wildlife Refuges.

Senator KUCHEL. Would it be that this constitutes simply a rewording for clarification purposes?

Mr. JANZEN. That is correct. In section 6 we are merely, for emphasis, reaffirming that the section is recognizing existing contracts and regulations in connection therewith for clarification purposes.

The CHAIRMAN. Thank you very much.

Mr. JANZEN. Mr. Chairman, I have about five or six slides which will show just what is on the ground if the committee would like to see those at this time.

The CHAIRMAN. I never thought we got very much out of slides, but go ahead.

Mr. JANZEN. While they are pulling up the screen I want to complete the statement with regard to Tule Lake which I skipped when I first started discussing these units. Remember, a little while ago I said that the Tule Lake Refuge has the most impressive history of waterfowl use. It still has the heaviest waterfowl use of any area in the Nation. I want to emphasize that. This is so because of a combination of shallow water sumps and the adjoining 2,500 acres of agricultural land farmed exclusively for the birds, plus the 15,000 acres of farmland leased by the Bureau of Reclamation to local farmers and which is by agreement devoted to crops which after harvest provide a great deal of waste grain.

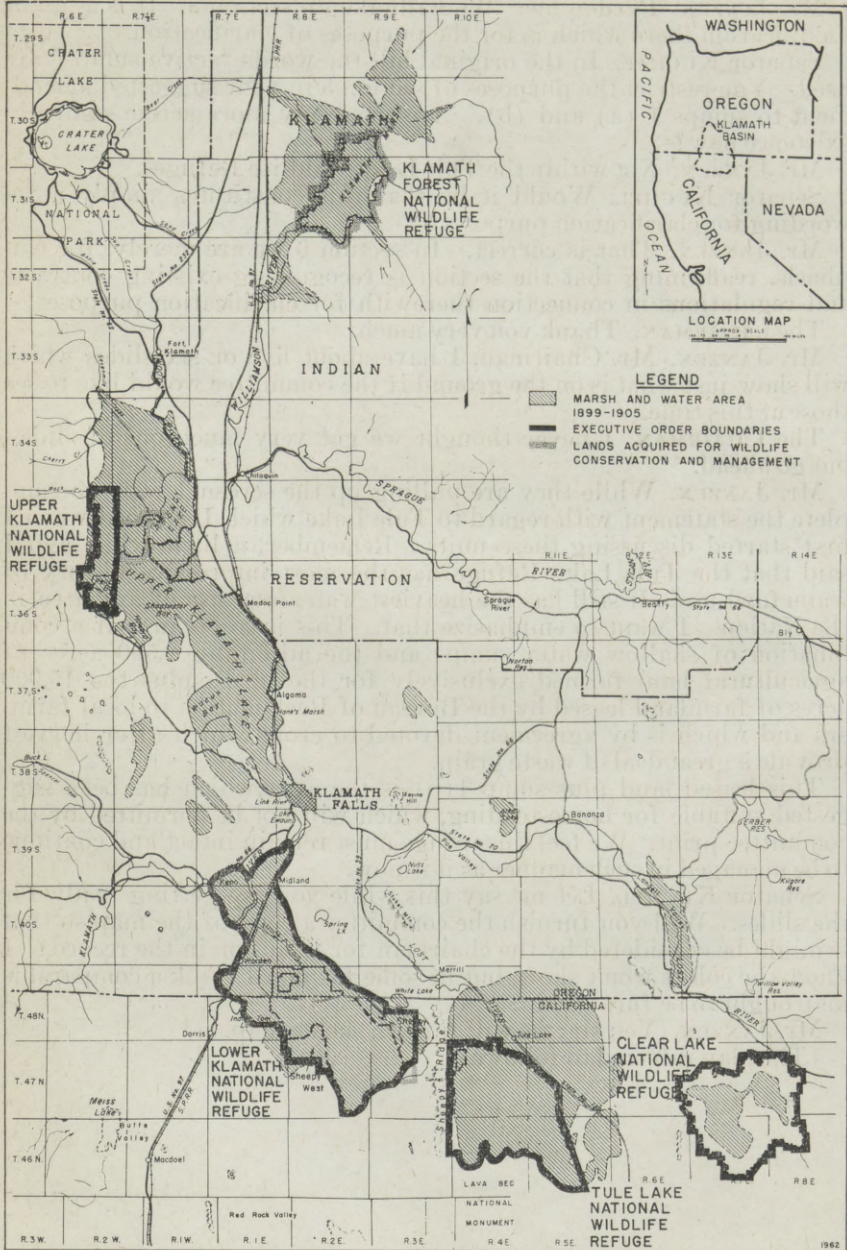
This leased land plus sump 1(b) is the area which has been suggested suitable for homesteading, which will not be permitted by the committee print. We feel this refuge must remain intact and continue to be managed in such manner as it is now.

Senator KUCHEL. Let me say this while you are getting ready for the slides. Will you furnish the committee a copy of the map so that it might be considered by the chairman for inclusion in the record? I know the colors won't show, but in some fashion I think a comparable map ought to be furnished.

Mr. JANZEN. Yes, sir; we will furnish such a map.

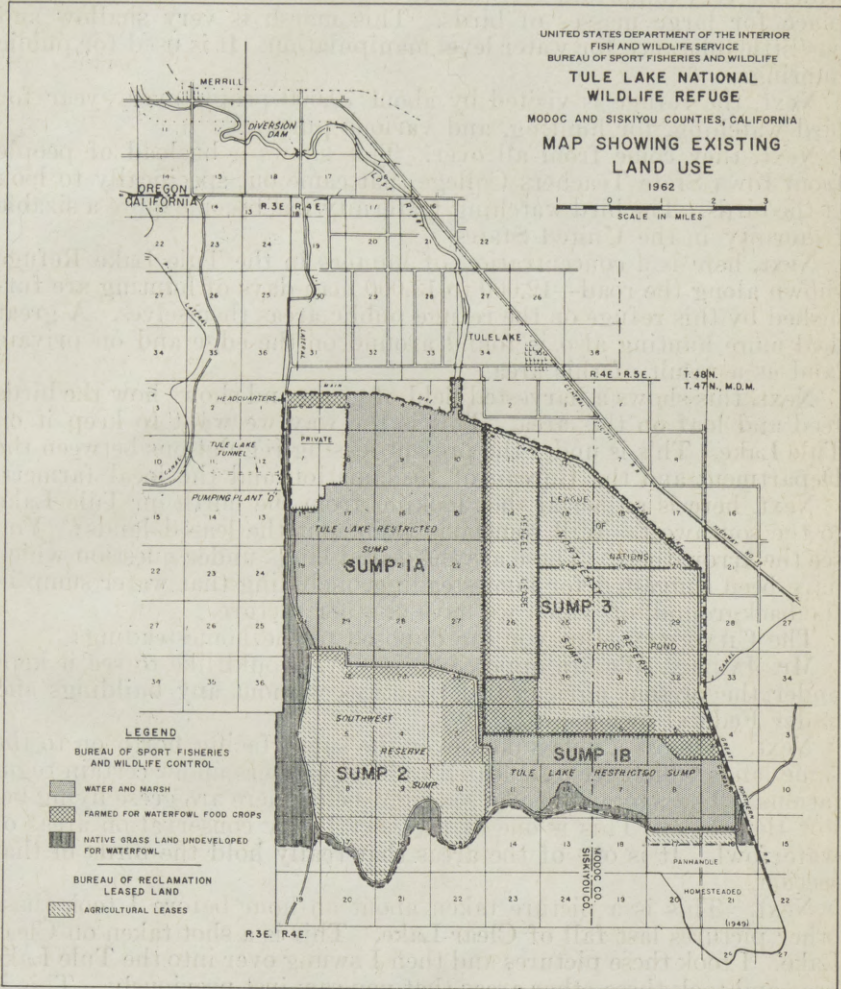
(The map referred to follows:)

UPPER KLAMATH BASIN  
CALIFORNIA - OREGON



The CHAIRMAN. Will you see if somebody in the Department is not able by cross hatching and so forth to show where the areas are

Mr. JANZEN. We will see to it that this map has suitable symbols and legends and we will color it up for the committee's use. One copy we can color up for the committee's use.



The CHAIRMAN. Senator Kuchel is talking about reproducing. If you reproduce you have to be able to show certain areas with different hatching marks on this. Maybe you can work them out so we can reproduce it without color.

Mr. JANZEN. We will prepare a map that can be reproduced for the committee's use.

Senator KUCHEL. In black and white?

Mr. JANZEN. Yes, sir. This slide is a waterfowl conservation on the Tule Lake Refuge, so-called English channel area. As a result, such masses of birds are possible because of the combination of water area and the present agricultural practices.

Next, this slide is an aerial view taken of the marsh sump 1(a) which is very important for waterfowl production as well as a resting place for large masses of birds. This marsh is very shallow and has little tolerance for water level manipulation. It is used for public hunting.

Next, the refuge is visited by about 70,000 people every year for bird watching, for hunting, and various purposes.

Next, they come from all over. This shows a busload of people from Iowa State Teachers College that came out specifically to look at the birds. The bird watching fraternity has become quite a sizable fraternity in the United States.

Next, here is a concentration of hunters in the Tule Lake Refuge shown along the road—12,000 to 13,000 man-days of hunting are furnished by this refuge on the refuge public areas themselves. A great deal more hunting also is found around on the edge and on private land as a result of this area.

Next, this shows a harvested field of grain and shows how the birds feed and loaf on this area. This is the way we want to keep it on Tule Lake. This is under the present leasing regulations between the Department and the Bureau of Reclamation and the local farmers.

Next, here is an aerial shot looking from the north on Tule Lake to the southwest. Will somebody point out the leased lands? You see the arrow there. These are the leased lands under question which have been suggested for homesteading, including that water sump in the background, of which we have another picture.

The CHAIRMAN. But you are opposed to the homesteading?

Mr. JANZEN. We are opposed to it. We would like to see it kept under the present agricultural practices without any buildings and under Federal ownership.

Next. This is a shot taken over the sump facing north on to the same lands which are now leased to local farmers under certain regulations. The white stuff you see right below here are geese flying below the plane. This is one of the very heavy conservation areas of waterfowl. It is one of the areas that really hold the birds in that section.

Next. This is a picture taken about an hour before I took these other pictures last fall of Clear Lake. This is a shot taken on Clear Lake. I took these pictures and then I swung over into the Tule Lake area and took these other areas that you saw just previously. This is snow. Of course it is a higher elevation and winter comes a little earlier to this section.

Will you show the 2-acre plot which I referred to in the record which has been studied for the purpose of determining whether there was agricultural potential in this valley?

Next. This is closeup of the experimental plot that has been used for a number of years to make this determination and which we feel is not indicative of what we find in the lake bottom itself.

Next. This is just a finished picture again taken over the Tule Lake sump. This is the area that we would like to retain for the major purpose of waterfowl.

That concludes my statement, Mr. Chairman, except that I would like to repeat for emphasis that we believe that at least to date we have not found any areas in the Klamath Basin that show the potential necessity for substitution of lands in the Tule Lake refuge.

I thank you.

Senator KUCHEL. Mr. Chairman, I have some questions which I would like answered very briefly for the record.

The CHAIRMAN. Surely.

Senator KUCHEL. If you can hold your answers briefly, what studies have been undertaken to determine the potential of various portions of the Klamath Basin for the waterfowl conservation?

Mr. JANZEN. We have looked at all wetland areas in the basin. We are specially interested in locating anything that has potential for development, but everything that we have found so far appears that it, with almost any amount of development, still would not have that holding potential that is found in the Tule Lake which is so necessary to keep the birds out of California until the rice crops are in; and also we feel from what we have found we want to develop to replace wetlands which are being lost steadily and still being lost to the present drainage on private lands.

Senator KUCHEL. What are the plans of the Fish and Wildlife Service for further development in each of the wildlife refuges covered by legislation now before us as well as the Clear Lake Wildlife Refuge?

Mr. JANZEN. We have long-range plans for developing these areas.

Senator KUCHEL. You have them under study?

Mr. JANZEN. We have them under study. They appear to be very expensive. Finances are limited. We are going to move ahead as rapidly as our finances will permit.

Senator KUCHEL. Does the Fish and Wildlife Service consider the feeding of the waterfowl during their northern migration adequate, or is there room for improvement?

Mr. JANZEN. We feel there is room for improvement. We have been emphasizing to our management in this area to keep the birds out of the California ricefields, but there has been some indication that we have rather neglected taking care of these birds on the way north; so some of our development will have to be aimed at that direction, and as rapidly as we can develop additional lands we will probably have a more balanced development program on these refuges.

Senator KUCHEL. Do you have any particular plans for developing additional public land facilities in this area?

Mr. JANZEN. Yes, sir, we do.

Senator KUCHEL. What portion of the area under discussion here will not be available for public hunting?

Mr. JANZEN. Everything that is available now for public hunting we continue to keep available for public hunting.

Mr. Chairman, I would like to have Mr. Griffith, wildlife chief from Portland, who is a little more familiar with that, answer this particular question.

Mr. GRIFFITH. None of the land which is now available for public hunting would be closed to hunting in the future and as the development goes forward additional lands would be open to public hunting.

It is recognized that there is a serious need for a greater acreage

for public hunting purposes in that area and that should be one of the objectives for development in management of these lands.

Senator KUCHEL. Would this be available under the bill as printed in the committee print?

Mr. GRIFFITH. Yes, sir.

Senator KUCHEL. With reference to the development of Clear Lake, I understand the Bureau of Reclamation has never been able to determine the cost-benefit ratio of draining Clear Lake because the Fish and Wildlife Service will not cooperate in the necessary studies. Is this a correct statement?

Mr. GRIFFITH. It is my opinion that that is entirely correct. Certainly there is need for a great deal more study than has been made thus far to evaluate the potential for waterfowl food production in the Clear Lake area. Some review has been made of the proposal which is of a preliminary nature. The findings of that preliminary review did not substantiate a very great potential for waterfowl management in the Clear Lake area.

Senator KUCHEL. Would the Fish and Wildlife Service desire to have that type of determination on the cost-benefit ratio studied so that a determination might be made?

Mr. GRIFFITH. The Fish and Wildlife Service feels that it has an obligation to review and make a full evaluation of all possibilities, Clear Lake and elsewhere in the basin, for providing additional waterfowl habitat, bearing in mind that there has been a substantial loss of habitat in the basin and elsewhere in the flyway.

Senator KUCHEL. So that so far as the Fish and Wildlife Service is concerned it would feel a useful purpose would be served by having a determination made by the Bureau of Reclamation on the cost-benefit ratio of draining Clear Lake?

Mr. GRIFFITH. We would believe a useful purpose would be served.

Senator KUCHEL. So that your answer would be "yes?"

Mr. GRIFFITH. Yes.

Senator KUCHEL. What proper proportion of the birds use Tule Lake Refuge as opposed to the Lower Klamath Refuge?

Mr. GRIFFITH. The bird usage is generally heavier on Tule Lake than it is on Lower Klamath. Speaking of bird usage, I am referring to ducks and geese as well as other migratory birds.

Senator KUCHEL. Was there a shift in use as the Lower Klamath Wildlife Refuge was developed?

Mr. GRIFFITH. There was a shift in use on ducks, but not geese. The goose crossage continues to be much heavier on Tule Lake than on Lower Klamath.

Senator KUCHEL. Under present leasing procedures in the wildlife refuges how many individuals lease lands from the Department?

Mr. GRIFFITH. I am not able to answer that question, sir. The leasing is handled by the Bureau of Reclamation.

The CHAIRMAN. Is there somebody here from the Bureau of Reclamation that can answer the question?

Mr. HAROLD P. DUGAN (regional director, Bureau of Reclamation, Sacramento, Calif., Department of the Interior). Yes, Mr. Chairman.

The CHAIRMAN. Would you come up and identify yourself for the record, please?

Mr. DUGAN. I am H. P. Dugan, regional director of the Bureau of Reclamation, Sacramento, Calif.

The CHAIRMAN. How many people are leasing this area?

Mr. DUGAN. 197 leases at the present time.

Senator KUCHEL. Are they to individuals, Mr. Dugan?

Mr. DUGAN. Yes.

Senator KUCHEL. And in what area? Tule Lake, or the entire project?

Mr. DUGAN. These are totals for the unit, the whole project.

Senator KUCHEL. The total?

Mr. DUGAN. Yes, sir. I have a statement to submit and will cover all these details for you.

Senator KUCHEL. Just to save some time, Mr. Dugan, the record should disclose the procedure which is followed by the Bureau in leasing those lands and if that can be incorporated in your statement I would like to have it appear in the record.

Mr. DUGAN. Surely. I would be happy to do so.

Senator KUCHEL. And also a statement, if you can supply it, of any additional individuals who have been interested in leases but who have thus far been unsuccessful.

The CHAIRMAN. Over how long a period?

Senator KUCHEL. Let us say in the last 2 years.

Mr. DUGAN. I do not recall that, Senator. I do not have that information at hand, but we would be happy to submit it for the record.

Senator KUCHEL. With the chairman's permission, if you would.

The CHAIRMAN. Yes. Do you know of many people who try to obtain leases in this area?

Mr. DUGAN. I am not familiar with the handling of that program intimately. It is handled by people in my office and I have not compiled those data.

The CHAIRMAN. Just supply it for the record, stating whether there is a great deal of activity, a great deal of requests, and about how many, and so forth, will you?

Mr. DUGAN. Certainly, sir.

(The following information was subsequently submitted:)

#### LAND LEASING PROGRAM OF BUREAU OF RECLAMATION ON KLAMATH PROJECT

Under normal procedure, land in sumps 2 and 3 is awarded in four separate bid openings every 5 years between January 1 and March 15. Each bidder can make only one bid in each opening and successful bidders in the first opening are ineligible for subsequent openings. The same eligibility rules apply for the second and third bid openings.

Bidding always has been spirited as evidenced by the fact there is an average of seven to eight bidders for each lease unit. The number of bidders in each successive opening generally is reduced by the approximate number of units awarded in previous openings. At the first opening this year, February 13, 1962, there were 194 bids for 16 units.

Leases are for 1 year with option to renew for 4 succeeding years. Lease cancellations for all reasons average about 10 percent, and lease transfers average about 5 percent. The farmers are experienced and land is excellent; therefore no more difficulties are experienced than normally would be expected in a program of this magnitude. Lease administration costs approximately 3 percent of gross lease revenue or approximately 28 cents per acre.

Senator KUCHEL. One last question for the Fish and Wildlife Service. It has been alleged because of the stringency of the Fish and Wildlife regulations regarding the Tule Lake area that the three duck

processing plants which exist in Tule Lake have been seriously damaged. Any comment on that charge from representative of Fish and Wildlife?

Mr. GRIFFITH. Yes, sir. I am generally familiar with the hunting operations in that area for over a long period of years and it is my personal conviction that the reduction in business is due to poor hunting, rather than any activity on the part of the Fish and Wildlife Service. The Fish and Wildlife Service has not made more stringent regulations nor have they reduced the acreage that is available for hunting.

It is the intent of the Bureau to provide for additional hunting as the opportunity allows, and I would believe that in the future the business of those duck processing firms could be increased; but the increase really would be dependent upon a better amount of the waterfowl hunting possibilities, a betterment of the flyway population.

Senator KUCHEL. Thank you, Mr. Chairman.

The CHAIRMAN. While you are here, does the Bureau of Reclamation have any comments on this bill that it would care to submit?

**STATEMENT OF HAROLD P. DUGAN, REGIONAL DIRECTOR, BUREAU OF RECLAMATION, SACRAMENTO, CALIF., DEPARTMENT OF THE INTERIOR**

Mr. DUGAN. Yes, Mr. Chairman. I do have a statement I would be very happy to submit.

The CHAIRMAN. Let us hear what it is. Is it very long?

Mr. DUGAN. No, sir, a very short statement.

The CHAIRMAN. Go right ahead.

Mr. DUGAN. I will proceed with it. In 1903 the Reclamation Service made investigations which led to the withdrawal of land by the Secretary of the Interior in 1904 for development of a Federal irrigation project in the Klamath area.

Early in 1905 the States of California and Oregon ceded certain rights in the upper and lower Klamath Lakes and Tule Lake to the United States. On May 1, 1905, a board of engineers made a report that served as the basis for the authorization for the Klamath project by the Secretary of the Interior on May 15, 1905. The project, as authorized, was for the development of 236,401 acres, of which 62 percent would be in Oregon and 38 percent in California.

Construction of the Federal project was begun in 1906, with the building of the main A canal and in 1907 water was made available to the lands now known as the main division. Subsequent construction of project features included 3 storage dams, 5 diversion dams, 29 pumping plants, 120 miles of canals, 477 miles of laterals, and 644 miles of drains that now serve more than 215,000 acres of productive farmland, which provides homes and livelihood for some 3,000 farm families. In addition to the agricultural and significant wildlife benefits that have been the outgrowth of the reclamation project development, recreation benefits have expanded rapidly in recent years.

Through these irrigation developments the area of the lower Klamath and Tule Lakes has been reduced from 187,000 acres of uncontrolled alternately flooded and dry areas of rangeland to a rich agricultural area and approximately 25,000 acres of firmly stabilized lake and marsh land that can be managed efficiently for waterfowl purposes.

As the irrigation works have been constructed and brought into successful operation, they have been gradually turned over to the local water user organizations for care, operation, and maintenance under repayment contract arrangements. At the present time the Bureau of Reclamation is responsible for (1) the operation and maintenance of only the water supply facilities common to all districts; (2) repayment contract administration; and (3) the leasing of certain lands in Federal ownership.

A major portion of the lease revenues is derived from 197 lease units. These consist of 10,600 acres in sump 3; 5,646 acres in sump 2; and 5,940 acres in an area referred to as the Klamath Straits unit. These areas, plus some less productive units, have returned more than \$9 million in lease revenues ranging from \$450,000 to \$750,000 annually. The leased lands, administered by the Bureau of Reclamation, are advertised throughout the Klamath Basin for leasing, and sealed bids for each unit are accepted from the general public.

In 1961 the Bureau of Reclamation, as part of its investigations of the Klamath project called for in the 1956 contract with Tulelake Irrigation District, completed fieldwork on a plan for the Stronghold unit. The plan of that unit contemplated reclamation of sump 1-B, an inundated tract of 4,000 gross acres of which 3,600 acres are potentially productive, and some 10,360 acres of highly productive land which now constitutes reserve sump 3.

As a reclamation project, the Stronghold unit appears to be engineeringly and economically feasible based on studies to date. However, it has been determined that the better use of the land and water resources in these areas requires continuation of the present status and operation for the major purpose of waterfowl management.

The Bureau of Reclamation construction program this fiscal year provides for additional laterals and drains in sumps 2 and 3 so as to preserve the high productivity of these leased lands. A continuing construction program of approximately one-half million dollars in fiscal year 1963 will leave about \$800,000 work to be done to complete the entire irrigation and drainage system for these two sumps.

The Solicitor of the Department of the Interior has advised that enactment of the proposed legislation, if amended as recommended by the departmental report of November 14, 1961, will not violate the rights of any of the parties to contracts between the United States and the water users' organizations of the Klamath project.

Nothing in the bill as proposed will prevent the continued operation and maintenance of Klamath project works transferred to irrigation districts in accordance with rules and regulations issued by this Department.

Rather than go into details on the various aspects, I would be very happy to answer your questions. It is a complex project with a very intricate system of works that have been developed over the years and if the committee would like information on the facilities that are available there or any other data that the Bureau of Reclamation can supply, we would be happy to do so, Mr. Chairman.

We do have a concise project data sheet which you might like to have either for the members of the committee or for inclusion in the record, as you desire.

The CHAIRMAN. We would like to have it and we will decide whether to put it in the record or retain it.

(The data sheet was retained in the files of the committee.)

The CHAIRMAN. We realize the climate in the Department, and while you cannot volunteer, you can answer questions.

Did the Bureau of Reclamation make its views known on section 4, which originally in the bill as proposed by Senator Kuchel said:

The Secretary of the Interior shall retain in the Bureau of Reclamation or other bureau or agency within the Department of the Interior the full authority to lease reserved public lands—

and so forth.

Do you not now lease them?

Mr. DUGAN. I am sorry, sir.

The CHAIRMAN. Does the Bureau of Reclamation now lease these lands?

Mr. DUGAN. Yes, sir; it does.

The CHAIRMAN. Would that be changed by the language of the proposed amendment to the bill in the committee print?

Mr. DUGAN. We assume that the Secretary would continue the administration of these leased lands within the Bureau of Reclamation organization. However, we have not raised questions with the Secretary about this specific item. We assume that the Secretary will exercise his own good authority in whatever way he sees fit.

The CHAIRMAN. That is a good, safe answer, but the fact that he struck out the Bureau of Reclamation would sort of indicate that he had something else in mind, I would think. Has the Bureau of Reclamation decided it does not want to have anything to do with the leasing of these lands?

Mr. DUGAN. No, sir. We are quite happy to administer the contracts that we have with these irrigation districts.

The CHAIRMAN. Were you planning any new leases on this area? I think you testified that you had a project in mind?

Mr. DUGAN. We have looked into the possible reclamation of some of the sump units through additional diking and through drainage facilities. However, this program was considered by the Department in the light of the other problems that the Department must administer in this area and they were determined to be not practical of development.

The CHAIRMAN. In view of the fact that this land is deemed for migratory birds?

Mr. DUGAN. Yes, sir.

The CHAIRMAN. Do you have any questions?

Senator KUCHEL. Only this: As the committee print discloses the potential intention of the Congress is there anything in the bill which adds to or detracts from the authority of the Department of the Interior which it has exercised administratively under prior Executive orders?

Mr. DUGAN. Insofar as my knowledge of the Bureau of Reclamation activities are concerned, I see nothing in the committee print of the bill that would inhibit the Bureau of Reclamation from carrying out the full intent of the contract and the terms thereof.

Senator KUCHEL. Would it be fair to say that the bill would give legislative sanction to areas previously covered solely by the Executive orders in the creation of refuges?

Mr. DUGAN. The bill, as I understand it, and as supplemented by the remarks of the Secretary, would recognize the requirement to regulate the swamps that are regulated by reclamation facilities and to maintain the rules and regulations that we presently have in force for such regulations; and we believe that such a continuation will be a desirable relationship and one that has proven during the last couple of years to be most satisfactory to the Bureau.

Senator KUCHEL. What I mean in a word, Mr. Dugan, is that these refuges have been established by Executive order. Would it be fair to say that this bill simply gives legislative approval to the previous Executive orders so far as the refuges are concerned?

Mr. DUGAN. I would assume so, Senator.

Senator KUCHEL. That is all, Mr. Chairman.

The CHAIRMAN. I hope you recognize that my questions were not designed to embarrass you, but based on my long experience and acquaintance with the Bureau of Reclamation I hate to see them cut out of anything that they are handling well; and I think they are handling most of these problems very well.

Are there other statements to be made?

Thank you all very much.

The CHAIRMAN. The Klamath Drainage District. Go ahead.

Mr. BERG. Mr. Chairman and members of the committee, I am William Berg, administrative assistant to Senator Morse, of Oregon. The Senator is now in Oregon where he will conduct hearings on behalf of the Senate Small Business Committee, and Senator Neuberger is in attendance at this morning's meeting of the Agriculture Committee. They regret very much that they are unable to be here in person to introduce to the committee three outstanding residents of Oregon who will testify this morning on S. 1988.

On behalf of the Senators, therefore, I am pleased to introduce the following witnesses: First, Mr. Chet Langslet, who represents the Klamath Basin Water Users Protective Association, the Klamath Sportsmen's Association, and the Oregon Wildlife Association.

Next, Mr. Dick Henzel, president of the Klamath Drainage District; and third, Mr. George H. Proctor, attorney for the Klamath Drainage District.

These witnesses have achieved an agreement among local interests concerning the subject of S. 1988 and they are sponsoring an amendment to the bill which reflects their agreement.

Senators Morse and Neuberger appreciate your courtesy in affording these witnesses an opportunity to testify and they know that the committee will give thorough consideration to the views expressed by these witnesses.

Thank you very much.

The CHAIRMAN. Thank you. May I just say when you testify would you please indicate whether your testimony is on the original bill or the committee print, because we want to try to be able to tell what you are discussing. Go ahead.

**STATEMENT OF CHESTER L. LANGSLET, REPRESENTING THE  
KLAMATH BASIN WATER USERS PROTECTIVE ASSOCIATION,  
KLAMATH SPORTSMEN'S ASSOCIATION, AND OREGON WILDLIFE  
FEDERATION**

Mr. LANGSLET. Mr. Chairman and members of the Interior and Insular Affairs Committee, I would like to introduce the Klamath Basin amendments to the S. 1988 print by the Klamath Basin Water Users and the Klamath Sportsmen's Association.

The CHAIRMAN. Excuse me a minute. I am not trying to be pica-yunish, but we have a committee print and we have a print of the original bill.

Mr. LANGSLET. The committee print.

The CHAIRMAN. The committee print. You use that term and then we will know which one you are discussing here. As we developed in informal discussion, most of the things in the committee print are restatements and clarifications of Senator Kuchel's original bill. We would rather be sure we are dealing with the same subject.

Mr. LANGSLET. Thank you. Along with that the affidavits of the Klamath County Chamber of Commerce, the Klamath County Land Use Committee, Klamath County Court, Klamath Basin Water Users Association, Klamath Sportsmen's Association, Modoc County Board of Supervisors, Oregon Wildlife Federation, Siskiyou County Board of Supervisors, Tullake Irrigation District, and Oregon Reclamation Congress.

I am Chet Langslet and am representing the Klamath Basin Water Users Protective Association, Klamath Sportsmen's Association, and Oregon Wildlife Federation.

Ten years as county treasurer and ex officio treasurer of 11 irrigation districts, 21 years as secretary-treasurer of Klamath Drainage District, a lifetime interest in hunting and fishing, chairman of migratory bird committee and vice president in Oregon Wildlife Federation, being postmaster for 12 years, having an interest in the community, owning no land and having no financial or ulterior motive, probably led to my acting as arbitrator among local interests to ascertain and recommend the best use of certain controversial public lands.

I have received no pay, approximately one-half of my actual expense for this cause in the past 9 years, and will not personally benefit directly or indirectly in the resolving of this controversy.

The Klamath Basin Water Users Protective Association comprises 20 irrigation and drainage districts, and includes many individuals with a total acreage in excess of 170,000 acres.

The Oregon Wildlife Federation consists of affiliate clubs of which Klamath Sportsmen's Association is one, and has a statewide membership in excess of 5,000.

Agricultural, sporting, and conservation interests in the basin have long recognized the need for adequate nesting, feeding, and resting refuges for 262 million days' usage and concentrations exceeding 7 million waterfowl. This is the largest known concentration in the world.

Basin residents now have a plan to provide what the Department of Interior has not provided. They are willing to divert lands ceded to the United States for agricultural purposes to protect and feed this wonder of nature.

The CHAIRMAN. I do not quite understand "ceded to the United States for agricultural purposes." Who ceded it to them?

Mr. LANGSLET. The State of Oregon in 1905 under the reclamation law of 1902 ceded to the United States certain lands which would be uncovered by the draining of some of these lakes for agricultural purposes.

The CHAIRMAN. They held title to them? The State held title to them?

Mr. LANGSLET. Yes; the State had title to them from the original Swamp Act.

The inability within the Department of Interior to decide as to which agency shall have permanent tenure has stalemated progress in development of private as well as public lands.

The present bill superimposes refuges on Bureau of Reclamation lands subject to the decisions of each succeeding Secretary of Interior as to what is optimum use for agriculture or wildlife. It prolongs the very issue we wish settled.

We have amendments to S. 1988, the committee print, and valid reasons for each amendment, which if enacted will provide permanent administrative control and define the jurisdiction and responsibility of both agencies. Certainly the primary function of reclamation is agriculture, and wildlife the primary function of the Fish and Wildlife Service. The two functions are not always compatible.

Senator KUCHEL. If I may interrupt you for a moment—

Mr. LANGSLET. Yes, sir.

Senator KUCHEL. Assuming that the two functions are not always compatible, would you say that the Secretary of the Interior would have a public responsibility to make decisions with respect to both functions in the Department of the Interior?

Mr. LANGSLET. That has been the trouble, sir; they have not been able to arrive at a decision as to water levels at Tule Lake. The condition existed for 3 years prior to the decision being made.

Senator KUCHEL. How would you change the administrative responsibility?

Mr. LANGSLET. By blocking out these ownerships with complete control by the Fish and Wildlife, private interests, or the Bureau of Reclamation, not always superimposing. Give them full administrative control, including the leasing revenues within the area in which they have jurisdiction and water control.

Senator KUCHEL. So your position basically is that the Congress ought to determine what lands should be in private ownership and what lands are not?

Mr. LANGSLET. No.

Senator KUCHEL. And should continue in the Government?

Mr. LANGSLET. And what lands should be in permanent wildlife refuge under the full jurisdiction and control, including leasing rights, by the Bureau of Sports Fisheries of the Fish and Wildlife Service.

Senator KUCHEL. And part of the position which you take here today is that there should be a transfer of the title on the part of these properties to private ownership?

Mr. LANGSLET. I do not know as though they ever transfer a title out of the Department of the Interior from one agency to another, but I think the Congress should decide, or this committee should decide, who is going to have the primary jurisdiction of these lands.

Senator KUCHEL. The Congress has decided historically that the Department of the Interior should administer this area. Is that not true?

Mr. LANGSLET. That may be true, but we do not think that that is adequate here.

Senator KUCHEL. Go ahead.

The CHAIRMAN. Well, is there anything in the act of 1905 that would interest you in any way in this situation?

Mr. LANGSLET. Mr. Proctor can answer that. He is the attorney.

The CHAIRMAN. Let me just read it briefly:

That the Secretary of the Interior is hereby authorized in carrying out any irrigation project that may be undertaken by him under the terms and conditions of the National Reclamation Act and which may involve the changing of the levels of Lower or Little Klamath Lake, Tule or Rhett Lake, and Goose Lake, or any river or other body of water connected therewith, in the States of Oregon and California, to raise or lower the level of said lakes as may be necessary and to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the National Reclamation Act.

Do they not have authority to do quite a few things there on the raising or the lowering of the level and do you want to change that authority? Do you want to repeal this act; in other words, by this other act?

Mr. GEORGE H. PROCTOR (attorney for Klamath Drainage District). Mr. Chairman, my name is George H. Proctor. I am attorney for, and appear on behalf of, the Klamath Drainage District. As this proposed legislation would affect the Klamath Drainage District I intend to cover the position of the district as it relates to the 1905 act at the time I make my statement unless you want me to cover that point now, sir.

The CHAIRMAN. No. You will cover that in your statement?

Mr. PROCTOR. Yes, sir.

The CHAIRMAN. Would it be your feeling this act has to be repealed?

Mr. PROCTOR. It would be my feeling that possible enabling legislation of the respective States of California and Oregon may be needed to be considered in this matter.

The CHAIRMAN. Well, my question was, "Do you think this act of 1905 would need to be repealed in case we pass the bill which is before us, the committee print of S. 1988?"

Mr. PROCTOR. Before I make the wrong statement on that, I would feel that this act in effect, either by implication or directly, would repeal the act of the United States of 1902 and the enabling act of 1905 as it applied to this particular area.

The CHAIRMAN. Well, the act of 1905 did not apply directly to this particular area, did it?

Mr. PROCTOR. That is right.

The CHAIRMAN. I am merely trying to find out. When I was a Member of the House, it seemed to me we had what was known as the Ramseyer rule. If you repealed something by implication you set it forth in haec verba, as these lawyers say.

You do feel that this is a repeal of the 1905 act or portions of it?

Mr. PROCTOR. Yes, sir.

The CHAIRMAN. Thank you.

Senator KUCHEL. Could you point out the language in the bill which you believe would result in the repeal of the statute the chairman just read?

Mr. PROCTOR. May I ask a question of procedure?

The CHAIRMAN. Oh, no. We ask the questions. Go ahead. If you wish to cover it later we will cover it later and if you wish to file some supplemental statement on that point you file that later. We are going to give you full opportunity to take another look at it and do anything you want to do with it.

Mr. PROCTOR. I intended to cover it in my statement, but I will be glad to cover it earlier at this time.

The CHAIRMAN. No, no. We will wait until your statement comes along. Thank you.  
Go ahead.

Mr. LANGSLET. I would like to orient the committee on this map at this time. This is the city of Klamath Falls. This circle is a 50-mile radius of Klamath Falls. Up until the 1st of July last year the Fish and Wildlife, in spite of the fact that this is the largest known concentration of birds in the world, had purchased but 4,378 acres of swampland on the Upper Klamath Marsh to host these birds.

This area goes dry during the runoff in the spring, the water comes up, drowns out the early nesting bird, and in the fall or late summer it recedes and traps the bird in a botulism trap. Up until July 1 that was the total purchases to host this largest known concentration of birds in the world.

In buying this piece of land they stymied development of the entire area. These acres may be off 150, or something like that. There have been two or three surveys and one time you get one figure and another time you get another. The Bureau of Reclamation owns 10,780 acres. There are approximately 2,400 here owned by the Forest Service and 9,771 acres privately owned.

We don't feel that it is practical or economically feasible for any one ownership to develop his area. The Fish and Wildlife Service, if they develop this entire marsh, can use it most advantageously. At present, it floods during the early nesting period and drowns the nests. The level of the lake normally fluctuates approximately 6 feet. I do not state this as fact, as there is no way in which to count the loss, but I believe from observation that this one area, due to botulism and drowning-out of early birds, accounts for more loss than gunning.

With the acquisition of that private land and development, this could be developed into a magnificent refuge of approximately 26,000 acres. This is the California-Oregon State line. The Lower Klamath Lake on the California side contains approximately 47,000 acres. That is all these colored areas here, and also includes this yellow area here of 5,210 acres of private land.

Now, with the Fish and Wildlife owning the perimeter it would certainly seem feasible that they should block this out in one complete area for operation. The Fish and Wildlife do not have title to this land. It is under the direction of the Secretary of the Interior. They have not gotten any cash leasing revenues. It has all gone to the Bureau of Reclamation, and yet they have spent approximately \$1½ million of money for migratory waterfowl purposes.

Senator KUCHEL. You object to that?

Mr. LANGSLET. Yes, I object to it. If they are getting the money, I think that they should put it on land that they own, and not put it on somebody else's land where it can be taken away from them.

Senator KUCHEL. Do you raise any question of the legality of it?

Mr. LANGSLET. No, I am not raising the legality of it at all. I just do not agree with it; that is all.

Senator KUCHEL. If the Bureau did it would you have any objection?

Mr. LANGSLET. If the Bureau spent the money I think they should be responsible for their own. That is our point. We want to divide this up and block it out into tracts which are manageable by each individual unit, Bureau of Reclamation, Fish and Wildlife, and the private. These lands are interposed in isolated tracts among these holders.

Senator KUCHEL. I do not quite follow you. What is your objection? Your objection is that the Fish and Wildlife Service has spent this money, but that the Bureau of Reclamation has not?

Mr. LANGSLET. I do not think that the Fish and Wildlife Service should budget the money from Congress and then go and spend it on somebody's land where they do not have title to it and actually have a possibility of losing it. That is my opinion.

Senator KUCHEL. Who has title to it?

Mr. LANGSLET. The United States has title to it, but there is nothing to keep the Secretary of the Interior from saying that this whole piece would be homesteaded under the present law.

Senator KUCHEL. Both agencies are under the Secretary of the Interior, are they not?

Mr. LANGSLET. Yes. They have not been getting along too good, we do not think.

Senator KUCHEL. Whether they have been getting along or not, if the Secretary of the Interior determines as to which agency shall discharge certain functions it is his responsibility to do so, is it not?

Mr. LANGSLET. I agree with you. I agree with that.

Senator BIBLE. May I ask a question at this point, Mr. Chairman?

The CHAIRMAN. Yes.

Senator BIBLE. I was wondering if there was an interagency agreement between the Fish and Wildlife Service and the Bureau of Reclamation? We have a very similar problem down at Lake Mead, but it is operated under an interagency agreement. Is there an interagency situation?

The CHAIRMAN. We did not go into it, but there was a little family struggle I think in which Reclamation lost.

Senator BIBLE. Is there agreement or not between the two agencies? The answer is "No"?

The CHAIRMAN. The answer is "Perhaps."

Senator KUCHEL. I suppose that is one of the glories of our system. Sometimes the Army, and the Navy, and the Air Force, you know, get into a little interleaving difficulty, but if the record is clear that the responsibilities of both those agencies are in the same Cabinet office, then while you may disagree with what one agency does as against what another agency does, you would agree that there is no question of legality and the action of those agencies is proper.

Mr. LANGSLET. No, I do not question the legality at all.

The CHAIRMAN. All I am trying to get at is this: If this were to be transferred from Reclamation to Fish and Wildlife the title would not change, would it?

Mr. LANGSLET. No.

The CHAIRMAN. The title is in the U.S. Government.

Mr. LANGSLET. That is right.

The CHAIRMAN. If this were private land I would worry about it, but as long as the title stays in the Federal Government it would do so under either of these plans.

Mr. LANGSLET. Still we would like to see the Fish and Wildlife also obtain the cash lease revenues from these lands where they lease them for agricultural purposes. Administration is building up all the time and with another \$105 million they are going to be coming to you people asking you for more money all the time to develop the lands that they occupy, and we think that if we could block these out in self-sufficient blocks that they would not be hurt in case we had a sudden depression or something and the appropriations would be cut off.

They would be more or less self-sufficient that way. Cash leasing revenue on approximately 1,500 acres out of the 47,000 would pay the taxes to the county involved. I dare say that sufficient feed could be raised on this one area to feed all the birds that come into the basin. Soil tests and premium quality crops grown have proved the fertility of this soil.

The public land in the Klamath Straits unit—that is this small cross-hatched area that lies within the green area here, which is the Klamath Drainage District and on which the Klamath Drainage District bought and purchased and paid for the water rights under a 1921 contract—we believe should go into private ownership.

The CHAIRMAN. Let us understand each other. You think this ought to be sold by the Government to private owners?

Mr. LANGSLET. With this 5,210 acres to block out this refuge here we did propose that the Federal land be traded for the private land. Now, really it is immaterial. If the Government wishes to sell it, that is fine and dandy with us, but the reason we proposed the trade was to avoid putting these men out of business down in the Lower Klamath Lake Refuge Area.

The CHAIRMAN. I want to understand what you mean by "should go into private ownership."

Mr. LANGSLET. Yes, should go by a sale, or a homestead, or exchange, or something. We do not want homesteading, because we want the hunting rights on the sale or the exchange reserved in perpetuity as a public hunting ground. We have talked to some of the landowners and they are agreeable.

The CHAIRMAN. Landowners? Is not the Government the landowner?

Mr. LANGSLET. I am talking about the private landowner, providing there was an exchange.

The CHAIRMAN. You mean a private landowner would be glad to have it?

Mr. LANGSLET. Well, it would be compensation for the land they give up down here.

The CHAIRMAN. Do they own that land down there?

Mr. LANGSLET. They own this 5,210 acres within the perimeter boundaries of the proposed enlarged refuge in Lower Klamath Lake.

Senator KUCHEL. If I may follow up the chairman's thought, how many acres are owned by the Government in that area?

Mr. LANGSLET. Well, we have had three different figures. You heard the 5,940 figure quoted by the Reclamation. That was an old survey. Then they had one in 1958 and I think it is 6,360; but then we had a figure of 6,447, and I mentioned ahead of time that there is a difference of 87 acres.

Then in addition to that, there are these two isolated tracts over here of alkali lands which are claimed by both the State and the Federal Government. The State of Oregon claims that they did not cede that, that the Federal Government did not uncover them when they drained these lakes, but the Federal Government claims that they did.

Oregon has three of these pieces up for sale right now, and this is also land on which the drainage district bought and paid for the water rights in 1921.

Senator KUCHEL. If the State of Oregon owns the title, there is nothing that the Congress of the United States could do in passing this legislation to take the title away from them, is there?

Mr. LANGSLET. No. You could transfer title to the Klamath Drainage District so that they could purchase the interest of the State.

Senator KUCHEL. What I mean is the statement you make that the State of Oregon owns certain properties is not affected by this legislation, is it?

Mr. LANGSLET. Not this. It would be by our proposed amendment.

The CHAIRMAN. Your proposed amendments would let the Federal Government quitclaim to the State of Oregon?

Mr. LANGSLET. Yes; quitclaim to the Klamath Drainage District so that it could be developed. You see, the way it lies within this district it is impossible for the private enterprise to go in there and develop around it, and it is also impractical for the Government to come in there and develop it; and, where both the State and Federal Government are claiming ownership, somebody is going to have to give someplace.

Senator KUCHEL. Is that not where we have a lawsuit?

Mr. LANGSLET. I do not know why you have a lawsuit.

Senator KUCHEL. If there are two people disputing the ownership of a piece of property, that is what we have courts for.

Mr. LANGSLET. Who is going to take it to court, and in the meantime the district suffers. The land is not worth going to court for. It is not worth 35 cents an acre, but it could be doled through leasing and become irrigable pasture.

The CHAIRMAN. Then we are getting into the real question, as to whether the Federal Government should quitclaim to the State of Oregon so somebody else could buy in order to lease the lands? Why not let Oregon quitclaim to the Federal Government?

Mr. LANGSLET. All right. You get them to do that and the Klamath Drainage District would be interested in buying it, because it is stymieing the development of this area. It is on land which they have already paid the Government the water rights. The Government sold them the water rights while they retained the land.

The CHAIRMAN. If the Government did not own it, how could it sell? What did it have to sell?

Mr. LANGSLET. Well, of course that is a matter for dispute. The State says they own it and the Federal Government says they own it, and I do not know which is right.

The CHAIRMAN. Did the people up there buy it from the Federal Government?

Mr. LANGSLET. No; this was ceded at the time they ceded these lake beds.

The CHAIRMAN. I am talking about the water rights.

Mr. LANGSLET. Yes. They bought it in 1921.

The CHAIRMAN. So they must have thought that the Government owned it?

Mr. LANGSLET. I think they did; yes, but the State is claiming it, too.

The CHAIRMAN. The people in Oregon laid down their good money to buy water rights from the Government on this land on the assumption that the Federal Government owned it?

Mr. LANGSLET. On the assumption that it would eventually go into private ownership. This was in 1921, and they expected this to go into private ownership a long time ago on this one piece of land alone.

The CHAIRMAN. That is 40-some years ago.

Mr. LANGSLET. Yes.

The CHAIRMAN. Has the United States had what you lawyers call "adverse possession" all this time, then?

Mr. LANGSLET. I do not know whether it is adverse, but it has been in possession of both the State and the Federal Government. I do not know who owns it. They both claim it.

The CHAIRMAN. All right.

Mr. LANGSLET. On this 6,400 acres of land the Bureau of Reclamation has obtained \$1,153,248 of net lease revenue, and within their holdings there is private land, and it is not practical to develop a separate irrigation district within a district, and the Government should pay these landowners an acknowledged debt for the construction of facilities to serve these lands out of the present accumulated revenues.

The CHAIRMAN. You have me going again now. You said the Bureau of Reclamation obtained this money?

Mr. LANGSLET. The United States, then to the Bureau of Reclamation.

The CHAIRMAN. All right.

Mr. LANGSLET. Through the construction of these facilities by these private landowners they were able to serve these lands which they thought were going into private ownership.

The CHAIRMAN. The last part of the sentence is that U.S. Government should pay these landowners an acknowledged debt. Who acknowledged it?

Mr. LANGSLET. They have acknowledged it by the Secretary of the Interior's office. Aandahl, when he was Assistant Secretary, acknowledged it. The present administration, I believe, has acknowledged it, and the John Bennett report from the technical review staff has acknowledged it.

I do not think there is any question as to acknowledging the debt for the water services and the construction charges. I do not think there is any question about that.

Senator KUCHEL. Does the bill before us, sir, affect the problem you have just outlined?

Mr. LANGSLET. Yes. You are going to put all of this into U.S. ownership, and leave it there, and take it out of its present status.

Senator KUCHEL. Is it in U.S. ownership now?

Mr. LANGSLET. It is under U.S. ownership now, yes.

Senator KUCHEL. What change would the bill make with respect to U.S. ownership?

Mr. LANGSLET. It would give congressional action or give them the right to hold this in perpetuity in public ownership, which of course, we do not believe is right under the cession law, or the 1902 reclamation law, or under the contracts of the Klamath Drainage District.

Senator KUCHEL. Basically your objection to the bill is that you would want to see the properties now held by the United States transferred to private ownership?

Mr. LANGSLET. We would rather have it exchanged, yes, but to block out this refuge. It has been beneficial. It would block out this irrigation or drainage district and it would block out this refuge at the same time if the lands were exchanged.

Actually we are proposing that more land go into Federal ownership than into private ownership, and if it had not been for the Termination Act there in Senator Neuberger's bill to save this 540,000 acres for timber, we would not have any water there now to fight for ducks for.

Senator KUCHEL. Are you referring to that Klamath Indian bill?

Mr. LANGSLET. Yes, under the Klamath Termination Act when the Government bought that 540,000 acres of land. If it had not been for that they would have ruined our watershed. Thanks to Congress they bought that timber and have preserved our watershed.

The CHAIRMAN. I hope that you can understand the perplexity some of us are under in trying to understand your testimony. I had a little part in the so-called Neuberger settlement. I thought we did a service.

Mr. LANGSLET. You did. That is what I say. You protected our watershed for us.

The CHAIRMAN. We gave the Klamath people a lot of money in order to straighten this thing around.

Mr. LANGSLET. You certainly did and we appreciate it.

The CHAIRMAN. I think you know maybe who came up with the compromise figure.

Mr. LANGSLET. I say if it had not been for the passage of that bill our watershed would have been destroyed and we would not be worrying about the ducks today.

The CHAIRMAN. So you do not think that the \$90 million figure that I came up with damaged you then?

Mr. LANGSLET. Oh, if it had not been for that we would have been in bad shape. The Fish and Wildlife would not have had to be here today. We would have had a dust bowl.

The CHAIRMAN. That is the first good thing I heard all morning. Go ahead. I thought we did too and I am glad that you think we did.

Mr. LANGSLET. You did, sir.

The CHAIRMAN. Fine.

Mr. LANGSLET. In this exchange, or sale, or whatever it is on this land, we want the hunting rights reserved in perpetuity.

The CHAIRMAN. I think I am beginning to follow you a little bit. You would like to take this five or six thousand acres that the Federal Government thinks it owns?

Mr. LANGSLET. No, it owns that.

The CHAIRMAN. This is not involved in any argument with Oregon then?

Mr. LANGSLET. No, not that 6,400 acres here.

The CHAIRMAN. Adjoining that are some 5,000 acres in private ownership?

Mr. LANGSLET. Private ownership.

The CHAIRMAN. You do not dispute the private ownership?

Mr. LANGSLET. No.

The CHAIRMAN. You would transfer to the U.S. Government the 6,000 acres and make it possible to exchange that for the 5,000 acres that admittedly are in private ownership now?

Mr. LANGSLET. That is right.

The CHAIRMAN. You think that would round up the district in better fashion than the Government owning the 6,000 acres which it now owns?

Mr. LANGSLET. Oh, yes; I believe so. I do not think that the Fish and Wildlife can operate to the best advantage with 5,210 acres of private land sitting out there in the middle. When they do this we do want the hunting rights on this public land reserved in perpetuity.

The CHAIRMAN. That is not an unreasonable suggestion, because that has been done many places. We are talking about creating a few national parks. Senator Bible is chairman of that subcommittee. The area is where they are trying to have ownership of the hunting rights retained in the Federal Government, so this is not unusual. All right.

Mr. LANGSLET. Like I say, we recommended the exchange. We are agreeable to any means that will do it. The only reason we recommended the exchange was to avoid putting these people out of business.

Now we come to the Tule Lake. Of the 35,000 acres in Tule Lake, we recommend that approximately 16,400 acres, in other words, almost splitting it, pass into private ownership with the Fish and Wildlife to receive \$1,500,000 out of accumulated Tule Lake lease revenues for development of substitute suitable habitat; and the remaining acreage to remain under the complete jurisdiction of the Bureau of Reclamation for optimum agricultural use with a Fish and Wildlife Service refuge superimposed thereon.

The CHAIRMAN. You would take 35,000 acres and of that you would sell 16,000 acres?

Mr. LANGSLET. This of course is a basin proposal. I have acted as arbitrator and am speaking for them, and that is what they would like to see done, that approximately one-half of this go into private ownership.

The CHAIRMAN. This is in California?

Mr. LANGSLET. That is in California, but it is within our Klamath Basin. All this land is within 50 miles of Klamath Falls. They call it the Klamath Basin.

Senator KUCHEL. Do you have any recommendation as to what half you would want to see sold?

Mr. LANGSLET. It would be the east half over here.

Senator KUCHEL. Would that include either of the sumps to which reference is made in the bill?

Mr. LANGSLET. It would include the small sump known as 1(b), I believe. That would come right down through here.

Senator KUCHEL. Would it include sump 1(a) or 1(b)?

Mr. LANGSLET. It would include 1(b), but not sump 1(a) or sump 2.

Senator KUCHEL. It would include 1(b)?

Mr. LANGSLET. Yes.

The CHAIRMAN. How do the California people feel about Oregon dividing up their land?

Mr. LANGSLET. Actually, the California people came to us and asked us to include this in our presentation.

Senator KUCHEL. What California people?

Mr. LANGSLET. Tulalake Irrigation District and I believe the Modoc County Board of Supervisors, the Siskiyou County Board of Supervisors, and the Tulalake Growers Association. This would still remain in refuge status, but it would be under the jurisdiction of the Bureau of Reclamation, just as a refuge superimposed thereon.

The CHAIRMAN. What about hunting rights on that 16,000 acres?

Mr. LANGSLET. Well, that gets divided up into such small tracts because of the value of the land that I would not think it advisable. It would probably be 100-acre tracts and by the time they get their buildings and all on there the ducks would still have the same gleaning rights that they have now; but where that gets into small ownerships like that I personally would not like to see the hunting rights retained on that.

Where a man has a hundred acres that are thrown open to the public, the way these people come from the cities into our area at times, I would not even want to pick up on a man after an amount of 100 acres.

The CHAIRMAN. Then would there be a loss of hunting rights on these 16,000 acres?

Mr. LANGSLET. Yes; there would be a loss of hunting rights there by virtue of the same fact that they are getting hunting rights up here which they did not have before.

The CHAIRMAN. You mention \$1,500,000 of accumulated Tulalake lease revenues. Where is that accumulated?

Mr. LANGSLET. It is accumulated from the leases of the land. I think the last bid opening on this land averaged around \$41 an acre rental.

The CHAIRMAN. But it is going into the Federal Treasury, is it not?

Mr. LANGSLET. Well, I think it is going into the general fund or the general fund of the Bureau of Reclamation until it is allocated for some project—yes; which, of course, always leaves the opportunity open for it to be transferred out of our area, the way I understand it; and if they sold this land and got \$400 an acre for it they would have enough to complete most any project they wanted to in our area, including Clear Lake.

The CHAIRMAN. I am not trying to argue with you. I am just trying to find out where the money is. When it is paid into the Bureau of Reclamation does it not go into the Treasury? Is there somebody

here from the Bureau of Reclamation? Do you have this in a special "kitty" in reserve?

Mr. DUGAN. Mr. Chairman, it goes into the Treasury.

The CHAIRMAN. You do not have any accumulated money here, have you?

Mr. DUGAN. No, sir.

The CHAIRMAN. It is in the Federal Treasury?

Mr. DUGAN. That is correct.

The CHAIRMAN. Put into the general revenues?

Mr. DUGAN. That is correct.

Mr. LANGSLET. Is it not a book figure?

Mr. DUGAN. Certainly, it is an audited figure, but it is a figure that enters the Federal Treasury identified from the source.

The CHAIRMAN. Wait a minute. He says, Is it not a book figure? If it is a book figure, it just is held by you for later development. You cannot take this money and use it for anything, can you, without appropriation of the Congress—or can you?

Mr. DUGAN. Oh, no, sir.

Mr. LANGSLET. No; it goes into the Federal Treasury. But the way I understand it, it is held on their books as a separate fund to show what the net revenue has been that they have accumulated out of these lands and then, when Congress makes appropriations, I think that they are taken into consideration, are they not? Maybe I am misinformed.

The CHAIRMAN. I do not think so.

Mr. LANGSLET. That is the way I have been led to believe.

The CHAIRMAN. We have to stop here for an executive session shortly, but we will check that out. In any event, you would say that this is money which, if the Federal Treasury does have it, came from this particular area?

Mr. LANGSLET. That is right.

The CHAIRMAN. And there might be some justification legally for a claim under the 1921 act, and, if there is not, this is a moral justification to say that this is money the Federal Government got from this area and you would like to see it spent in this area?

Mr. LANGSLET. Yes.

The CHAIRMAN. Very well. Thank you.

Mr. LANGSLET. Of course, we would like to see the Fish and Wildlife Service get a million and a half out of that, so they could go ahead and develop it.

The CHAIRMAN. That would be a question of Federal appropriation and I am not going to get over into the Appropriations Committee's function, which they would not appreciate. This man Carl Hayden in Arizona is a pretty able fellow and he does not want me appropriating their money and I would not try to do it.

Mr. LANGSLET. Clear Lake, containing 32,440 acres, we believe should remain in Bureau of Reclamation status. Development of water storage, flood control, agriculture, and hydroelectric power would also provide habitat for the refuge superimposed thereon.

These amendments, in a final analysis, provide for permanent refuges under the Fish and Wildlife Service of 78,090 acres of Federal land, plus 9,771 acres of private land which we wish to be purchased for the upper Klamath Lake refuge; or 150 square miles of

permanent refuge and, in addition, 50,010 acres of refuge superimposed on the U.S. Bureau of Reclamation project, for a total of 215 square miles of refuge, and the blocking out of jurisdictional units on a permanent basis, and in addition to the 215 square miles of permanent refuge, approximately 10 square miles with permanent public hunting rights reserved for public shooting grounds. Naturally, sportsmen expect the opening of a portion of these refuges for public shooting.

This position has been approved by many civic and governmental groups which have submitted affidavits to this effect. If the chairman please, I should like to make these affidavits a part of the record at this point. The groups include the Klamath County Chamber of Commerce, the Klamath County Land Use Committee, the Klamath County Court, the Klamath Basin Water Users Protective Association, the Tulelake Growers Association, the Modoc County Board of Supervisors, the Oregon Wildlife Federation, the Siskiyou County Board of Supervisors, the Tulelake Irrigation District, and the Oregon Reclamation Congress.

(The material referred to above follows:)

KLAMATH COUNTY CHAMBER OF COMMERCE,  
*Klamath Falls, Oreg., February 15, 1962.*

Senator CLINTON P. ANDERSON,  
*Chairman, Interior and Insular Affairs Committee,*  
*Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: For many years there have been widely divergent opinions regarding utilization of certain federally owned lands in the Klamath Basin. As a result of this conflict, orderly development and maximum utilization of these lands has been obstructed.

The Klamath Basin Water Users Protective Association, the Klamath Sportsmen's Association, Inc., and other interested groups and individuals in the Klamath Basin, we believe, offer hope for settlement of this longtime controversy through amendments to S. 1988, a bill to aid in the administration of the Tulelake, Lower Klamath and Upper Klamath National Wildlife Refuges in Oregon and California, and for other purposes.

The board of directors of the Klamath County Chamber of Commerce has studied this bill with its locally proposed amendments and has discussed it with representatives of the Klamath Basin Water Users Protective Association and the Klamath Sportsmen's Association, Inc. We heartily agree with them that passage of S. 1988, so amended, would work for the benefit of all concerned, providing for orderly development and maximum utilization of the lands involved.

With this in view, our board of directors, at its regular meeting on February 14, 1962, voted to reaffirm the support it has accorded the water users, sportsmen, and other groups on previous occasions, and to respectfully urge your committee's serious consideration of S. 1988, as amended by these Klamath Basin groups.

Sincerely,

GEORGE T. CALLISON, *Manager.*

KLAMATH COUNTY LAND USE COMMITTEE,  
*Klamath Falls, Oreg., February 13, 1962.*

HON. CLINTON F. ANDERSON,  
*Interior and Insular Affairs Committee,*  
*Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: The Klamath County Land Use Committee which represents all of the various interests of Klamath County, Oreg., was formed 25 years ago for the purpose of conserving, through the best use of the land, and all other natural resources of the county, urges the careful consideration and approval of S. 1988, as amended, and presented by the Klamath Basin Water Protective Association, the Tulelake Irrigation District, and the Klamath Sportsmen's Association, Inc.

In section 6(a), as amended, this group feels that a disposition of Klamath Straits unit by public sale would be preferable to a land exchange. The money derived from this sale, together with the accumulated fund of over \$1 million, derived from leasing Klamath Straits unit, plus the surplus lease revenues from all other lands in the Klamath project as they accumulate, should be used for the purpose set forth in section 9, amended S. 1988, and other needed flood control, water conservation, and recreational purposes in the Klamath project.

The Pacific Power & Light Co. has made an offer to purchase all surplus water that would be saved by the upper Lost River development. We feel that this substantial sum, plus the lease revenues and land sale, would amply finance this badly needed project. Under present conditions there is a flood threat and an annual loss of over 100,000 acre-feet of water.

Prior rights for irrigation and recreation are protected by the Klamath River Basin compact so a contract with the power company could not jeopardize any present or future rights of irrigation or recreation.

Very truly yours,

GEORGE E. STEVENSON,  
*Chairman, Klamath County Land Use Committee.*

—————  
KLAMATH COUNTY COURT,  
*Klamath Falls, Oreg., February 14, 1962.*

Senator CLINTON P. ANDERSON,  
*Chairman, Interior and Insular Affairs Committee,  
Washington, D.C.*

DEAR SENATOR: The Klamath County Court, in session on February 14, 1962, approve the amendments to S. 1988 as proposed by the Klamath Basin Water Users Protective Association and the Klamath Sportsmen's Association.

We believe this a commonsense solution to the longstanding public land controversy and interdepartment statement on the issue of usage of public land within the Klamath Basin.

Signed this 14th day of February 1962.

—————  
KLAMATH COUNTY COURT,  
R. R. WALKER, *Judge,*  
FRANK F. GANONG, *Commissioner,*  
E. K. ALLISON, *Commissioner.*

—————  
KLAMATH BASIN WATER USERS PROTECTIVE ASSOCIATION,  
*Klamath Falls, Oreg., February 6, 1962.*

Hon. CLINTON P. ANDERSON,  
*Chairman, Senate Interior and Insular Affairs Committee,  
Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: This letter will introduce to you Mr. C. "Chet" L. Langslet, representing Lakeshore Gardens Drainage District on the board of directors of this association.

At a special meeting of the executive committee of this association, held on February 5, 1962, Mr. Langslet was delegated and authorized to testify at your committee hearing on February 23, 1962.

Mr. Langslet has been a member of the board of directors of this association for many years and has acted as arbitrator for wildlife interests and agricultural interests and is very familiar with all of the problems that we are trying to resolve by proposed amendments to S. 1988.

Very truly yours,

—————  
JOHN L. STEWART, JR.,  
*Secretary-Treasurer.*

—————  
RESOLUTION OF TULELAKE GROWERS ASSOCIATION

Whereas the Tulelake Growers Association is a nonprofit service organization incorporated in 1942 dedicated to the solution of all problems pertinent to the advancement and improvement of the total economy of this basin; and

Whereas membership of the Tulelake Growers Association is made up of merchants in town as well as farmers, all of whom are dedicated to the development

and improvement in hunting and recreation facilities of our area as well as agriculture and all facets of our economy; and

Whereas Senate bill 1988 as proposed to be amended by the Secretary of the Interior has been introduced for passage by the Congress of the United States; and

Whereas the effect of such bill would be to eliminate the securing of private property of all Federal lands within the boundaries of the Tulelake Irrigation District and to reverse the priority of use of said lands established through 23 years of irrigated farming practices; and

Whereas the Bureau of Reclamation is completing a \$3,500,000 construction program to reconstruct the irrigation facilities and establish 164 farm units averaging 100 acres in size for eventual private ownership: Now, therefore, be it

*Resolved by the directors of the Tulelake Growers Association.* That this association go on record as opposing Senate bill 1988 as proposed to be amended by the Secretary of the Interior; be it further

*Resolved,* That the directors of this association endorse the amendments to Senate bill 1988 proposed by the people of the Klamath Basin.

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MODOC COUNTY BOARD OF SUPERVISORS' RESOLUTION

Whereas the whole future development of northwestern Modoc County hinges on the proper use and development of the Klamath project; and

Whereas the final settlement of the Tule Lake question will be of great importance to the economy and well-being of Modoc County and its people; and

Whereas the proposal of the Tule Lake Irrigation District, dated January 16, 1962, seems to best safeguard both the agricultural and wildlife interests of our area, and further provides the flexibility so desirable for future generations of Californians; and

Whereas the shared revenue provisions represent fair treatment for the local taxing agencies involved: Now, therefore, be it

*Resolved by the Modoc County Board of Supervisors in regular session this 5th day of February 1962.* That the Congress be urged to favorably consider the above-mentioned draft of legislation as the proper solution to the Klamath Basin Refuge problem.

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OREGON WILDLIFE FEDERATION,  
*McMinnville, Oreg., February 14, 1962.*

HON. CLINTON ANDERSON,  
*Chairman, Senate Interior and Insular Affairs Committee,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR ANDERSON: This letter will introduce to you Mr. Chet Langslet, of Klamath Falls, Oreg., who is the migratory bird chairman of the Oregon Wildlife Federation and has the permission and authority to speak to your committee on matters of the Klamath-Tule water fowl resource, including Senate bill No. 1988 and other recommendations as stated in Resolution 4 adopted at St. Louis, Mo., February 28 to March 2, 1958, by the National Wildlife Federation, including subsequent refinements of the 1958 resolution.

The Oregon Wildlife Federation is a statewide organization and a member of the National Wildlife Federation. Our membership is composed of some 5,000 members in 36 clubs scattered throughout the State of Oregon. We are dedicated to the wise use of our wildlife, fish, land, and water for the benefit and continued use of all people.

Yours very truly,

GENE V. HANSEN,  
*President, Oregon Wildlife Federation.*

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RESOLUTION No. 328

Whereas the city of Tulelake is composed of a number of small businesses whose economy is dependent primarily on agriculture but welcomes the seasonal trade derived from hunting; and

Whereas Senate bill S. 1988 does not provide satisfactory in-lieu taxpayment on public lands in Siskiyou and Modoc Counties within the immediate area of Tulelake; and

Whereas the United States is completing a \$3,500,000 construction program to reconstruct the irrigation facilities and establish 164 farm units averaging 100 acres in size for eventual private ownership; and

Whereas the effect of Senate bill S. 1988 would stifle the present and future economy of this area and promote conflicts between local and Federal Government: Now, therefore, be it

*Resolved by the City Council of the City of Tulelake*, That Senate bill S. 1988 as proposed to be amended by the Department of Interior be opposed; and be it further

*Resolved*, That this council endorse the amendments to Senate bill S. 1988 as proposed by the people of the Klamath Basin as legislation more fully recognizing the cooperative utilization of the public land and water resources within the Klamath Basin.

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SISKIYOU COUNTY BOARD OF SUPERVISORS' RESOLUTION

Whereas Senate bill 1988 as proposed to be amended by the Secretary of Interior has been introduced for passage by the Congress of the United States; and

Whereas the effect of such bill would be to eliminate the securing of private property of Federal land in the Klamath Basin; and

Whereas the United States owns approximately 63 percent of the county of Siskiyou and there is a dire need for more land to be available on which to build homes and farms; and

Whereas such land which would be subject to this bill is desirable and useful for such purposes without any way endangering the protection of wildlife; and

Whereas Senate bill 1988 does not provide satisfactory in-lieu taxpayment on public lands in Siskiyou County within the Executive order boundaries of Lower Klamath National Wildlife Refuge and Tulelake National Wildlife Refuge: Now, therefore, be it

*Resolved by the Board of Supervisors of the County of Siskiyou*, That such board of supervisors go on record as opposing Senate bill 1988 as proposed to be amended by the Secretary of Interior; be it further

*Resolved*, That the board of supervisors of the County of Siskiyou go on record as endorsing the amendment to Senate bill 1988 proposed by the people of the Klamath Basin as a possible solution.

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OREGON RECLAMATION CONGRESS,  
Klamath Falls, Oreg., February 15, 1962.

HON. CLINTON P. ANDERSON,  
Chairman, Senate Interior and Insular Affairs Committee,  
Senate Office Building, Washington, D.C.

DEAR SENATOR: For several years the Oregon Reclamation Congress has supported the joint proposals of the Klamath Basin Water Users Protective Association and the Klamath Sportsmen's Association, Inc., for uses of public lands in the Klamath Basin.

S. 1988, if amended by proposals recently submitted to you by these two associations, and supported by individuals and groups in the Klamath Basin, will, in our opinion, satisfactorily settle this longstanding controversy in an orderly manner.

These proposed amendments will benefit Government agencies concerned, three counties, one irrigation district, and one drainage district. And by blocking out

the Upper and Lower Klamath Lake Refuges by land exchange and purchase, with Fish and Wildlife Service given complete jurisdiction, free from the controls of other bureaus and private owners, the stalemate that has existed for some 55 years will no longer exist.

The Oregon Reclamation Congress is in full accord with proposed amendments, by basin organizations, to S. 1988, and respectfully requests that you and your committee give them careful consideration.

Very truly yours,

JOHN L. STEWART, JR., *President.*

Mr. LANGSLET. Failure to resolve this problem now will lead to litigation, questions as to allocation of costs, and a bitterness in the community which will affect future generations.

The CHAIRMAN. I have to stop you here. We will print the rest of it in the record here. The final part of your statement contains the amendments which you propose which we will come to this afternoon.

(The amendments referred to above follows:)

AMENDED S. 1988

A BILL To aid in the administration of the Klamath reclamation project and the Tule Lake, Clear Lake, Lower Klamath, and Upper Klamath Wildlife Refuges in Oregon and California, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is hereby declared to be the policy of the Congress to aid in the administration and management of the Klamath reclamation project and the Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, Clear Lake National Wildlife Refuge, and the Tule Lake National Wildlife Refuge, to establish suitable standards for the cooperative use of the natural resources of the area, and to provide for the operation of said refuges consistent with the contractual obligations entered into or established pursuant to law.

SEC. 2. All lands owned by the United States lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge, excluding the tract known as the Klamath Straits unit and the portion of the Miller Lake tract in Oregon; the Upper Klamath National Wildlife Refuge, excluding Hanks Marsh; the Clear Lake National Wildlife Refuge; and the Tule Lake National Wildlife Refuge, excluding the tracts known as sump No. 1b and sump No. 3, are hereby dedicated to wildlife conservation and such lands shall not be opened to homestead entry. The lands designated in this section, except for the areas excluded herein, shall be administered by the Secretary of the Interior for the purpose of waterfowl management consistent with the contractual obligations entered into or established pursuant to law. The following public lands shall also be administered by the Secretary of the Interior for the purpose of waterfowl management, consistent with optimum agricultural use and development and shall not be opened to homestead entry: First form withdrawal lands (approximately nine thousand five hundred and eighty acres in Klamath County, Oregon; thirteen tracts of lands in Siskiyou County, California, lettered as, "A," "B," "C," "D," "E," "F," "G," "H," "I," "J," "K," "L," "N" totaling approximately three thousand two hundred and ninety-two acres, and tract "P" in Modoc County, California, containing about ten acres, Sheepy Lake East containing approximately two thousand and forty acres, Sheepy Lake West containing approximately three thousand, nine-hundred and seventy acres, and the portion of Miller Lake tract in Siskiyou County, California, containing approximately two thousand, six hundred acres, all as shown on plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956, prepared by the United States Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States.

SEC. 3. (a) After payment to the Tule Lake Irrigation District under the terms of the contract between the United States and said district, approved by Public Law 977, Eighty-fourth Congress, second session, 25 per centum of the balance of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order

boundaries of the Clear Lake National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, each fiscal year after the date of this Act, to the counties in which such refuges are located. Payments shall be made on a pro rata basis to each county based upon the revenue collected in each county.

(b) Beginning with the date of this Act, there shall be paid annually to the counties in which the Lower Klamath National Wildlife Refuge and the Upper Klamath National Wildlife Refuge are located, in lieu of county taxes, a minimum of 50 cents per acre.

SEC. 4. In carrying out the policies of this Act the Secretary of the Interior shall retain full authority to lease for agricultural and other purposes the reserved public lands lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge, Lower Klamath Wildlife Refuge, Upper Klamath Wildlife Refuge, and Clear Lake National Wildlife Refuge: *Provided*, That leases for the public lands lying within the Tule Lake National Wildlife Refuge and the Clear Lake National Wildlife Refuge shall be for a monetary consideration: *And provided further*, That all leases shall be for the growing of grains, forage, row, and soil-building crops.

SEC. 5. The water area of sump 1a in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or any other construction to less than the existing area.

SEC. 6. (a) The Secretary is authorized to dispose by public sale or exchange for private land adjacent to the Lower and Upper Klamath Wildlife Refuges the isolated public land owned by the United States in the Klamath Straits unit and in Hanks Marsh: *Provided*, That the patents to such public lands shall include a covenant relieving the United States and public agencies who have contracted with the United States for repayment of Klamath project works of and from any liability for any damages to such lands caused by the operation or maintenance of any of the facilities or works of the Klamath project.

(b) In the sale or exchange under section 6(a) of this Act, the patents to the Klamath Straits unit shall reserve the hunting in perpetuity for public shooting grounds.

(c) The sum of \$180,000 previously accumulated from the leasing of lands within the Klamath Straits unit shall be paid to the Klamath Drainage District as reimbursement for the construction of the irrigation and drainage facilities for the Klamath Straits unit.

(d) The Secretary of the Interior shall negotiate the transfer of title to the Klamath Drainage District of the disputed lands claimed by the United States and the State of Oregon lying in the Miller Lake area within the boundaries of the Klamath Drainage District in Oregon.

SEC. 7. In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended, or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters in Tule Lake under the control of the Secretary of the Interior shall be regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by contract and regulations issued pursuant thereto.

SEC. 8. Notwithstanding any other provision of law and consistent with optimum agricultural uses, \$1,500,000 of the net revenues heretofore received from sources set forth in article 4 of the contract between the United States and the Tule Lake Irrigation District, approved by Public Law 877, Eighty-fourth Congress, second session, are hereby authorized to be used for the development and improvement of wildlife habitat in Upper Klamath National Wildlife Refuge, Lower Klamath Wildlife Refuge, and Clear Lake National Wildlife Refuge as substitute wildlife habitat for the public lands in sump 1b and sump 3. The public lands in sump 1b and sump 3 shall be placed into private ownership within a reasonable time after substitute habitat has been developed.

SEC. 9. The Secretary of the Interior shall develop the water resources of the Clear Lake National Wildlife Refuge in accordance with the Upper Lost River Storage Report of the Bureau of Reclamation as submitted to and approved by the Congress. Funds are hereby authorized to be appropriated for the purposes of this section.

The CHAIRMAN. We will adjourn now because we have scheduled a meeting of the committee in executive session and we will come back at 2 o'clock and you and your association can resume the stand at that time.

At the request of Senator Bible, I will now put in the record a letter from Senator Neuberger and a letter from Frank W. Groves, director of the State of Nevada Fish and Game Department.

(The letters referred to follow :)

U.S. SENATE,  
COMMITTEE ON AGRICULTURE AND FORESTRY,  
February 22, 1962.

HON. CLINTON P. ANDERSON,  
*Chairman, Interior and Insular Affairs Committee,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR ANDERSON: Representatives of the Klamath Basin Water Users Protective Association and the Klamath Sportsmen's Association, Inc., will be appearing before your committee hearing scheduled to start February 23 on S. 1988, the bill to aid in the administration of the Tule Lake, Upper Klamath, and Lower Klamath Wildlife Refuges in Oregon and California. These gentlemen have submitted to me their amended draft of S. 1988, which includes a number of substantive changes in the bill now before the committee.

In their discussions with me, the representatives of these two groups said they felt the amendatory language should be considered by the committee because of their belief that the draft of S. 1988 with amendments proposed by the Department of Interior does not reflect local sentiment. One of the gentlemen, Mr. C. L. Langslet, told me that to the best of his knowledge the departmental amendments were not derived from any consultation with local interests.

For this reason, I am enclosing material with S. 1988 as amended by the Department and S. 1988 as amended by the Klamath Water Users Protective Association set forth in parallel columns. I thought this would be of convenience to you and other members of the committee in illustrating the points which these two organizations believe should be thoroughly considered before action is taken on the legislation. Intermingled landownerships in the refuge areas and differences of opinion on management policies between officials of the Bureau of Reclamation and Fish and Wildlife Service have created difficulties in administering the refuge units. It is my hope that the Senate Interior Committee can this year resolve this longstanding controversy through equitable legislation.

For your consideration, I also forward for inclusion in the hearing record correspondence which I have received concerning S. 1988.

With best wishes, I am,  
Sincerely yours,

MAURINE B. NEUBERGER, *U.S. Senator.*

STATE OF NEVADA FISH AND GAME DEPARTMENT,  
*Reno, Nev., February 16, 1962.*

Senator CLINTON P. ANDERSON,  
*Chairman, Senate Committee on Interior and Insular Affairs,*  
*Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: We are informed that you plan to hold hearings on Senate bill 1988 on February 28, and our commission sincerely requests your support of this legislation, along with the amendments that are being prepared by the Department of the Interior.

Having worked on the Tule Lake National Wildlife Refuge, I am intimately acquainted with their problems and the necessity for firming up this area to where further encroachment will be impossible. Within this area lies the key to a large percentage of our Pacific Flyway migratory birds, and if it is not lost we can expect only a drastic reduction in our waterfowl population, along with increased damage to the rice farmers of the Sacramento Valley in California.

We sincerely urge your favorable consideration.

Very truly yours,

FRANK W. GROVES, *Director.*

The CHAIRMAN. Thank you very much. We will now be in recess until 2 o'clock.

(Whereupon, at 12:15 p.m., Friday, February 23, 1962, the subcommittee was recessed to be reconvened at 2 p.m. of the same day.)

## AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

We will proceed from where we were in the morning. Do you have additional comments you desire to make?

**STATEMENT OF CHESTER L. LANGSLET, REPRESENTING KLAMATH BASIN WATER USERS PROTECTIVE ASSOCIATION, KLAMATH SPORTSMEN'S ASSOCIATION, AND OREGON WILDLIFE FEDERATION—Resumed**

MR. LANGSLET. Just a few, sir. As far as I know, none of the costs of these irrigation districts in the Klamath Basin have been charged off to flood control, recreation, or wildlife, all costs being borne by the agricultural interests. In 1956 the Fish and Wildlife made a report, a plan for wildlife use of Federal lands in upper Klamath Basin, and I would like to quote from page 25, item 3, in which they say:

Transfer primary jurisdiction of all Federal wildlife management land, including the admission of leasing and agricultural use of the areas to the Fish and Wildlife Service.

They mention it in this report, but you did not hear it in their testimony today. Naturally the sportsmen expect the opening of a portion of these refuge lands to public hunting. I would like to introduce for the record the editorial page from the Klamath Basin's largest newspaper, the Herald and News.

Thank you.

The CHAIRMAN. Thank you.

Are there other statements to be made from this group?

(The statement referred to follows:)

[Editorial from Herald and News, Klamath Falls, Oreg., Feb. 19, 1962]

**RECOMMENDATIONS SHOULD PREVAIL**

We are hopeful that the Klamath Basin delegations scheduled to appear in Washington, D.C., this week in regard to a proposed Senate bill imposing new regulations in the administration of the Klamath reclamation project and related activity get a full and complete hearing.

In examining the provisions of the proposed Senate bill 1988, introduced by Senator Thomas Kuchel, of California, and those amendments as proposed by our own Klamath area people, we are convinced that the amendments should prevail.

Since the Klamath project originally was conceived and carried out by the Bureau of Reclamation, it seems rather strange to us that the Senate Interior and Insular Affairs Committee, which is conducting the hearings, has not called regional or upper level U.S. Bureau of Reclamation men to appear. As we understand the situation, the only Government Bureau people to appear will be representatives of the Fish and Wildlife Service.

Knowing the caliber of the men who are representing the various Klamath Basin interests at the hearings, we are confident they will get their story across, and that they will be able to convince the Senators that they have a good plan. (Full text of the proposed bill was carried in the Herald and News Sunday.)

However, there is always the fact that none of these situations escapes completely from politics. Undoubtedly, portions of the amended bill will be distasteful to Congressmen who are not completely informed, or who maintain some bias. Only recently, the Congressman from California's Third District (Sacramento Valley) observed some objections to the bill, because he thinks ricegrowers and their crops will be harmed if some acreage in the Tule Lake Refuge is offered for sale. He also came up with the observation that "inasmuch as the Federal Government currently is paying large subsidies to farmers

not to raise grain, it seems obvious that this particular land is not needed to increase production and that its release for farming would be unwise at this time."

Neither of these observations stand up under analysis. There is no reason why additional acres in the Tule Lake area cannot be turned into agricultural purposes, as history has shown in the area itself, that agriculture adds to the desirability of refuge maintenance by providing more feed and grain for ducks and geese. It is apparent, too, that there is plenty of water and nesting ground available if the present acreage and full potential is developed by Fish and Wildlife Service.

As to the second objection, the only crop grown in the Tule Lake district that carries any kind of Government subsidy is potatoes, and that only to a very limited extent. Other major cash crops include Durum wheat, Malting barley, horseradish, onions, and alfalfa.

It occurs to us that all interested parties—particularly the wildlife and agriculture people—have gone to every conceivable compromise to work out an effective program of reclamation and wildlife service in the Klamath project. Many, many years of study and first hand knowledge have gone into their proposals for amendments to the Kuchel bill. It is not possible to conceive a more knowledgeable group, and it would be difficult indeed to ignore their recommendations.

### STATEMENT OF RICHARD HENZEL, PRESIDENT, BOARD OF SUPERVISORS, KLAMATH DRAINAGE DISTRICT

Mr. HENZEL. Mr. Chairman and members of the Interior and Insular Affairs Committee, my name is Dick Henzel, and I am president of the board of supervisors for the Klamath Drainage District which lies within the State of Oregon. My brother and I have been actively engaged in farming in the Klamath Basin since 1932. We started farming on land leased from the U.S. Bureau of Reclamation on Tule Lake and have had a part in the diking and reclamation of some of the areas under discussion here today.

Through the years I have taken an active part in civic and community affairs. I have served on the boards of organizations such as the Malin and Klamath County Chambers of Commerce; the Malin Park Board; the Klamath County Land Use Committee; the Agriculture Research Foundation for Oregon State University; the Advisory Committee for the Klamath Experiment Station; the Rotary Club, and the Klamath Basin Water Users Protective Association.

Through some of the above organizations, and in our own farming operations, I have been in close contact with the Bureau of Reclamation and the Fish and Wildlife Service. I am familiar with much of the work these organizations have done in our area and the problems that were involved. We have cooperated fully with both agencies through the years.

On behalf of my associates and myself, I want to thank this committee for arranging to let us present the problems of the Klamath Drainage District as affected by this proposed legislation.

In order to understand these problems, a brief background of the origin of the Klamath Drainage District and the conditions and events leading up to the present situation will follow.

In the early days our district was part of lower Klamath Lake, which was fed by the floodwaters of the Klamath River. The whole area would overflow during the spring runoff period. The water would soon recede, leaving water in the lower part of the lakebed connected to the Klamath River only by the straits. This amounted to an annual preirrigation in the spring which left the land out of

the water the remainder of the year. Early settlers saw the possibilities of developing this land for farming.

Title to these private lands was obtained by purchase from the State of Oregon. The State received title under the Swamp and Overflow Act.

In order to stimulate agricultural development, the State of Oregon in 1905, ceded their remaining portion of the uncovered lakebed to the Federal Government for development for agricultural purposes under the reclamation law of 1902.

The Bureau of Reclamation then proceeded to make preliminary survey and studies of the lower Klamath Lake area. Experimental plots were established in the vicinity of the Klamath Straits. Apparently these early studies were not too favorable, as the Bureau practically abandoned the lower Klamath portion of the Klamath project. By 1915 these preliminary studies had cost approximately \$254,000.

During these years, the private owners had been farming without adequate drainage. It became apparent to M. Motschenbacher, Abel Ady, and other pioneer ranchers, that it would be necessary to form a district to provide the drainage and irrigation system required. This situation was complicated by the United States holding title to some of the land within the proposed district. It also necessitated the closing of the gates at the straits at Ady which could cut off the water supply for the Van Brimmer Irrigation District.

The organizers of the proposed district negotiated with the U.S. Bureau of Reclamation. It was finally agreed in order to include the necessary public land within the district, the landowners would reimburse the United States for their pro rata share of the \$254,000 expended upon the lower Klamath Lake preliminary surveys, et cetera. Also, included was an amount for changing the Van Brimmer water supply. These charges, as determined by the United States, have all been paid. The Klamath Drainage District was finally organized on March 6, 1915. On November 30, 1917, the contract between the United States and the Klamath Drainage District was signed.

Since the Bureau had filed on all of the unappropriated waters of the Klamath Basin in 1905, it was necessary to acquire a water right for the new district. On August 24, 1921, the district entered into a water right agreement with the Bureau for all of the lands within the Klamath Drainage District, including the public land. These water right charges have also been paid in full by the Klamath Drainage District, both for the private and public lands.

The plan of reclamation of the Klamath Drainage District, submitted to the State engineer for his approval under the laws of the State of Oregon, planned for the development of the public land as well as the private land. The United States, through the Bureau of Reclamation, in all of its dealings with the district, has taken the position that the public lands within the district would go into private ownership.

Both the irrigation and drainage systems in the Klamath Drainage District have been built to serve the public as well as the private lands. The private landowners in the district have carried the burden of the cost of construction. They bonded their lands and through direct assessment paid for this construction. They did so with the understanding that the public lands would go into private ownership

which would make the Klamath Drainage District a stronger and more economical district. The audit report of the Klamath Drainage District for June of 1961 shows the district has spent over \$1,250,000 in this construction.

I have been on the board of supervisors of the Klamath drainage district since 1941. During this time our board has periodically requested that the public land go into private ownership. For many years we urged that the land be homesteaded as the normal route to private ownership. The Bureau of Reclamation made studies to complete development themselves according to their usual high standards of construction. The costs of a district within a district in all instances, proved to be economically prohibitive. In the meantime, the Bureau has continued to lease these lands for cash. The total net lease revenues accumulated from the leasing of the Klamath Straits unit to date is \$1,153,438. The net allocated income is \$194,808. The remaining net unallocated income is \$958,630.

We in the Klamath drainage district are pleading for the solution of only two problems—we have only two objectives.

1. That the public lands within our boundary go into private ownership as an integral part of the district.
2. That the United States promptly pay its just debt to the Klamath drainage district.

The CHAIRMAN. What do you consider that just debt to be?

Mr. HENZEL. I think the Department of the Interior auditors computed it at \$31 per acre on the straits unit. This acreage, which has been stated in various amounts, according to the last survey by the Bureau of Land Management, is 6,365 acres.

The CHAIRMAN. How many?

Mr. HENZEL. 6,365.

The CHAIRMAN. Are we talking about \$180,000 now?

Mr. HENZEL. We are talking about a little bit more than \$180,000, sir.

The CHAIRMAN. What would you do with that money if you got it?

Mr. HENZEL. We would try to complete the development of our district.

The CHAIRMAN. How many acres are under cultivation?

Mr. HENZEL. Under cultivation now?

The CHAIRMAN. Yes.

Mr. HENZEL. There are about 20,000 acres under cultivation now in our district, sir.

The CHAIRMAN. This would be a matter of \$6 an acre.

Mr. HENZEL. Beg pardon?

The CHAIRMAN. You would have \$6 an acre then?

Mr. HENZEL. No. You mean in total cost.

The CHAIRMAN. How many acres are there?

Mr. HENZEL. 20,000.

The CHAIRMAN. \$9 an acre, \$10 an acre?

Mr. HENZEL. I beg your pardon, sir. I did not quite understand the question.

The CHAIRMAN. You want them to pay the district what it owes?

Mr. HENZEL. That is correct.

The CHAIRMAN. Say it owes about \$200,000.

Mr. HENZEL. Yes, sir.

The CHAIRMAN. You have 20,000. They get \$10 an acre. Is that what you are trying to say?

Mr. HENZEL. Well, the \$31, sir, was computed on the 6,000 acres. In other words, that is the pro rata share of the whole cost of construction.

The CHAIRMAN. You multiply 6,365 by 31 and see what you get then.

Mr. HENZEL. You get 190-some-thousand.

The CHAIRMAN. I said roughly \$200,000.

Mr. HENZEL. Yes, sir. Take your figure of 190-some-thousand and divide that 20,000 acres into it. You are talking about \$9 an acre then, \$10 an acre, back to the district. Is that what you are trying to say?

The CHAIRMAN. Do you think the Federal Government's contribution had not been worth that to you over the years?

Mr. HENZEL. Well, this \$31 was computed from the old records by the Department of the Interior people and the reason this has been computed was that, when we had asked for the land going into private ownership, one of the questions that the Bureau asked us was, "How much have you expended on these lands?" Well, we went back through the records and the whole cost of the district was almost \$60 per acre for all the land within the district, but there were certain credits that we had back from lessees which they deducted and the net then that they came up with that our district had expended on the straits unit amounted to \$31.

The CHAIRMAN. You laid out these two things which you want. You want the land to go into private ownership and you want to pay its just debt. What do you say that just debt is?

Mr. HENZEL. \$31 per acre.

The CHAIRMAN. \$190,000?

Mr. HENZEL. There is a little confusion on the total amount, sir.

The CHAIRMAN. There are 20,000 acres of land. Are you going to take this \$190,000 and give each person \$10 an acre?

Mr. HENZEL. No, sir.

The CHAIRMAN. What are you going to do with it?

Mr. HENZEL. Our district is only in a partial state of development. We need additional laterals, additional drains, to complete the development for diversified production.

The CHAIRMAN. You say you have only two objectives. Those two objectives are that public land go into private ownership and the Government pay its debt.

Mr. HENZEL. That is regarding the bill under discussion today, sir. The broad objective of the district, of course, is to get all of this land into the highest state of production that it can.

The CHAIRMAN. Do you have some other objective besides these two you have listed here?

Mr. HENZEL. Not as far as the Klamath Drainage District is concerned, sir.

The CHAIRMAN. Go ahead.

Mr. HENZEL. Senate bill 1988 as originally written or as amended by the committee print, does not solve the problems of the Klamath Drainage District. It would forever keep the straits unit and the Miller Lake lands in public ownership in direct violation of all past agreements and intent of both the Cession Act and reclamation law.

The CHAIRMAN. Have you any written agreements of any kind?

Mr. HENZEL. Yes, sir. Mr. Proctor in his testimony will quote some contracts.

The CHAIRMAN. All right.

Mr. HENZEL. The committee print recognizes the debt of the United States to the Klamath Drainage District, but would pay it out of future lease revenues. Why should the Klamath Drainage District be forced to wait any longer for the money they advanced in good faith when the United States now has on hand \$958,630 of net unallocated income out of past least revenues from the Klamath Straits unit?

The CHAIRMAN. Have you made any request for the repayment of this money that you say has been owing you in the past?

Mr. HENZEL. Yes, sir.

The CHAIRMAN. What has been the attitude of the Federal Government?

Mr. HENZEL. Up until now we have not been able to get action.

The CHAIRMAN. You have got it now. You got a bill but when you made a request for it what was the answer to you?

Mr. HENZEL. Well, the request was contingent upon the land going into private ownership. In other words, we agreed to take this arbitrated amount providing—

The CHAIRMAN. What arbitrated amount?

Mr. HENZEL. The \$31 per acre.

The CHAIRMAN. Has the Bureau of Reclamation, the Government agreed to that figure?

Mr. HENZEL. That is the figure they gave us, sir.

The CHAIRMAN. All right.

Mr. HENZEL. We believe section 6, as proposed in the basin amendments, provides for a solution of the Klamath Drainage District problems. It provides for private ownership of the public land within our district by either sale or exchange. This gives the Department of the Interior flexibility in their actions. Transfer of the Miller Lake land to the district will permit development of this area. At present, the Klamath Drainage District lands are so interspersed by public land that development is not feasible. Section 6 also provides for the payment of approximately \$180,000 the United States owes the district. Our district has agreed to accept an arbitrated amount as compensation for the construction work done over the years, providing the public land goes into private ownership.

Senator KUCHEL. May I interrupt? You say your district has agreed to accept. With whom did your district enter into any such agreement?

Mr. HENZEL. Well, Undersecretary Aandahl had charge of the investigation that was conducted. This was in the previous administration, sir, the \$31 from the previous administration, sir.

Senator KUCHEL. And did they enter into an agreement with you?

Mr. HENZEL. No, we did not have any written agreement on it. We did not get that far with it.

Senator KUCHEL. When you say here, "Our district has agreed to accept," and so forth, you meant the district among its own people said this is what they would do?

Mr. HENZEL. Yes. These amendments will be of benefit to the Fish and Wildlife Service and their program. It will provide for the re-

tention of public shooting rights in perpetuity. It will stimulate development of the straits unit to more diversified production, which will provide more feed for the migratory ducks and geese. The alfalfa and irrigated pasturelands of our district are now used heavily by migratory waterfowl.

The Miller Lake area, at present, is of no value for wildlife. Developed for irrigated pasture it will be of benefit both to the spring and fall migrations and the honker geese that hatch and stay in the area all year.

I would like to point out that agricultural development has helped make the Klamath Basin the waterfowl haven that it is. Fremont and other early explorers found very little game in the Klamath Basin—in fact, they almost starved to death. Further proof is the Clear Lake area which has had plenty of water but no feed and, as a result, very few birds.

Our own experience is that the development of the Williamson River Ranch from a marsh to a highly productive farm unit has greatly increased the number of migrating birds in the Upper Klamath-Agency Lake area.

The basin amendments will provide a solution for the disposition of isolated pieces of land that are too small for the Bureau to develop economically. Surrounded as they are by lands of the Klamath Drainage District, commonsense would dictate they become a part of the district.

It will help the Bureau fulfill their moral and legal obligation to the Klamath Drainage District. Their purpose is to help districts such as ours to become self-sustaining.

It will help complete part of the U.S. Bureau of Reclamation mission on the Klamath project. The Klamath Drainage District is willing and is able to govern itself. Gentlemen, we are asking you for that opportunity.

The basin amendments will put the straits unit and the Miller Lake land on the tax rolls of our district and of Klamath County. Further development will add to the tax base. This is important to the county, as at present about 68 percent of the land within our county is in public ownership.

Agricultural income is second in importance to the Klamath Basin—forest products being first. In 1960 the agricultural income was \$36,877,074. The highest agricultural income in recent years was \$44,014,984 in 1952. Full development of the Klamath Drainage District will add to both the cash crop and livestock income of the basin.

At this time I want to make one point very clear. Private ownership of the Klamath Straits unit will not add to farm surpluses. These lands have already been in production for over 25 years under the leasing program.

We firmly believe these proposals by the people of the Klamath Basin are good for all concerned. They are an equitable solution for a longstanding controversy that has hindered the development of the Klamath Basin. We sincerely urge the adoption of the proposed basin amendments to Senate bill 1988.

Thank you.

The CHAIRMAN. You say these lands have been in production for over 25 years under the leasing program.

Mr. HENZEL. The Klamath Straits unit has been, but the Miller Lake lands have not. With your permission I will point out those lands. The so-called straits unit is this area with the 720 acres of private land within its boundary. The hatched area is the public land and the clear green is the private land, and the Miller Lake lands that intersperse the district are these two parcels over on the left in an undeveloped part of the district. That is alkali flat there on this corner of the district that has not been developed at all up until now.

The CHAIRMAN. Have you had any experience getting rid of alkali.

Mr. HENZEL. Yes, sir, I have.

The CHAIRMAN. Is this white or black alkali?

Mr. HENZEL. There is some black there.

The CHAIRMAN. Is it easy to get rid of?

Mr. HENZEL. No, it is not. It is very difficult.

The CHAIRMAN. Thank you.

### STATEMENT OF GEORGE H. PROCTOR, COUNSEL, KLAMATH DRAINAGE DISTRICT

Mr. PROCTOR. Mr. Chairman and members of the committee, my name is George H. Proctor, attorney at law and member of the firm of Proctor & Puckett, 518 Main Street, Klamath Falls, Oreg. I am attorney for and appear on behalf of the Klamath Drainage District.

I request that the following documents be filed and made a part of the record: (1) the appeal of the Klamath Drainage District before the Department of the Interior, directed to the Honorable Douglas McKay and filed in April of 1953; (2) the supplemental appeal of the Klamath Drainage District for the Department of Interior directed to the Honorable Stewart L. Udall, filed in July of 1961; and two copies of the map pertaining to the Klamath Drainage District, and also a map prepared by the Klamath Drainage District as it understands the status of the public land within the district as it pertains to Miller Lake.

The CHAIRMAN. They will be received as exhibits for the committee. I don't know that they will be put in the final record.

(The appeals were ordered printed and are as follows:)

Before the Department of the Interior of the United States

#### APPEAL OF KLAMATH DRAINAGE DISTRICT

*In the matter of the directive of Oscar L. Chapman, Secretary of the Interior, under date of January 9, 1953, withdrawing from homestead entry under the Bureau of Reclamation approximately 1,700 acres of public land within the Klamath Drainage District of Klamath County, Oreg., and diverting it to the Fish and Wildlife Service*

To: Hon. Douglas McKay, Secretary of the Interior.

Hon. Paul L. Patterson, Governor of the State of Oregon.

On January 9, 1953, Oscar L. Chapman, as Secretary of the Interior of the United States, issued the following directive to the Bureau of Reclamation and the Fish and Wildlife Service covering the future control and operation of certain lands located on the Klamath reclamation project:

Directive of Oscar L. Chapman, Secretary of the Interior, January 9, 1953, to Bureau of Reclamation and Fish and Wildlife Service:

"I have considered carefully the proposals made by your respective agencies relative to the disposition of lands which lie both in the Klamath irrigation

project and the Tulelake and Lower Klamath wildlife refuge. The basic issue here is whether any or all of these lands should be opened to entry under the reclamation homestead acts or should be retained in the refuges and kept under cultivation in the present leasing system.

"The lands involved are among the finest public lands for agricultural purposes under irrigation in the West. They could provide farms and homes for veterans under the homesteading program of the Bureau of Reclamation.

"On the other hand, the area is one of the key waterfowl concentration points on the North American Continent. It is indispensable for the maintenance of the Pacific flyway.

"More irrigation development in the area is needed to provide both for increased waterfowl conservation and for more homesteading opportunities. Investigations are now underway by the Department of Water Resources in the Upper and Lower Klamath River Basins. It is hoped that these investigations will result in the development of additional irrigated lands so that waterfowl conservation areas and homesteading opportunities can both be augmented.

"Meanwhile, the immediate problem is to be resolved by the following directives:

"The Fish and Wildlife Service shall:

"1. Take steps as appropriate to take over by January 1, 1954, the administration of those lands in the Tule Lake and lower Klamath refuges which are now administered by the Bureau of Reclamation and which are not to be opened for homesteading. Any leases of these lands shall be on a cash basis with careful attention to the avoidance of land monopoly or corporate farming. Such leases should be on a basis which will realize maximum revenues consistent with conservation of wildlife and the public land.

"2. Remit all revenues derived from the leasing of these lands for deposit in the reclamation fund to be credited against the project construction cost pursuant to provisions of law.

"3. Be responsible directly, or, by the terms of its leases, through the lessees for remittance to the project superintendent of the Bureau of Reclamation annual operation and maintenance or water rental payments in the amounts and at the times required by public notice.

"4. As soon as possible provide increased funds and more personnel for cooperation with the Bureau of Reclamation in the investigations now underway by the Bureau of Reclamation of the upper and lower Klamath River Basins. One of the principal objectives of these investigations will be to discover and develop irrigated lands suitable for the production of grain for wildfowl feed.

"The Bureau of Reclamation shall:

"1. Take appropriate steps to homestead as soon as practicable the following areas:

"(a) All of the lands in the Klamath Straits unit except approximately 1,770 acres in the half-sections bordering the Oregon-California State line, and

"(b) Approximately 2,500 acres in the League of Nations Tract. This will make a total available for immediate homesteading of approximately 6,700 acres. All other lands in the Tule Lake and lower Klamath refuges are to be utilized for the conservation of the wildlife resource, subject to the deposit of revenues as provided for in paragraph 2 of the preceding section.

"2. Intensify the investigations now being made of the upper and lower Klamath River Basins and reorient these investigations wherever necessary so as to have as a primary objective the discovery and development of lands suitable for the production of wildlife feed under irrigation.

"3. Continue the leasing of all lands leased by the Bureau of Reclamation in the area in 1952 for a period ending on December 31, 1953, in a manner that will be consistent with homestead entry of the above-described 6,700 acres and also in a manner that will be consistent with the taking over by the Fish and Wildlife Service on January 1, 1954, of the leasing of the lands to remain in the refuge.

"4. As funds are available, proceed with the present plan of flood protection in the Tule Lake area, and such irrigation construction as may be necessary to serve the 6,700 acres to be homesteaded in the Klamath Straits and Tule Lake areas, and maintain and operate all irrigation, drainage, and flood protective works in the entire area. Provide water service for the wildlife refuge lands on a cost basis for operation and maintenance of water rental comparable to that applicable to other project lands and in amounts, to the extent permitted by law, comparable to the amounts of water supplied other project lands.

"By copy of this memorandum, the solicitor is requested to draft executive orders, in cooperation with the Bureau of Reclamation, the Fish and Wildlife Service and interested divisions of the Secretary's office, modifying the boundaries of the Tule Lake and Lower Klamath wildlife refuge so as to exclude from them the lands to be homesteaded, as described above, and to include in the lower Klamath refuge approximately 225 acres of public land south of Sheepy Lake. These orders should be drafted so that the continued use of the refuges for wildlife purposes shall not be subordinated to use for reclamation homestead purposes.

"Previous instructions relative to the homesteading program on the Klamath project are rescinded.

"You are directed to submit for approval by the Secretary a new memorandum of agreement on management of Klamath lands to supersede the present one between your agencies approved in 1942. The new agreement should be consistent with the above directives and continue those administrative arrangements incorporated in the present agreement which are not in conflict with these directives.

"The Appropriations Committees of the Congress will be notified of these directives."

The directive, if followed by Executive order and permitted to stand, will vitally affect the present and future development of the Klamath Drainage District.

The district herewith files its appeal in this matter and takes the position:

(1) That the directive entered by the Secretary of the Interior in the last few days of the retiring administration was made hurriedly and ill-advisedly.

(2) That Klamath Drainage District was an interested party and before such directive was entered the district should have been given a hearing and an opportunity to present its side of the matter.

(3) That the United States has no authority under the Reclamation Act of 1902 (32 Stat. 388) and the act of 1905 of the Legislature of the State of Oregon (ch. 5, General Laws of Oregon, 1905) to use these lands for fish and wildlife purposes.

(4) That by this last directive of Secretary Chapman the United States has for all practical purposes abandoned the development of the lake bed of Lower Klamath Lake for agricultural purposes both in the State of Oregon and the State of California except for the 4,200 acres left for homesteading in the Klamath Drainage District.

Private capital through the Klamath Drainage District at a cost of approximately \$740,000 has reclaimed and developed for agricultural purposes the 20,000 acres of private land lying in the lake bed north of the State line and the district has constructed all of its main canals and drains so as to take care of the 6,000 acres of public land including the 1,770 acre tract which is the subject of this appeal. In addition, the Klamath Drainage District already has purchased and paid for water right for the 6,000 acres of public land.

As to the lands lying in the lake bed of Lower Klamath Lake in California, comprising approximately 36,000 acres of public land and approximately 10,000 acres of private land, the United States has done very little, if anything, under the act of 1905 of the State of California to reclaim these lands for agricultural purposes. The private lands have been and are being developed by private capital. The United States, long since, has set aside 29,000 acres of the public land to the Fish and Wildlife Service, and by this last directive of Secretary Chapman, has now set aside to the Fish and Wildlife Service approximately all of the remaining public land in California, including the Sheepy Lake area, and approximately 2,000 acres of public land located in a new district which is now being organized in Siskiyou County south of the State line in California. Prior to the Chapman directive this 2,000 acres had been set aside for agricultural development and homesteading.

We are enclosing herewith a map of the entire Lower Klamath Lake area showing the lands of the Klamath Drainage District which include the 6,000 acres of public land, 1,770 acres of which are the subject of this appeal. The map also shows the 29,000 acres heretofore set aside for the Fish and Wildlife purposes in California, and the 2,000 acres tract and the Sheepy Lake area recently set over to the Fish and Wildlife Service by Secretary Chapman's directive.

In raising this question of abandonment we are not unmindful of Judge McCamant's decision in the case of *in re waters of Umatilla River* (172 Pac. 97) wherein he held that the water filings by the United States on that project

were not affected by lack of diligence in completing the project. The holding of that case would have to be restricted to the particular facts involved.

Certainly it could not be successfully contended that the United States could come to the people of Oregon and secure through legislative enactment grants of these lakebed lands and all of the unappropriated waters of these watersheds for agricultural purposes under the act of 1902, and then do nothing for a period of say 10 years or 50 years.

That being the case the question resolves itself to a reasonable and fair compliance by the United States with its obligations under the trust agreement with the State of Oregon, and on account of the size of the undertaking the United States would not be held to an unreasonably short time limit.

However as to the development of the lakebed lands in Lower Klamath Lake both in Oregon and California by the United States for agricultural purposes we would at least say that after 47 years there has been very little done by the United States to meet its trust obligation with the people of the State of Oregon.

So that you may more clearly have the facts involved in this appeal, we wish to give a brief history of the development of the Klamath Drainage District:

Under authority of the Reclamation Act of 1902 (38 Stat. 338), the Bureau of Reclamation took its initial steps looking to the reclamation of the lands on the Klamath project. As the proposed plan of reclamation contemplated the drainage of Lower Klamath Lake and certain other lakes, the proper authorities of the United States entered into negotiations with the Governors and proper representatives of the States of Oregon and California for the purpose of having the States of Oregon and California grant to the United States by legislative enactment all of the lands uncovered by the drainage of the lakes in question, including Lower Klamath Lake, said lands to be used for agricultural purposes. This grant to the United States was finally consummated by the respective acts of 1905 of the Legislatures of the States of Oregon and California.

The United States then proceeded to start the preliminary surveys and other preliminary work on the Lower Klamath Lake area. Practically no construction work was performed and so far as developing the lower Klamath area for agricultural purposes was concerned, the United States, up to the year 1915, had accomplished practically nothing except the expenditure of approximately \$254,000 with very little to show for it except some preliminary surveys. As a matter of fact, it had more or less abandoned the Lower Klamath Lake portion of the project.

At this stage of the proceedings, M. Motschenbacher, Abel Ady, and a number of other pioneer ranchers who owned the private lands within the Klamath Drainage District, approached the United States and asked that they be permitted to go ahead and develop and reclaim the lands within what was later to be the Klamath Drainage District. After some negotiations the organizers of the proposed Klamath Drainage District were told that the United States would close the gates in the straits at Ady and they would be permitted to go ahead and develop the lands of the Klamath Drainage District on condition that they would agree to reimburse the United States for the pro rata share of the \$254,000 expended upon Lower Klamath Lake preliminary surveys, etc., which pro rata share was in the approximate amount of \$103,000.

In due course the Klamath Drainage District was organized under the drainage district laws of the State of Oregon, March 6, 1915, and the contract of November 30, 1917, was entered into between the United States and the Klamath Drainage District. This contract provided for the repayment of the said sum of \$103,000 and carried other provisions affecting both the United States and the Klamath Drainage District.

Later, on August 24, 1921, the Klamath Drainage District and the United States entered into a water right agreement providing for a water right out of the Klamath River for all of the lands within the Klamath Drainage District, including the 6,000 acres of public lands located in the south side of the district.

At this point we wish to call attention to the fact that the Bureau of Reclamation of the United States in its dealings with the Klamath Drainage District, has taken the position at all times that the 6,000-acre tract of public land within the district ultimately would be thrown open to homestead entry and developed accordingly for agricultural purposes.

The water right contract of August 24, 1921, provided for a water right for the 6,000 acres of public land. The plan of reclamation of the Klamath Drainage District submitted to the State engineer for his approval under the laws of the

State of Oregon, indicated that the district proposed ultimately to irrigate and reclaim for farming purposes the 6,000 acres of public land.

As the years have gone by, the district has at all times so constructed its main irrigation and drainage canals that it could properly serve the tract in question when it was thrown open to homestead entry. In addition to other bond issues, the district bonded itself in the year 1946 in the amount of \$100,000 to finance the construction of what is known as the new North Canal, and this canal was built with sufficient capacity to carry irrigation water not only to the privately owned district lands but to the 6,000 acres of public land.

In recent years, the district from time to time has carried on further negotiations with the Bureau of Reclamation looking to the homesteading of these lands in the immediate future. Under date of April 11, 1952, by a letter addressed to Mr. E. L. Stephens, project manager, the district urged that the matter of homesteading these lands, which are some of the most valuable in the district for agricultural purposes, be carried out as soon as possible. On April 23, Mr. Stephens replied to our letter of April 11, and after acknowledging receipt of the letter, made the following statement:

"Some of these views which you had expressed on previous occasions were given consideration in preparing our report on plans for homestead settlement of the Klamath Straits unit. This report is now being considered in our Washington office."

From the above, you can readily see the far-reaching effect on the Klamath Drainage District of this directive of Secretary Chapman. Such an order if carried out would:

(1) Force the district to redraft its plan of reclamation. The use of land for agricultural and homestead purposes is very different from the use of land for fish and wildlife purposes. To give just one of the many differences: The Fish and Wildlife Service might want to flood this land and make a lake of it.

(2) It would lower the future tax base of the Klamath Drainage District to the extent of 1,770 acres.

(3) Likewise, it would lower the tax base of Klamath County to the extent of 1,770 acres, and in this connection we would call your attention to the fact that the County Court of Klamath County recently has gone on record before the Secretary of the Interior in the Manning tract matter urging him to retain the 6,000-acre tract in Klamath Drainage District for homestead purposes so that the present low tax base of Klamath County would not be further reduced.

Of the lands of Klamath County, 68 percent are already nontaxable. Most of this nontaxable land is owned by the United States.

(4) It would complicate the issuance and sale of bonds to finance future construction work for agricultural purposes if the district had this large body of land within its boundaries devoted to fish and wildlife purposes.

The district has, in good faith, negotiated with the Bureau of Reclamation and carried out its construction work to be able to properly serve these lands for homestead and agricultural purposes.

As stated above, it has bought and paid for a water right for these lands upon the assurance by the Bureau of Reclamation that they ultimately would be developed for agricultural purposes.

We wish now to review briefly the legislature enactments which have led up to this development.

The Reclamation Act (32 Stat. 388) was passed by the Congress of the United States for the primary purpose of reclaiming and developing the arid lands of the West for agricultural purposes. The committee meetings leading up to the enactment of the statute, the title of the act, and the wording of the act all the way through contemplate this purpose.

In the early case of *Swigart v. Baker* (57 L. Ed. 1144), Justice Lamar in his opinion gives a brief review of the history and purposes of the Reclamation Act, showing that it was passed by Congress to assist in the development of the arid lands of the West for agricultural purposes. We quote from his opinion as follows (p. 1146):

"The official reports show that, in 1902, there were in 16 States and territories 535,486,731 acres of public land still held by the Government and subject to entry. A large part of this land was arid, and it was estimated that 35 million acres could be profitably reclaimed by the construction of irrigation works. The cost, however, was so stupendous as to make it impossible for the development to be undertaken by private enterprise; or, if so, only at the added expense of interest and profit private persons would naturally charge. With a view, therefore, of making these arid lands available for agricultural purposes by an ex-

penditure of public money, it was proposed that the proceeds arising from the sale of all public lands in these 16 States and territories should constitute a trust fund to be set aside or use in the construction of irrigation works—the cost of each project to be assessed against the land irrigated, and as fast as the money was paid by the owners back into the trust, it was again to be used for the construction of other works.”

## GRANT OF LAKEBEDS

We now come to the act of 1905 of the Legislature of the State of Oregon (ch. 5, General Laws of Oregon, 1905), whereby the State of Oregon granted to the United States the lakebeds of certain lakes uncovered by the United States in its proposed reclamation work. We quote it, as follows:

## “CHAPTER 5. (H.B. 1)

“AN ACT To authorize the utilization of Upper Klamath Lake, Lower or Little Klamath Lake, and Tule or Rhett Lake, situate in Klamath County, Oregon, and Goose Lake, situate in Lake County, Oregon, in connection with the irrigation and reclamation operations of the Reclamation Service of the United States, and to cede to the United States all the right, title, interest, and claim of the State of Oregon to any and all lands recovered by the lowering of the water levels, or by the drainage of any or all of said lakes

“Be it enacted by the Legislative Assembly of the State of Oregon:

“Be it enacted by the People of the State of Oregon:

“SECTION 1. That for the purpose of aiding in the operations of irrigation and reclamation, conducted by the Reclamation Service of the United States, established by the act of Congress, approved June 17, 1902 (32 Stat. 388) known as the Reclamation Act, the United States is hereby authorized to lower the water level of upper Klamath Lake, situate in Klamath County, Oregon, and to lower the water level of, or to drain any or all of the following lakes: Lower or Little Klamath Lake, and the Tule or Rhett Lake, situate in Klamath County, Oregon, and Goose Lake, situate in Lake County, Oregon; and to use any part or all of the beds of said lakes for the storage of water in connection with such operations.

“SEC. 2. That there be and hereby is ceded to the United States all the right, title, interest, or claim of this State to any land uncovered by the lowering of the water levels, or by the drainage of any or all of said lakes not already disposed of by the State; and the lands hereby ceded may be disposed of by the United States, free of any claim on the part of this State in any manner that may be deemed advisable by its authorized agencies, in pursuance of the provisions of said Reclamation Act.

“Approved January 20, 1905.

“Filed in the office of the Secretary of State January 20, 1905.”

In the title of the act it will be noted that it refers to the “irrigation and reclamation operations of the Reclamation Service of the United States,” which, of course, were authorized only under the act of 1902. In the body of the act, section 1, it again refers to the act of 1902, as follows: “for the purpose of aiding in the operations of irrigation and reclamation, conducted by the Reclamation Service of the United States, established by act of Congress approved June 17, 1902 (32 Stat. 388).” The wording of the last few lines of the act “and the lands hereby ceded may be disposed of by the United States, free of any claim on the part of this State in any manner that may be deemed advisable by its authorized agencies, in pursuance of the provisions of said Reclamation Act” might seem to be a broad right to use the lands for any purpose, but this is immediately forestalled by the words “in pursuance of the provisions of said Reclamation Act.”

The Congress of the United States likewise passed an enabling act in the year 1905, and as the act is short, we quote it herewith as follows:

## “CHANGING LEVELS OF LAKES IN OREGON AND CALIFORNIA

“AN ACT Authorizing the changing of the levels of certain lakes and the disposal of certain lands under the terms of the National Reclamation Act. (Act Feb. 9, 1905, 33 Stat. 714)

“SECTION 1. (Authority to change lake levels and dispose of lands).—That the Secretary of the Interior is hereby authorized in carrying out any irrigation project that may be undertaken by him under the terms and conditions of the National Reclamation Act and which may involve the changing of the levels of

Lower or Little Klamath Lake, Tule or Rhett Lake, and Goose Lake, or any river or other body of water connected therewith, in the States of Oregon and California, to raise or lower the level of said lakes as may be necessary and to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the National Reclamation Act (33 Stat. 714)."

We would call your particular attention to the following wording: "to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the National Reclamation Act." This statute limited the United States in its disposition of the lands acquired to its authority under the act of 1902.

We are aware that the United States has by later legislation attempted to enlarge its authority in the disposition of such lands. In the act of June 17, 1944 (58 Stat. 279), the United States brings into the matter the possible use of such lands for fish and wildlife purposes. We quote from this statute as follows:

"Lands owned by the United States, ceded by the States of California and Oregon pursuant to the act of February 3, 1905 (Cal. Stat. 1905, p. 4), and of January 20, 1905 (L. Oreg. 1905, ch. 5, p. 63), lying in Klamath County, Oreg., west of range 11 east Willamette meridian, and in Siskiyou County, Calif., west of range 4 east Mount Diablo meridian, shall be subject to all applicable provisions of the Federal reclamation laws concerning entry and patent except that any part of these lands administered by the Fish and Wildlife Service pursuant to the existing agreement with the Bureau of Reclamation, as this may be amended from time to time with the approval of the Secretary, shall not be opened to entry."

This was a very ingenious attempt on the part of the United States to broaden the powers of the United States in the use and disposition of the lands of these lakebeds.

Under the congressional act of 1905, which we have quoted, you will remember that the use of these lands by the United States was limited specifically to the purposes and intent of the Reclamation Act of 1902. The United States, by later congressional act, could not vary or enlarge the authority which had been granted to it under the respective grants of the States of Oregon and California by the acts of 1905.

If the United States had contemplated using the lands acquired from the States of Oregon and California for fish and wildlife purposes, such disposition should have been properly negotiated for and covered by the compacts of 1905 with these States, or in later years if the United States had wished to use the land for other purposes, such as the fish and wildlife purpose, then there should have been amended legislation and amended contracts with the States of Oregon and California, or the United States possibly could have acquired such lands for fish and wildlife purposes by condemnation under the Oregon act of 1931 (ch. 37, Oregon Laws 1931).

As stated above, we take the position that the United States has no authority under the act of 1902 and the acts of 1905 to set over these lands for fish and wildlife purposes. The fish and wildlife purpose is a purpose foreign entirely to the development of lands for agricultural purposes.

Under the acts of 1902 and 1905 the United States has no more authority to use these lands for fish and wildlife purposes than it would have to use the lands uncovered in these lakebeds for target range purposes for the U.S. Army, or for atomic research proving grounds.

In this connection it is interesting to note the Executive order of Theodore Roosevelt entered under date of August 8, 1908, we quote it herewith:

#### "EXECUTIVE ORDER

"It is hereby ordered that all islands situated in Lower Klamath, Klamath Lake, and the marsh and swamp lands unsuitable for agricultural purposes in townships thirty-nine, forty, and forty-one south, ranges eight and nine, and township forty-one south, range ten, all east of the Willamette meridian, Oregon, and in townships forty-seven and forty-eight north, ranges one, two, and three east of Mount Diablo meridian, California and situated within the area segregated by a broken line, as shown upon the diagram hereto attached and made a part of this order, are hereby reserved and set aside for the use of the Department of Agriculture as a preserve and breeding ground for native birds. The taking or the destruction of birds' eggs and nests, and the taking or killing of

any species of native bird for any purpose whatever is prohibited, and warning is expressly given to all persons not to commit within the reserved territory any of the acts hereby enjoined. This order is made subject to and is not intended to interfere with the use of any part of the reserved area by the Reclamation Service acting under the provisions of the act approved June 17, 1902, or any subsequent legislation. This reserve to be known as Klamath Lake Reservation.

"THEODORE ROOSEVELT.

"THE WHITE HOUSE, August 8, 1908. (No. 924)"

We would call your attention to the words "unsuitable for agricultural purposes," and also the last paragraph set forth in the order, which restricts the use of these lands to the purposes set forth in the Reclamation Act of 1902.

As the years have gone by the United States has gotten further and further away from the thought and position of President Theodore Roosevelt on these grants from the States of Oregon and California, until now in this last directive of the Secretary of the Interior he sets these lands over for fish and wildlife purposes and states specifically that they shall not be used for homestead purposes. It is our position that this is clearly in violation of the concept of the Reclamation Act of 1902 and the acts of 1905 of the States of Oregon and California.

#### GRANT OF UNAPPROPRIATED WATERS

In connection with the grant of the lakebeds of these lands for agricultural purposes under the Reclamation Act of 1902, it, of course, was necessary for the United States to appropriate waters of the State of Oregon in the Klamath Basin for the ultimate irrigation of these lands. With this in view, the United States made water filings with the State engineer of the State of Oregon under chapter 228, section 2, of the General Laws of Oregon of 1905, and it will be noted that these filings were made for the express purpose of carrying out the development in the Klamath Basin under the act of 1902. We quote as follows from the water right filing of the United States to T. H. Humphreys, Engineer of the U.S. Reclamation Service, under date of May 17, 1905. These filings were approved. "That the United States intends to use the above-described waters in the operation of works for the utilization of water in the State of Oregon under the provisions of the act Congress approved June 17, 1902 (32 Stat. 388), known as the 'Reclamation Act'."

In this connection, a very interesting opinion was handed down by E. C. Finney, Solicitor for the Interior Department of the United States, approved by John H. Edwards, Assistant Secretary, under date of June 9, 1932. (Solicitor Finney took exactly the same legal position that the Klamath District has taken in this matter.) The occasion for this opinion was as follows:

Among other questions submitted to the Solicitor, the following would have a direct bearing on the subject of this appeal: (1) Could the United States use the lands granted under the acts of 1905 for migratory waterfowl purposes? (2) Could the United States divert water for migratory waterfowl purposes? (3) Could the United States condemn the lands and water in question for migratory waterfowl purposes? The Solicitor held definitely that neither the lands nor the waters acquired under the acts of 1905 and the filings of the United States could be used for migratory waterfowl purposes. As to question No. 3, the Solicitor held that the United States could under certain conditions condemn such lands and waters. The opinion is long and we will therefore quote only the last paragraph thereof, in which the Solicitor gives his decision and takes the position that the United States could not appropriate the lands or waters in question for migratory waterfowl purposes:

"It is suggested that an outline of legislation be made which is deemed necessary if the plan for making a bird refuge out of Lower Klamath Lake is pursued to fruition. It is my opinion that it would be necessary to repeal the act of March 3, 1923, supra, consenting to the State of California bringing suit against the United States to determine the title of lands ceded by the act of the Legislature of California approved February 3, 1905, supra; repeal the act of February 9, 1905, authorizing the disposition of lands ceded by Oregon and California under terms and conditions of the national reclamation act; repeal the so-called Raker Act, approved May 27, 1920; consents of the States of Oregon and California by legislative expression to the use of land ceded for purposes other than contemplated by the reclamation act or specifically for use by the United States as a bird refuge; consent by the State of Oregon by legislative enactment to the

use of the water for purposes other than reclamation; congressional sanction of the plan to abandon as a reclamation unit the Lower Klamath Lake area with some arrangement for reimbursing the reclamation fund for its expenditures for investigation and reclamation of the lands adjacent to Lower Klamath Lake. In addition to this legislation it will be necessary to arrange with the Klamath Drainage District for cancellation of its two contracts with the United States and for reimbursements to the district of moneys paid by it. Agreement must be reached with the Oregon-California Power Co. for the amendment of its contracts with the United States dates respectively February 24, 1917, and June 24, 1930. With all of these things to be accomplished it is manifestly impracticable to draft the legislation which will be required."

He held, as we have contended in this appeal, that "consents of the States of Oregon and California by legislative expression to the use of land ceded for purposes other than contemplated by the reclamation act or specifically for use by the United States as a bird refuge" would have to be secured.

In this connection it should be noted that in giving his opinion Mr. Finney analyzed and took into consideration the act of February 14, 1931 (Chapter 37, Session Laws 1931), authorizing the Federal Government under certain circumstances to acquire lands for fish and wildlife purposes.

Getting down to the practical side of this matter, the supervisors of the Klamath Drainage District take the position that there is no occasion whatsoever for taking this 1,770-acre tract of valuable farmland (covered by the Chapman directive) out of the classification of agricultural lands and diverting it to fish and wildlife purposes. They take the position that the Fish and Wildlife Service of the United States in its attempt to take over more and more agricultural farmlands for bird purposes has gone beyond all reason, at least as to the Klamath project lands. Immediately adjacent to the Oregon-California State line and southern boundary of the Klamath Drainage District, the Fish and Wildlife Service has taken over for its purposes practically all of the lakebed lands granted to the United States under the California Act of 1905.

This area includes the 29,000 acres heretofore set aside and the additional 7,500 acres covered by the Chapman directive. The Fish and Wildlife Service has the sump area in Tule Lake for bird purposes. Migratory waterfowl have the use of the whole of Upper Klamath Lake and the marshes adjacent thereto, which Lake is approximately 25 miles long and from 5 to 10 miles wide. At the north end of Upper Klamath Lake the Fish and Wildlife Service has a tract of approximately 9,000 acres already set aside to it for fish and wildlife purposes. East of Tule Lake it has the 25,000 acre reserve at Clear Lake. With all of this area devoted to fish and wildlife purposes in the Klamath Basin, it would certainly seem unnecessary to now appropriate the 1,770 acres of valuable farmlands within the Klamath Drainage District.

In connection with our statement that the lands in question are valuable farmlands, it is interesting to review briefly the history of the development of our district. In the early days when the Klamath Drainage District was having a struggle to carry on its work of reclamation, there was almost continuous propaganda put out by the Biological Survey (now Fish and Wildlife Service) to the effect that the lands within the Klamath Drainage District were poor lands and not suitable for agricultural purposes, and that the lakebed should be flooded again and used for fish and wildlife purposes.

You can readily see the effect of such propaganda on a drainage district struggling to reclaim the lands for agricultural purposes. Anyone who understands the difficulties of financing such construction work by the issuance and sale of bonds of a district will clearly see the effect that such propaganda would have on the sale of bonds. It practically killed the market for our bonds. What bonds we were able to sell we had to sell locally in small lots to the farmers who might be directly interested in this development.

The truth of the matter is that the lands within our district have proven to be valuable indeed for agricultural purposes. They turn out from 200 to 300 sacks of potatoes to the acre and from 2,500 to 3,500 pounds of barley and oats. We now have Secretary Chapman's authority that they are suitable for agricultural purposes. In this directive he states:

"The lands involved are among the finest public lands for agricultural purposes under irrigation in the West. They could provide farms and homes for veterans under the homesteading program of the Bureau of Reclamation."

In conclusion, Klamath Drainage District takes the position :

(1) That approximately 47 years have elapsed now since the commencement of this reclamation work by the United States under the trust grants of the States of Oregon and California for development of lands for agricultural purposes. That for all practical purposes the lower Klamath Lake lands lying in Oregon north of the State line have been reclaimed and developed by private capital through the Klamath Drainage District. That by the Chapman directive and previous directives practically all of the public lands in California, some 36,500 acres, have been abandoned for agricultural purposes and have been set over for fish and wildlife purposes.

(2) That the lake bed lands of the lakes in question were, by the acts of 1905, granted to the United States by the States of Oregon and California for agricultural and homestead purposes under the Reclamation Act of 1902.

(3) That likewise, the water filings of the United States were accepted by the State of Oregon upon the understanding and agreement that such waters were to be used for irrigation and agricultural purposes under the act of 1902.

(4) That the United States has violated its trust by diverting and using these lands and waters for fish and wildlife purposes, and directing that they not be used for homestead purposes.

Wherefore, Klamath Drainage District respectfully urges :

(1) That this matter be reopened; that said directive of the retiring Secretary of the Interior, Oscar L. Chapman, be set aside insofar as it affects the 1,770-acre tract of land within the Klamath Drainage District.

(2) That a new directive be entered restoring these lands to the classification for homestead purposes. In this connection the district would like to urge that the 6,000-acre tract of public land which includes the 1,770-acre tract be thrown open to homesteading as soon as possible.

(3) The grant of these lake bed lands and water rights was made by the State of Oregon. We would therefore respectfully ask :

(i) That Governor Patterson investigate this matter.

(ii) That you join with us in this appeal on behalf of the State of Oregon if you find our position well taken.

KLAMATH DRAINAGE DISTRICT,  
By C. L. LANGSLET,  
*Secretary, Klamath Falls, Oreg.*

FRED D. FLETCHER,  
*Attorney, Klamath Falls, Oreg.*

Before the Department of the Interior of the United States

SUPPLEMENTAL AND ADDITIONAL APPEAL OF KLAMATH DRAINAGE DISTRICT

*In the matter of the directive of Oscar L. Chapman, Secretary of the Interior, under date of January 9, 1953, withdrawing from homestead entry under the Bureau of Reclamation approximately 1,700 acres of public land within the Klamath Drainage district of Klamath County, Oreg., and diverting it to the Fish and Wildlife Service*

To Hon. Stewart L. Udall, Secretary of the Interior,  
To Hon. Mark O. Hatfield, Governor of the State of Oregon :

The broad question of the proper disposition of approximately 6,000 acres of public lands included within the boundaries of the Klamath Drainage District of Klamath County, Oreg., has never been settled, and this question has been pending ever since these lands were granted to the United States by the act of 1905 of the Legislature of the State of Oregon ;

On January 9, 1953, Oscar L. Chapman, then Secretary of the Interior, issued a directive purporting to determine the disposition of these public lands in Oregon and also the disposition of other public lands which lay in the State of California just south of the Oregon-California State line and were a part of the Klamath reclamation project. We herewith quote as follows from his directive :

"The Bureau of Reclamation shall : (1) Take appropriate steps to homestead as soon as practicable the following areas :

"(a) All of the lands in the Klamath Straits unit excepting approximately 1,770 acres in the half sections bordering the Oregon-California State line."

The directive was issued on January 9, 1953, and the Klamath Drainage District immediately filed its appeal with the Secretary of the Interior from that part of the directive which ordered that 1,770 acres of the Klamath Straits unit should not be used for homestead entry.

There is a complete file of this appeal together with maps and other exhibits in the records of the Department of the Interior at Washington, and copies were also sent to Hon. Paul L. Patterson, then Governor of the State of Oregon.

The same questions that we are raising in this supplemental appeal were raised and discussed in the first appeal, and in giving consideration to our second appeal herewith, we are going to ask you to refer to and use your file, records, maps, and exhibits which we sent to you in the first appeal.

As the public lands in question originally belonged to the State of Oregon and were later transferred without any compensation therefor to the United States for irrigation and agricultural purposes pursuant to the Reclamation Act of 1902, the State of Oregon has a close and vital interest in the disposition and use of these public lands as set forth in the act of 1905 of the Oregon Legislature, which provided that the lands were to be used under and in accordance with the Reclamation Act of 1902.

Furthermore, at the same time the State of Oregon granted to the United States all of the unappropriated waters of Upper Klamath Lake and tributaries thereto for the irrigation of said lands, and for this reason also the State of Oregon has a vital interest in the proper use and disposition of these waters which were granted to the United States.

After the Klamath Drainage District filed its appeal from the Chapman directive, the 49th Legislative Assembly of the State of Oregon passed House Joint Memorial No. 14 urging the United States to homestead the lands in question within the Klamath Drainage District. The memorial follows herewith:

#### "HOUSE JOINT MEMORIAL No. 14

"Introduced by Representative Yancey and Senator Bolvin and Representative Kerbow and read April 4, 1957

"To the Honorable Fred A. Seaton, Secretary of the Interior of the United States, and

"To the Honorable Senate and the House of Representatives of the United States of America, in Congress assembled:

"We, your memorialists, the Forty-ninth Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

"Whereas the Twenty-third Legislative Assembly of the State of Oregon in chapter 5, Oregon Laws 1905, granted to the United States for agricultural and homestead purposes under the Reclamation Act of 1902 (32 Stat. 388), approximately six thousand acres of lakebed lands in Klamath County, Oregon, which at that time belonged to the State of Oregon; and

"Whereas, at the same time and pursuant to the 1905 enactment, the United States was granted all of the unappropriated waters of Upper Klamath Lake and tributaries thereto for the irrigation of said lands and other lands on the Klamath project; and

"Whereas said public lands were later included in the Klamath Drainage District; and

"Whereas more than 50 years have now passed and said lands granted to the United States by the State of Oregon have not been thrown open to homestead entry and the United States is deriving an annual revenue therefrom by way of rental, the total of said rental to date being approximately \$1 million; and

"Whereas the United States in effect abandoned the development of these public lands in Lower Klamath Lake early in the history of the Klamath project, and the private landowners owning lands adjacent to these public lands, for the purpose of reclaiming all of the lands, organized the Klamath Drainage District under the drainage district laws of the State of Oregon, which district includes twenty thousand acres of private land and the six thousand acres of public land; and the organization of this district was approved by the United States and by the State engineer of the State of Oregon; and

"Whereas the Klamath Drainage District, at a cost of approximately \$1,000,000, financed by bond issues and direct taxation, has constructed and completed the reclamation works of the Klamath Drainage District and has so constructed its main irrigation and drainage canals and system as to be able to serve the

public lands within the district when they are thrown open to homestead entry; and

"Whereas said bond issues and costs of reclamation have been paid by assessments levied against the privately owned lands and not against the public lands in question, and the district has paid for a water right in full not only for the privately owned lands but for these public lands; and

"Whereas said public lands have been leased by the United States for farming purposes for more than ten years and have proven to be valuable agricultural lands and are therefore now ready for homesteading and have been so ready for more than ten years; and

"Whereas the contract of April 28, 1943, between the United States and the Klamath Drainage District indicated that these lands were to be homesteaded, and all of the correspondence between the Klamath Drainage District and the United States through its project superintendents has indicated that said lands would be thrown open to homestead entry; and

"Whereas chapter 5, Oregon Laws 1905, and the Reclamation Act of 1902 (32 Stat. 388), both contemplate the reclamation of these lands for homestead and agricultural purposes and no other purpose, and the United States, through its proper authorities, has neglected and refused and does still neglect and refuse to throw these public lands open to homestead entry; and

"Whereas on January 9, 1953, the Secretary of the Interior, Oscar Chapman, issued a directive which not only further delayed the homesteading of these lands, but attempted to divert and set aside 1,770 acres of these public lands for other purposes; and the Klamath Drainage District on or about April 1, 1953, appealed from this directive of the Secretary of the Interior and asked that these lands be restored to their proper status for homestead and agricultural purposes and thrown open to homestead entry without further delay; and

"Whereas said appeal was approved by the Honorable Charles Stricklin (now deceased), State engineer of the State of Oregon, by letter to the Honorable Paul Patterson (also now deceased), Governor of the State of Oregon, under date of February 24, 1953, and said appeal was also approved by Governor Patterson by his letter to the Honorable Douglas McKay, then Secretary of the Interior, dated March 9, 1953; and

"Whereas said appeal has not yet been decided and is still pending before the Secretary of the Interior and the United States has taken no further steps in preparation for the homesteading of these lands, but, on the contrary, is continuing to lease the lands and divert the leased revenue derived therefrom: Now, therefore, be it

*Resolved by the House of Representatives of the State of Oregon, the Senate jointly concurring therein*, That the Honorable Fred A. Seaton, Secretary of the Interior of the United States, be memorialized to set aside the directive of former Secretary of the Interior Oscar L. Chapman, insofar as it affects the one thousand seven hundred and seventy-acre tract of public land within the Klamath Drainage District, and that a new directive be entered restoring these lands to the classification for homestead purposes, and that the entire six thousand acres of these public lands be thrown open to homestead entry without further delay under and in accordance with the compact between the United States and the State of Oregon as set forth in chapter 5, Oregon Laws 1905, and the acceptance of the terms of this Act by the United States operating, under the terms of the Reclamation Act of 1902 (32 Stat. 388); and be it further

*Resolved*, That the Congress of the United States likewise be memorialized to pass all necessary legislation and take all necessary steps to finance and carry out the homesteading of these lands; and be it further

*Resolved*, That the Chief Clerk of the House be directed to transmit a copy of this memorial to the Secretary of the Interior of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from Oregon in the Congress of the United States."

The district's appeal was approved not only by the Legislature of the State of Oregon, but by Hon. Charles Stricklin, State engineer of the State of Oregon at that time, and it was also approved by Hon. Paul L. Patterson, then Governor of the State of Oregon. Mr. Stanley, the present State engineer of the State of Oregon, appeared in person before the joint committee on this matter and also urged that the memorial be passed.

You will note also that Secretary Chapman approved our legal position in this matter at least to the extent of directing that all of the 6,000 acres of public land be homesteaded except 1,770 acres. In other words, he directed that approximately 4,230 should be homesteaded.

All of the dealings between the United States and the Klamath Drainage District over a period of years was upon the understanding that these public lands would be thrown open to homestead entry.

The files of the Bureau of Reclamation will show that there was no question but that the Government fully intended to homestead the lands.

By the contract of 1921 the United States conveyed a water right to 20,000 acres of private land lying within the Klamath Drainage District and also to the 6,000 acres of public land lying within the boundaries of the district. We would call your attention to the fact that this water right for the entire 26,000 acres was paid for in full by the private landowners within the district.

Furthermore, all of the construction work for the construction of the irrigation system of the Klamath Drainage District has been paid for in full by the private landowners within the district through either direct taxation or by the issuance and sale of bonds of the district. The public lands have not paid for any of this construction work although the system was constructed with the capacity to take care of and irrigate and reclaim not only the private lands but also the public lands.

The contract of 1943 between the Klamath Drainage District and the United States also provided for the future homesteading of the lands in question. We quote from this contract as follows (see p. 15, par. 27) :

*"Opening and assessment of public lands; water rental prior to opening*

"27. When the public lands within the district boundaries are open to entry, the district shall furnish water to them as required from the water supply provided for herein in the same manner and in the same quantity that is furnished to other comparable lands within the district, subject to the payment of requisite assessments, tolls, or other charges."

These public lands and the United States, which is the owner thereof, are indebted to the Klamath Drainage District in the approximate amount of \$180,000, being the agreed construction cost which these lands should bear the same as the other lands within the Klamath Drainage District. The agreed construction charge against these lands is \$31 per acre. The actual per acre cost was considerably higher but the district agreed as an adjusted charge to accept \$31 per acre.

As to the definite agreement between the United States and the district on the figure of \$31 per acre and how it was arrived at, see letter of Assistant Secretary of the Interior Fred G. Aandahl to Mr. C. L. Langslet, secretary of Klamath Drainage District, under date of May 25, 1959.

With regard to the legal position of the Klamath Drainage District in the appeal, we refer you to the original brief and appeal which you have in your files, prepared by Fred D. Fletcher, attorney for the district, but we would more particularly call your attention to the opinion of one of your own attorneys, Mr. E. C. Finney, then Solicitor for the Interior Department of the United States. The opinion was approved by John H. Edwards, Assistant Secretary, under date of June 9, 1932. Mr. Finney was presented with the same questions that we have before us, and, as we read his opinion, it sustains our position almost without exception.

In discussing the lower Klamath Lake public land matters, constant reference is made to the Executive order of President Theodore Roosevelt under date of August 8, 1908. The order is short and we quote it in full as follows :

"EXECUTIVE ORDER

"It is hereby ordered that all islands situated in Lower Klamath Lake, and the marsh and swamplands unsuitable for agricultural purposes in townships thirty-nine, forty, and forty-one south, ranges eight and nine, and township forty-one south, range ten, all east of the Willamette Meridian, Oregon, and in townships forty-seven and forty-eight north, ranges one, two, and three east of Mount Diablo Meridian, California, and situated within the area segregated by a broken line, as shown upon the diagram hereto attached and made a part of this order, are hereby reserved and set aside for the use of the Department of Agriculture as a preserve and breeding ground for native birds. The taking or the destruction of birds' eggs and nests, and the taking or killing of any species of native bird for any purpose whatever is prohibited, and warning is expressly given to all persons not to commit within the reserved territory any of the acts hereby enjoined. This order is made subject to and is not intended

to interfere with the use of any part of the reserved area by the Reclamation Service acting under the provision of the act approved June 17, 1902, or any subsequent legislation. This reserve to be known as Klamath Lake Reservation.

“THEODORE ROOSEVELT.

“THE WHITE HOUSE, August 8, 1908.

“(No. 924)”

You will note in the last paragraph of the order that President Roosevelt made it very clear that the order was made “subject to and not intended to interfere with the use of any part of the reserved area by the Reclamation Service acting under the provisions of the act approved June 17, 1902, or any subsequent legislation.”

Although the Klamath Drainage District has carried the construction cost in full for both the public and private lands, and the United States has practically no investment therein, the United States, nevertheless, has taken over \$1 million in lease rentals off these public lands to date. The lands in question and the crops and earnings therefrom should have been in private ownership years ago. They should have been on the assessment rolls of the district and carrying their share of the construction and operation and maintenance cost of the district. They should have been on the tax rolls of Klamath County and the State of Oregon.

Approximately 50 percent of the lands of Klamath County are in public ownership and not subject to taxation.

At this time, we, therefore, respectfully urge:

1. That the United States, without further delay, pay the \$31 per acre construction cost of the public lands in full to the Klamath Drainage District.

2. That the United States, without further delay, transfer said public lands into private ownership for farming purposes either by opening them to homestead entry or by some other method.

If the United States does not give assurance to the district that these steps will be taken without any further unnecessary delay, the district will be compelled to take the matter into the Federal courts for adjudication. As these lands and water rights were originally granted to the United States by the State of Oregon in trust to be used for reclamation purposes under the Reclamation Act of 1902, we would ask the State of Oregon to join with us in such litigation if it were deemed advisable.

KLAMATH DRAINAGE DISTRICT,  
By WILLIAM L. WALES, Jr.,  
*Acting Secretary.*

FRED D. FLETCHER,  
*Attorney, Klamath Falls, Oreg.*

Mr. PROCTOR. I also have for the convenience of the committee proposals in relation to the committee's reprint and in relation to the amendments as proposed by the Klamath Basin Water Users Protective Association.

I wish to briefly outline the legal position of Klamath Drainage District as it applies to the public lands within the district. I have filed with this committee the appeal and supplemental appeal of Klamath Drainage District before the Department of Interior which sets forth in detail the legal position of the district in this matter. Mr. Fred D. Fletcher, attorney at law, who prepared the appeal and supplemental appeal, was attorney for the district for over 40 years. Upon his retirement at the beginning of this year, I became counsel for the district. However, I have been familiar with the legal aspects involved herein for some years. To the appeal and supplemental appeal of Klamath Drainage District, I concur.

The State of Oregon in 1905 authorized the United States, pursuant to the provisions of the Reclamation Act of 1902 and the Enabling Act of 1905 to lower the level or drain certain lakes, including Lower Klamath Lake in Oregon, and ceded all lands uncovered to the United States. In response to Senator Kuchel's question this morning con-

cerning what effect would the proposed legislation have concerning the 1905 act, I would like to point out that in the 1905 act of changing the levels of the lakes in Oregon and California the Secretary was granted authority to raise or lower the lakes as may be necessary and dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the National Reclamation Act.

It would be my opinion, pertaining to section 2 of the committee reprint where it pertains to the Lower Klamath National Wildlife Refuge when it dedicated it to wildlife conservation, that that would be changing the purpose of the 1905 act. The suggested amendments by the Klamath Basin proposal pertaining to section 2 would exclude the tract known as the Klamath Straitst unit, and that portion of the Miller Lake tract in Oregon which are the two tracts that are within the Klamath Drainage District.

Senator KUCHEL. What were the provisions, Counsel, of the cession by the State of the property?

Mr. PROCTOR. The State of Oregon under chapter 5, the General Laws of Oregon, 1905, granted in two sections, section 1—

That for the purposes of aiding in the operations of irrigation and reclamation, conducted by the Reclamation Service of the United States, established by the act of Congress, approved June 17, 1902 (32 Stat. 388) known as the Reclamation Act, the United States is hereby authorized to lower the water level of Upper Klamath Lake, situate in Klamath County, Oreg., and to lower the water level of, or to drain any or all of the following lakes: Lower or Little Klamath Lake, and the Tule or Rhett Lake, situate in Klamath County, Oreg., and Goose Lake, situate in Lake County, Oreg.; and to use any part or all of the beds of said lakes for the storage of water in connection with such operations.

SEC. 2. That there be and hereby is ceded to the United States all the right, title, interest, or claim of this State to any land uncovered by the lowering of the water levels, or by the drainage of any or all of said lakes not already disposed of by the State; and the lands hereby ceded may be disposed of by the United States, free of any claim on the part of this State in any manner that may be deemed advisable by its authorized agencies, in pursuance of the provisions of said Reclamation Act.

This bill was approved on January 20, 1905.

Senator KUCHEL. Under the provisions of the statute which you have just read, what is the basis for your contention that there is any restriction at all against the title of the United States?

Mr. PROCTOR. As to the disposition?

Senator KUCHEL. Use, disposition, or other.

Mr. PROCTOR. First of all, it is my position and the District's position that the State of Oregon ceded these lands that were uncovered pursuant to the Reclamation Act of 1902, and that the United States in accepting this land accepted that obligation to dispose of these lands pursuant to the Reclamation Act.

Senator KUCHEL. What effect would you give to the language in the statute that in so many words says that it is ceded to the United States free of any claim to be disposed of by the United States as it desires?

Mr. PROCTOR. Pursuant to the provisions of the Reclamation Act. I feel that is an important condition on which it was ceded to the United States.

Senator KUCHEL. What is there or what was there in the Reclamation Act which would restrict the use of these properties by the Secretary of the Interior in any fashion?

Mr. PROCTOR. In 33 Statute 714, which was mentioned this morning, the Enabling Act of 1905 passed by the Congress for changing the level of the lakes in Oregon and California authorized the Secretary in that instance to do the things set forth in the—

and to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the National Reclamation Act.

The CHAIRMAN. Do you think that is a requirement? If I have authority to do something, does that require me to do it?

Mr. PROCTOR. That has been one of the problems. To answer your question, merely that you have the power and the authority doesn't mean necessarily that you have to exercise it. My point of course was that I feel that by the proposed legislation by dedicating this to wild life conservation that you are changing the purpose for which it was transferred to the United States.

The CHAIRMAN. I don't argue that point with you at all. I think it does run contrary to this chapter 567, whatever it may be, of the 1905 law. I just feel that, if you give the Secretary of the Interior authority to do something, you don't necessarily compel him to do it.

A lot of people are authorized to vote, but somehow don't get to the polls.

Mr. PROCTOR. I think your point is well taken, Mr. Chairman. I would like to mention that, as far as the Klamath Drainage District, of course we feel that the original acts placed an obligation upon the United States, but we also feel that subsequent conduct, both by negotiations and contracts, further place certain obligations on the United States as well as the district to perform concerning the Klamath Drainage District and the lands within.

Senator KUCHEL. Taking the Act of Cession, however, by itself, Counsel, isn't it clear that this is a cession and that there is no obligation on the United States to divest itself of the property? There is a permission. Isn't it the difference between the permissive authority and a mandatory obligation?

Mr. PROCTOR. It certainly could be construed that way.

The CHAIRMAN. Go ahead.

Mr. PROCTOR. The United States on May 17, 1905, made filings with the State of Oregon for water rights for the purpose of irrigation under the provisions of the Reclamation Act of 1902 in the Klamath Basin. I might point out in relation to this—

The CHAIRMAN. Excuse me just a moment. I think the reclamation law is pretty clear that the Secretary does not have to dispose of any of this land. The 1920 act again says he may do these things. Go ahead.

Mr. PROCTOR. On August 8, 1908, President Theodore Roosevelt ordered that all the marsh and swamplands unsuitable for agriculture purposes in lower Klamath Lake be reserved for breeding grounds for native birds. The order was made subject to and was not to interfere with the use of any part of the area pursuant to the Reclamation Act of 1902.

On March 6, 1915, the Klamath Drainage District was organized under the drainage district laws of the State of Oregon to drain and reclaim all the lands within the district since the area was suitable for one drainage system consisting of approximately 27,000 acres.

On November 30, 1917, the United States and Klamath Drainage District entered into a contract providing, among other things, for the closing of the gates of Klamath Straits at Ady. By the closing of the gates and the reclamation by Klamath Drainage District, 7,000 acres within the district were uncovered and became public lands to the United States. This land which is located in the heart of the district, is productive only because of the drainage and reclamation works carried on by the district.

On August 24, 1921, the United States and the Klamath Drainage District entered into a water right agreement, paid in full by the district, for all the lands within the district boundaries, including public lands.

On April 28, 1943, the United States and Klamath Drainage District entered into a revised contract which reaffirmed, in addition to other things, the water right for 27,500 acres, the distribution to be in accordance with the Federal reclamation law, the opening to entry of the public lands, the assessment of the public lands, and the water rental charge prior to the opening by entry.

An agreement dated March 30, 1940, between the United States by the Biological Survey (now Fish and Wildlife) and the Klamath Drainage District provided for the reconstruction and enlargement of the south canal of the district to carry water through the canal to California lands with an agreement that the interests of the district were fully protected.

The CHAIRMAN. In the 1943 contract how was this distribution of land to be done? Did the United States agree to opening by entry of the public lands specifically?

Mr. PROCTOR. The contract of April 28, 1943, paragraph 27, entitled "Opening and Assessment of Public Lands; Water Rental Prior to Opening," reads as follows:

"When the public lands within the district boundaries are open to entry the district shall furnish water to them as required from the water supply provided for herein in the same manner and in the same quantity that is furnished to other comparable lands within the district" \* \* \*

The CHAIRMAN. Now go to where it requires them to open. This just says if they are open what they will do. You find where it says they shall be open. It is where we reaffirm the opening to entry of the public land. Can you quote that section?

Mr. PROCTOR. No. On October 11, 1947, the United States and the Klamath Drainage District provided for a drainage outlet for the California lands, which specifically provides that the rights of the district as to its interests within the boundaries of this district were paramount to those of the United States.

The CHAIRMAN. Are we back to paramount rights again? Go ahead.

Mr. PROCTOR. The legal position of the district was confirmed as early as June 9, 1932, by an opinion of E. C. Finney, Solicitor for the Interior Department, and approved by John A. Edwards, Assistant Secretary.

The Legislature of the State of Oregon in 1957 passed a memorial requesting that the public lands within the district be thrown open to homestead entry without further delay in accordance with the acts between the United States and the State of Oregon.

The CHAIRMAN. We could concede, couldn't we, that the right to a lot of these lands to be thrown open to homestead entry is only a right of the Federal Government and not an obligation. It does not have to do these things if it does not want to.

Mr. PROCTOR. As I said earlier, I think that is a reasonable construction of the statutes. However, I feel in light of the subsequent conduct and agreements of the district that the United States is obligated then to transfer these lands to private ownership in some manner.

The CHAIRMAN. In the 1920 act, I guess it is, there is this provision that applies directly to this land. It says that title to all said lands can be acquired by homestead entry under the general homestead laws and the provisions of this act and not otherwise.

I wouldn't know whether saying that title can be acquired is an assurance that they will allow the homestead laws to apply. I do think there is a lot of the rest of the United States that can be acquired by homesteading, but this regulation says you can't homestead.

Mr. PROCTOR. That is why there is subsequent comment that, as far as the district's position, it is that whatever means that is feasible to transfer the private ownership would be agreeable with the district. The plan of reclamation of the district provided for reclaiming of all the lands within the district, including public land. The cost of reclamation of both the public and private lands within the district was paid by the private landowners within the district. The United States has leased these lands for agriculture purposes and received lease revenues. The United States by and through the Bureau of Reclamation has represented to the district that the lands would be developed and transferred to private ownership for agriculture purposes.

The CHAIRMAN. Were any of those representations made in written statements?

Mr. PROCTOR. Other than the intent of the contracts that I have mentioned, that the provision is included in there for entry even though there is not a direct provision that he say they shall.

The CHAIRMAN. No, you say, "The United States by and through the Bureau of Reclamation has represented to the district." How did it make the representation?

Mr. PROCTOR. First, by the contracts, and, second, by the—

The CHAIRMAN. But you could not find that provision in the contract a while ago. Can you find it now?

Mr. PROCTOR. No, Mr. Chairman.

The CHAIRMAN. All right.

Mr. PROCTOR. With the permission of the chairman and Senator Kuchel I wish to read into the record a portion of a letter from Kenneth Holum, Assistant Secretary of Interior, dated September 28, 1961, to Senator Kuchel, a copy of which was transmitted by Mr. Kuchel's office to the Klamath Drainage District.

We recognize that in constructing the irrigation and drainage system to serve the private lands, the district included sufficient capacity and extended the system so as to provide a water supply to the public lands. The added cost of constructing the system to serve the public lands was paid by assessments levied against the privately owned lands and not against the public lands. We anticipate that any resolution of the matter will make due allowance for appropriate compensation for these assessments.

On March 25, 1959, Fred G. Aandall, Assistant Secretary of the Interior, in a letter addressed to the district, concluded by stating that the construction cost of the public lands was \$31 per acre. I have a photo copy of that letter and it pertains to other things, but I request that it be filed with the committee in any event.

The CHAIRMAN. How long is it?

Mr. PROCTOR. It is a three-page letter.

The CHAIRMAN. I think we will put it in the record because this is an official communication from the Department of the Interior.

(The letter referred to follows:)

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., March 25, 1960.

Mr. C. L. LANGSLET,  
Secretary-Treasurer, Klamath Drainage District,  
Klamath Falls, Oreg.

DEAR MR. LANGSLET: This is in further reply to your letter of March 24, 1958, concerning the appropriate water rental charges in addition to the regular operation and maintenance charge, for lands owned by the United States and within your district.

For the last few months members of the staff of the Bureau of Reclamation have been examining the records and financial data pertaining to the operations of your district in the hope that a clear-cut solution to the proper water rental rate for the public lands could be found. However, in view of the fact that expenditures by your district were not segregated between construction or capital investment and operation and maintenance, a simple solution was not apparent. As you are aware, it was necessary to make several assumptions in order to arrive at a definite figure which appears reasonable. Your cooperation in making records and data available to the Bureau in respect to this matter is sincerely appreciated.

It appears that an annual water rental rate can be justified on the basis that your district is entitled to interest on the portion of the capital investment made with funds derived from the private lands, minus the contributions to the capital investment from public lands. Under this analysis, it was first necessary to separate the collections from the private and public lands. The collections, obtained from district and Klamath County records, were segregated into three periods of March 1917 to December 31, 1941; January 1, 1942, to June 30, 1953; and July 1, 1953, to June 30, 1957. These three periods coincide with the following events which have various influences on the overall problem:

- (1) Beginning of district operations to beginning of leasing the public lands.
- (2) Development of public lands to first evaluation of construction by the district's engineer.
- (3) The last period ends with the fiscal year prior to beginning of additional charges to the public lands.

The total collections for water service from public and private lands for the above periods are summarized as follows:

| Period                               | Public lands | Private lands | Total       |
|--------------------------------------|--------------|---------------|-------------|
| Mar. 17, 1917, to Dec. 31, 1941..... | (1)          | \$295, 952    | \$295, 952  |
| Jan. 1, 1942, to June 30, 1953.....  | \$121, 822   | 541, 012      | 662, 834    |
| July 1, 1953, to June 30, 1957.....  | 56, 635      | 185, 340      | 241, 975    |
| Total.....                           | 178, 457     | 1, 022, 304   | 1, 200, 761 |

<sup>1</sup> Undeveloped during this period.

During the first period the public lands made no contribution to the district's financial affairs as the lands were undeveloped and were not leased for any purpose. At the same time, apparently a large part of the collections for operation and maintenance from the private lands was used for construction purposes. Even though none of these funds was used directly to build a distribution system for the public lands, a part of the expenditure would have

eventually benefited them by reason of the additional capacity built in the primary drainage and lateral system to serve the public land area. In the absence of any detailed explanation of how or where the collections during this period (\$295,952) were expended, it has been assumed that about one-half of the total, or \$7.40 per acre, can be assigned to cost of construction. Your district should be entitled to collect this amount as well as the interest such an amount would earn. At 4 percent interest compounded for an average period of 28 years, that amount would have increased to \$22.20.

A similar analysis for the second period indicates that the private lands have contributed \$6.75 per acre more through assessments and operation and maintenance charges than the public lands have by way of water rental charges. Since construction was intensified during this period it is safe to assume that the entire \$6.75 per acre was spent for construction which was of equal benefit to all the lands in the district. Again your district should be permitted to collect this amount from the public lands. The interest on this amount at 4 percent for an average term of 10 years increases the amount for the second period to approximately \$10 per acre.

An analysis of the total collections from public and private lands since July 1, 1953, or during the last period, indicates that on a per-acre basis they have been about equal. Therefore, the sum of the first two periods ( $\$22.20 + \$10 = \$32.20$ ) should represent the charge owed by the public lands for its per-acre share of the district's assets.

The annual water rental rate of \$2.50 per acre for public lands in addition to the operation and maintenance charge, which we approved for use during the 1958 irrigation season is considerably in excess of the interest on the district's investment for construction on the public lands. At 4 percent the amount of the interest should have been about \$1.30. The difference, \$1.20, applied as a credit to the \$32.20, will therefore reduce the remaining construction obligation of the public lands to \$31 per acre.

In line with the above reasoning, a water rental rate for 1959 of approximately \$1.25 per acre for the leased public lands within the district can be justified. In addition, an operation and maintenance charge not exceeding the rate levied against private lands within the district would be required. The proposed water rental rate of \$1.25 per acre need not be applied to the construction charge as it is equivalent only to interest on the district's investment in works serving the public lands.

Sincerely yours,

FRED G. AANDAHL,  
*Assistant Secretary of the Interior.*

Mr. PROCTOR. It also has matters pertaining to the water rental charge in addition to what the construction charge would be.

The CHAIRMAN. Go right ahead.

Mr. PROCTOR. The District has agreed to accept the arbitrated figure of \$31 per acre, providing that the public lands be transferred into private ownership, and that the public land reimbursement to the district should be computed on a per-acre basis from accumulated lease revenues.

The Klamath Drainage District opposes Senate bill 1988 as originally drafted, as well as the amendments submitted in the committee reprint. We agree with the proposed amendments submitted by the Klamath Basin Water Users Protective Association. We are interested specifically in the inclusion in any bill adopted pertaining to this matter, two things:

(1) That the public lands within the boundaries of the district be transferred by the most feasible method to private ownership so that they become an integral part of the district as provided for by the act of 1905 of the State of Oregon and subsequent contracts between the United States and the District.

(2) That the United States pay out of accumulated revenue the sum of \$31 per acre to Klamath Drainage District as reimbursement for

construction of the irrigation and drainage facilities constructed by Klamath Drainage District for Klamath Strait public lands.

In determining an overall solution to the problem, and particularly as it affects Klamath Drainage District, it is necessary to take into consideration the statutes, contracts and the conduct of the United States upon which the district has relied throughout the years.

We appreciate this opportunity to appear before you and furnish additional information and data as may be requested.

The CHAIRMAN. Senator Kuchel?

Senator KUCHEL. No questions.

The CHAIRMAN. Thank you very much.

Are there additional representatives of the Klamath District or can we go to Mr. Stearns, the Modoc County Supervisor.

#### STATEMENT OF JAMES G. STEARNS, SUPERVISOR, MODOC COUNTY, CALIF.

Mr. STEARNS. Mr. Chairman, and members of the committee, my name is James G. Stearns. I am a supervisor of Modoc County, Calif. My home, as well as my present governmental responsibility, is involved in the fair solution of the problem before this committee. And as a hunter, and a host of many hunters, I detect in the original version of S. 1988 and in the amendments of the Department of the Interior, the failure to protect and enhance the valuable natural resource that is their designed purpose.

This statement is, of course, a part of the presentation of my community and my primary assignment is to explain the shared revenue and in-lieu tax features of the amended version of S. 1988 that we from the basin jointly propose. They are covered in section 3 of the Basin Amendment draft before you. Because it may be unclear why we provide for a fixed in-lieu tax on two of the refuges and a shared revenue program on the other two, I will briefly explain why we suggest this approach.

Any in-lieu tax proposal, as with any ad valorem tax levy on private property, must be determined by the cost to the county government of the services required and the costs that result from the presence of the property in the community as related to the private property around it. The property tax, inequitable as it admittedly sometimes is, is the historic basic source of county revenue, and the Federal property owner and the private property owner should be treated as equally as possible. Neither one should be forced to subsidize the other. As chairman of the Federal Real Property Committee of the National Association of County Officials for the past 4 years, I have worked long and hard attempting to develop a program that would shed some light into this vast thicket, and with slight success. Nevertheless, in specific instances, and with a measure of known factors, a reasonable program can be worked out. I submit that such is the case on this legislation.

In the instance of the Upper and Lower Klamath refuges, lying in Klamath and Siskiyou Counties, we ask for a flat 50 cents per acre per year in lieu of county taxes. Under this amended bill, these refuges are a permanent dedication, and these two counties will assume forever the responsibility of providing road access to them, of

transporting schoolchildren and farm produce around them, of search and rescue and other local government functions. Like military reservations, refuges cannot allow through public roads, and we are creating two large islands that all other phases of the counties; economy will drive around from now on. Because low-standard roads presently exist around these areas, and other local government costs can be fairly well anticipated, 50 cents an acre appears to be a reasonable figure for both the Federal and the county taxpayers.

Clear Lake and Tulalake require a different approach. Just as the basin amendments provide the flexibility in the law necessary for future expansion of the wildlife assets of our area, and for the gradual enhancement of our agricultural economy consistent with the expansion, so also does it provide under section 3(a) for a program of shared revenues for Modoc and Siskiyou Counties to enable them to build the access roads and supplemental recreational facilities necessary to keep pace with the accelerated public use that will result. Although little mention has been made of it, there is an important national monument joining the Tule Lake refuge on the south, and both Clear Lake and Tule Lake are surrounded by the Modoc National Forest. The outdoor recreational uses of the area are by no means restricted to the migratory waterfowl problems under discussion here, nor the economic values restricted to the intensive farming inside the irrigation district.

The CHAIRMAN. Is the Modoc National Forest in your county?

Mr. STEARNS. Yes, sir.

The CHAIRMAN. Does it pay 50 cents an acre?

Mr. STEARNS. No; we have a shared revenue, a 25-percent share of gross receipts.

The CHAIRMAN. What does that work out to?

Mr. STEARNS. How does it work out for Modoc County?

The CHAIRMAN. How much does it permit per acre on the average?

Mr. STEARNS. The receipts last year were about \$1,000 to Modoc County. That was the county's 25-percent share of the gross revenues for timber sales, Christmas tree cutting, grazing, and so forth.

The CHAIRMAN. How many acres were involved?

Mr. STEARNS. It is the entire county and the national forest itself is about a million acres, and the Modoc National Forest does extend outside the county into Siskiyou County a little ways and into Lassen County a little ways. It is not all productive timberland. It is high desert country with scattered timber, some good and some not.

The problems for local government arising from both the high percentage of Federal ownership and the diversity of its activities and jurisdiction have a way of multiplying and compounding themselves, as every western Senator well knows, and during the construction stage of development, particularly around Clear Lake, the shared revenue approach will enable the counties to keep pace on the facilities they are obligated to provide. Under present law these funds would go to roads and schools, which still leaves the private property owner assuming all the other costs of general county government, but the Federal share on these two expensive items would in this case ease the overall burden on the local taxpayer. And these general government costs, rather than being negligible as the Department report states, often become very substantial in the areas of search and rescue and in the investigation and prosecution of gunshot cases and accidents.

These public hunting areas attract hunters that have only a gun and a tank of gas, not the members of private duck clubs, and when they get in trouble often become county charges. Time does not permit any case histories, but I can name a few if you want them.

Because I have confined my remarks to in-lieu taxes in this statement doesn't mean that my interest or my obligation ends there. I feel impelled, therefore, to make these further observations.

First, that S. 1988, with the Department's amendments, fails in its designed purpose of protecting and expanding the waterfowl resource.

Second, that it will generate more controversy than it will eliminate because it falls short of satisfying existing contracts and compacts.

Third, that it fails to recognize irrigated agriculture as the prime wildlife asset that in this area it most certainly is.

The CHAIRMAN. To what sort of compact do you refer?

Mr. STEARNS. I am referring to the Oregon Klamath River one. The Klamath River compact deals with all of the water for this whole area and was entered into by the two States and assented to by the Congress at that time.

The CHAIRMAN. How does it fall short of meeting the requirements of that compact?

Mr. STEARNS. The compact was written on the basis that the basin was going to continue to develop, particularly the wildlife resources, and water was made available anticipating that Clear Lake would come under full development some day, that the marsh areas in Lower Klamath Lake would be improved into improved marsh rather than just sumps as they have been up to the present time, and so forth, and there would be many conflicts arise, in my opinion, if the land-use settlement does not conform fairly closely to the provisions that have been made for the division of the water.

In the fourth place, that it fails to provide the development money so necessary to improve the lands it dedicates to wildlife.

Fifth, that it fails to recognize the waterfowl potential of Clear Lake and other adjacent water areas.

And finally, by its inflexibility, hampers rather than helps in expanding both the wildlife and economic resources that our growing population will certainly demand.

I urge this committee to acquaint itself with the whole fabric of this problem; to study the history and review the accomplishments, to weigh the demands and the needs, and to measure very carefully the vast wildlife potential that is the Klamath Basin. I urge you to look at the land and the water and the birds and the farms during the fall migration when the combination presents a sight unequalled in North America. And I predict that when you've done this, and using S. 1988 and the good intent behind it as a beginning point, that you will pass a bill very like the amended version the Klamath Basin proposes here today.

Thank you.

The CHAIRMAN. Am I right in assuming that you are opposed to the original bill and the committee print?

Mr. STEARNS. I think that it should be amended further, Senator; yes.

The CHAIRMAN. If it is not amended further?

Mr. STEARNS. From the county's point of view, sir, or from the—

The CHAIRMAN. No; whomever you are speaking for, yourself or the county.

Mr. STEARNS. From the county's point of view I am afraid that it won't be very satisfactory. I suppose the in-lieu tax side of it is the most important.

The CHAIRMAN. If you get 20 cents an acre in the payments you get from the use of improved forest, how would you expect 50 cents an acre from swampland?

Mr. STEARNS. This land inside these valleys is the richest land in the counties. The land inside the national forest is the highland, the benchland. They call it Devil's Garden. It is a rocky area covered with scattered timber, some junipers, some sagebrush, but it is rich land, it is productive land. The land that produces the tax revenues in the Modoc County are the valley bottoms and that is what we have here, the valley bottoms.

The CHAIRMAN. What happens to the revenues now from this rich land? What payment is made for it now?

Mr. STEARNS. None at all, sir. For the first year Modoc County this year received a share of the revenue of the Modoc National Wildlife Refuge which was purchased under the Duck Stamp Act last year at Alturas, which is in the center of our county. We received a shared revenue payment there and the revenue was received from the sale of pasture and hay on that refuge. That was the first shared revenue payment for lieu-tax payment from the wildlife refuge that Modoc County has received up to now. That provision was made in the law.

Senator KUCHEL (presiding). Jim, just one question. Under the laws of California are you permitted to assess and then to tax the value of the leasehold interest which the district has on the Federal properties?

Mr. STEARNS. Our assessors have determined, and the board of equalization has determined that under a 1-year lease that there really is no leasehold interest; when the lease is required to be renewed in public bidding, sealed bidding, as it presently is, that the leaseholder actually has no continuing interest to tax as he would have with, for example, a grazing permit, and that is still an open question too, as you probably have heard.

Senator KUCHEL. Are all these leaseholds in this area from the Department of the Interior on a 1-year basis?

Mr. STEARNS. In this transition period, while this construction is underway they are, but the standard pattern over the years, and the one that I presume they will continue, is an annual lease with an additional 4-year option to renew at the original bid price, and then they are rebid.

Senator KUCHEL. If they exercise their option, then is there an interest in property sufficient for an assessment to be made?

Mr. STEARNS. Our Northern California Assessors Association has worked on that quite a bit and they have determined themselves, and they have checked it with John Keith, and the accumulated opinion after all of that was that there was not a leasehold interest that was proper to tax.

Senator KUCHEL. I am not unmindful of the problems involved in our State generally, and in your county area particularly, of the ownership in the Federal Government of property which rather restricts the tax base for local government operations. Under the recommendations of the Department of the Interior for an amendment to the bill as originally introduced, have you made any computation as to what generally you think the overall percentage of sharing would bring you on an acre basis?

Mr. STEARNS. Yes; from the standpoint of Modoc County I can answer that: It provides for 25 percent of the shared revenue, up to half what private land of similar quality would produce. The land of similar quality in the basin in both Modoc and Siskiyou Counties is appraised at \$400 an acre, and assessed at \$100 an acre. Modoc County's tax rate overall this year for schools, general government, and all the special districts at Tule Lake is \$5.31 per hundred dollars, which would mean that in this instance Modoc County would receive half that amount this year in lieu of taxes under the Department's proposed amendment.

Senator KUCHEL. And your recommendation is, however, for a flat payment in lieu by the Government?

Mr. STEARNS. No, sir. It is a flat payment on Upper Klamath and in lower Klamath refuges, on the other side of the line, but for Tulelake and Clear Lake where much development is yet to be done, in my opinion much development is yet to be done, we provide for a full 25-percent shared revenues. At the present time there is no road to Clear Lake. There is no public road access to it. There is one past it, but not to it, and we get into a big road program out there.

Senator KUCHEL. Incidentally, how are those payments made to the county now? You mentioned for the first time participation by your county in the receipts resulting from the sale of hay, I think you said. Who makes those payments to whom?

Mr. STEARNS. The U.S. Treasury makes the payments to the Treasury of California, which passes it on to us. The way we did divide them up is this: The California law that implements the shared revenue provision here says that 50 percent must go to roads and 50 percent to schools. Different States receive that money differently. The 50 percent that goes to roads goes into general road improvement. The 50 percent that goes to schools is apportioned by the superintendent of schools to the districts in the area where the money was raised on an average-daily-attendance basis, high schools and elementary schools alike.

Senator KUCHEL. Thank you very much.

Our colleague, Mr. Johnson, is here and will, I understand, introduce the representatives of the Tulelake Irrigation District. Welcome.

#### STATEMENT OF HON. HAROLD T. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Mr. Chairman and my good friend, the senior Senator from California, I am here today to introduce to you, the people who represent the Tulelake Irrigation District, along with their consulting engineer and their counsel. We have Mr. Lester Cushman here, the vice president of the Tulelake Irrigation District from Tulelake.

We have Mr. Alvin Landis, the counsel for the district from Sacramento, a longtime legal counsel to the district. We have Mr. Howard Stoddard, the consulting engineer who has been with the district for some time. We have Mr. Ed Lance, the present engineer and manager of the Tulelake Irrigation District, and we have Mr. Rose, a longtime director of this district and a farmer in the area, as is Mr. Cushman.

As the Representative for this particular area of California in the House of Representatives, in 1958 I assumed this obligation and problem. At that time we were having considerable trouble with the water levels, as you can well remember, on the Tulelake refuge and from December until approximately November of 1960, I believe it was, or thereabouts, after several meetings in the district and meetings here in Washington, they were able to resolve their differences and agree upon a set of rules and regulations for the operation of the water levels, meeting the needs of the fish and wildlife requirements and also the needs of the district as related to the agricultural enterprises that were their responsibility. Certainly, I am not opposed to wildlife refuges. We in Modoc County just recently acquired another one and I want to see that one developed to its fullest potential, too. But after visiting this particular area many times, I think that there can be a solution to this problem and I am not here advocating that additional lands go into private ownership. I am not here advocating that additional lands be homesteaded. But I do think that a status quo would be satisfactory to all concerned. Certainly, the district, after many years of negotiations, entered into a contract with the Federal Government and it was approved by the Congress, stating their obligations and relationships to the district and the Bureau of Reclamation and over the years the Bureau of Reclamation has allowed these lands to be farmed in the Tulelake area, and I believe that dates back to some 20 years or more. The district has followed the mandate down in the leasing provisions as to the type of crops to be grown there that would be compatible with the wildlife habitat and waterfowl, and I am sure that it has been a successful operation and the lease revenues have been received into the Treasury of the United States, and there have been certain appropriations made by the Congress to carry out further reclamation programs on the Tulelake River and Tulelake Irrigation District property. I think that we have some obligation there to see these lands remain in the jurisdiction of the Bureau of Reclamation, have them continue to be leased to agriculture, and at the same time the district regulate and operate the Tulelake sumps and water levels to the satisfaction of the needs of the waterfowl and wildlife habitat. I think it would take a very small amount of consideration to bring about a full understanding and certainly I for one would like to see this settled. I am one, too, who thinks that there has and will be further development in the Clear Lake area. Back in 1943 the fish and wildlife people at that time advocated and pointed out the benefits of this particular area for waterfowl habitat and management, and this is one of their own publications.

I would do everything I could to see that additional consideration was given to the Clear Lake area because, after looking over the Tule Lake area, the Lower Klamath, and the Clear Lake area from the air, I can see where the development that was put into Lower Klamath has

really paid big dividends in the way of waterfowl management and waterfowl habitat. I think the same benefits could be raised or brought into being in the Clear Lake area if proper attention was given, and I hate to see that the title of the bill eliminated the Clear Lake area. Certainly this is within the Klamath project. It has its place there. I am sure it would serve a real purpose.

I think the chairman this morning pointed up the fact that he too was pretty much in sympathy with the way the Bureau of Reclamation have handled their affairs and developed lands for certain uses over the years. I think the Bureau of Reclamation can do a real job here, and I would just merely ask you, Mr. Chairman, that you give consideration to this factor and that, if we can bring a settlement on this to bear in this legislation, I would certainly like to see it.

Senator KUCHEL. That is an excellent statement, my colleague, and I appreciate the comments you have made for the people in your district.

How do you propose to proceed?

**STATEMENTS OF LESTER M. CUSHMAN, VICE PRESIDENT; ALVIN LANDIS, COUNSEL; HOWARD STODDARD, CONSULTING ENGINEER; EDWIN LANCE, ENGINEER AND MANAGER; AND IVAN ROSE, DIRECTOR, TULELAKE IRRIGATION DISTRICT**

Mr. LANDIS. Senator Kuchel, I am going to make the first statement, and then Mr. Stoddard will make the next one, and then Mr. Cushman will make the final one.

If you are ready, I will begin.

Senator KUCHEL. Will you proceed, please?

**STATEMENT OF ALVIN LANDIS, COUNSEL, TULE LAKE IRRIGATION DISTRICT**

Mr. LANDIS. My name is Alvin Landis. I am counsel to the Tule Lake Irrigation District, and I have been authorized to appear on behalf of the district to discuss some of the questions which are raised by S. 1988, and the committee print.

I believe these matters are relevant to the consideration of the bill and I hope these observations will be of some assistance to the committee in its deliberations on the subject of this legislation.

The Tule Lake Irrigation District comprises approximately 93,420 acres. It is part of the Klamath project of Oregon and California. This project was one of the first projects initiated under the Reclamation Act of June 17, 1902, being authorized by the Secretary of the Interior on May 15, 1905.

The general plan of the project was to store the waters of the Klamath and Lost Rivers to provide a water supply to about 197,000 acres of land.

One of the principal features of the project involved the unwatering of Tule Lake and the reclamation of approximately 96,000 acres of lakebed lands.

For more than 50 years, the policy of the Congress has been to consider this area devoted primarily to the development of an agricultural economy. The project, as will be seen, developed along such

lines and the people of the area are primarily dependent upon an agricultural economy.

The Bureau of Reclamation was so proud of its achievement in the promotion of agricultural development that it published a work entitled "Reclamation Accomplishments, 1905-53, Klamath Project, Oregon-California."

For many years, the Fish and Wildlife Service has administered much of the public lands in the Klamath project. The records show that over these years friction and ill feeling have developed between the people who derive their livelihood from agricultural pursuits and those representatives of the Fish and Wildlife Service who, so it seems to appear to the farmers, intend to protect the migratory waterfowl without regard to the cost to those farmers.

S. 1988 involves 37,430 acres within the Tule Lake Irrigation District, over one-third of its total area. Obviously, any impact on such a large portion of the district's area must necessarily have an important impact upon the entire district.

The people of the area recognize the importance of conservation. They do not quarrel with the essential purpose of S. 1988; namely, to protect and enhance the breeding, nesting, and feeding grounds of migratory wildfowl. They are concerned that S. 1988 in its present form, or if amended consistently with the recommendations of the Secretary of the Interior, will not best achieve the objective.

The legislation should establish a satisfactory basis for cooperative development of the agricultural and wildlife resources of the area.

The people of the area have relied upon the policies laid down by the Congress. They have relied upon the administrative interpretation of these statutory guides. In their view, S. 1988 is a radical departure from that longstanding policy.

For the information of this committee, I have attempted to document these policies and the complexities of the problem.

As previously indicated, one feature of the Klamath project involved unwatering Tule Lake to reclaim approximately 96,000 acres of lakebed lands.

The feasibility of this feature of the project was dependent upon the United States obtaining title to these lands. In 1905 the Legislatures of the States of Oregon and California enacted companion cession acts ceding title to the United States of the lands uncovered by lowering the levels of Upper Klamath Lake, Lower or Little Klamath Lake, Tule or Rhett Lake, Goose Lake, and Clear Lake.

An important provision of these cession acts authorized disposition of these lands by the United States pursuant to the Reclamation Act.

In the same year the Congress authorized the Secretary of the Interior to raise or lower the levels of these lakes pursuant to any irrigation project undertaken by him under the Reclamation Act and to dispose of the lands under that law.

According to the reports published by the Bureau of Reclamation, the first feature of the project—Clear Lake Dam—was completed in 1910.

By 1912 the Lost River diversion dam and the diversion channel from Lost River to Klamath River were completed.

By 1917, these and other works effected the reclamation of approximately 5,900 acres of the Tule Lake bed and these lands were brought under irrigation.

Consistent with the plan of the project and the legislative mandate, engineering measures were initiated with the objective of reclaiming additional lands. As the lands were reclaimed they were disposed of in accordance with reclamation law.

The first land opening was declared in 1922. As the project developed and more area reclaimed, land openings were declared in 1927, 1928, 1929, 1930, 1931, 1937, 1940, 1946, 1947, and 1948.

For many years, the Department implemented a program of leasing public lands as a step toward development prior to homesteading. This program was adopted because it was believed that a complete program of flood protection was required before the lands could be made available for permanent settlement.

The lease revenues were authorized for expenditure under the reclamation law for the further development of the project—first, generally under the Fact Finders Act of December 5, 1924, and then for particular application to the Modoc unit of the project under the Interior Department Appropriation Act of June 18, 1940.

The Tule Lake Irrigation District was organized in 1952. On September 10, 1956, the United States and the district entered into a contract for the repayment of that part of the construction cost allocable to the district.

The contract was approved by the Congress by the act of August 1, 1956. The contract negotiations required between 5 and 6 years before full agreement was reached.

One of the primary concerns of the district was the further reclamation of the leased land to broaden the base of private ownership.

There are about 17,000 acres of public land which are now leased for agricultural purposes. The contract recognizes that discretion as to the disposition of these lands must remain in the Secretary of the Interior.

This open-end provision was necessitated by the recognition that full flood protection had to be provided before permitting permanent settlement on the land. The contract did provide that approximately 2,500 acres presently farmed in the Tule Lake National Wildlife Refuge would not be increased, but may be shifted during the term of the contract.

Under this provision the United States obligated itself to conduct additional studies for the purpose of developing substitute wildlife habitat in other areas of the Klamath basin.

In approving the contract, the Congress specifically provided that nothing contained in the act or in the contract shall be construed to affect the homesteading of the unentered public lands within the Tulelake Irrigation District as promptly as the United States may deem desirable consistent with other authorized uses and that the Secretary of the Interior shall in the meantime continue the leasing of the public lands to provide adequate funds for the purposes of the act and the contract and to prepare and make the lands available for the designated purposes.

The Bureau of Reclamation has spent thousands of dollars in studies relating to the flood protection required and the means by which such flood protection could be achieved.

Recently, a \$3 million program was initiated to rebuild completely the drainage and irrigation facilities to establish approximately 164 farm units. Much of this money has been expended.

The Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, and the Clear Lake National Wildlife Refuge were established by Executive orders. For ready reference these orders are Executive Order No. 924, August 8, 1908; Executive Order No. 1332, April 11, 1911; Executive Order No. 1464, January 13, 1912; Executive Order No. 2200, May 14, 1915; Executive Order No. 3422, March 28, 1921; Executive Order No. 4975, October 4, 1928; Executive Order No. 5945, November 3, 1932; and Executive Order No. 7341, April 10, 1936.

Consistently, and without exception, these Executive orders provided that the areas described for refuge purposes were withdrawn for reclamation purposes in connection with the Klamath project and that these lands were subject to the primary use for reclamation purposes.

The Secretary of the Interior has administered the project in accordance with the principle that its primary purpose was to reclaim the land for the production of food and fiber. In the Memorandum of Agreement between the Bureau of Reclamation and the Fish and Wildlife Service approved January 8, 1942, we find this significant provision:

It is agreed that the immediate jurisdiction, administration, and control which is given to the Service under these provisions of this agreement is subject at all times to the primary jurisdiction, use and disposal of these lands under the act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto: *Provided, however,* That these primary rights shall be exercised to the exclusion of the area only when, in the opinion of the Secretary, that area is required for use or disposal under the the reclamation law in a manner materially inconsistent with continued operations under this agreement by the Service.

In a memorandum dated December 20, 1941, from the assistant chief counsel to the Commissioner of Reclamation the question of the legality of the proposed agreement was raised.

One of the reasons upon which authority to effect such an agreement was grounded was that the "agreement carefully preserves the right in the Secretary to use the land for reclamation purposes when he finds this desirable."

The legal complexities of drafting legislation to achieve the purposes of S. 1988 might be a proper matter for consideration by this committee. For the information of the committee, I would like to give you the views of a former Solicitor of the Department of the Interior who was assigned the problem of drafting legislation similar in import to S. 1988.

His reply, in part, was as follows:

It is suggested that an outline of legislation be made which is deemed necessary if the plan for making a bird refuge out of Lower Klamath Lake is pursued to fruition.

It is my opinion that it would be necessary to repeal the act of March 3, 1923, *supra*, consenting to the State of California bringing suit against the United States to determine the title to land ceded by the act of the Legislature of California, approved February 3, 1905, *supra*; repeal the act of February 9, 1905, authorizing the disposition of land ceded by Oregon-California under terms and conditions of the National Reclamation Act; repeal the so-called Raker Act, approved May 27, 1920; consents of the States of Oregon and California by legislative expression to the use of land ceded for purposes other than contemplated by the Reclamation Act or specifically for use by the United States as a bird refuge; consent by the State of Oregon, legislative enactment to the use of the water for purposes other than reclamation; congressional sanction of the

plan to abandon as a reclamation unit the Lower Klamath Lake area with some arrangement for reimbursing the reclamation fund for its expenditures for investigations and reclamation of the lands adjacent to Lower Klamath Lake.

In addition to this legislation, it will be necessary to arrange with the Klamath Drainage District for cancellation of its two contracts with the United States and for reimbursement to the district of moneys paid by it.

Agreement must be reached with the Oregon California Power Co. for the amendment of its contract with the United States dated respective February 24, 1917, and June 25, 1930 \* \* \* (M. 27055, June 9, 1932).

The problem today is made more complex by reason of the contract between the United States and the Tulelake Irrigation District and the Klamath River Basin Compact approved by the Congress by the act of August 30, 1957 (71 Stat. 497).

The delineation of the agricultural primacy of the project and the legal issues involved does not resolve the basic problem of the kind of legislation required to achieve the objective of establishing a satisfactory basis for cooperative development of the agricultural and wildlife resources of the area.

The district recognizes the importance of conservation of the natural resources to the welfare of the Nation and to the area.

Because we believe the legislation could seriously impair the economy of the area while, at the same time, would not make adequate provision for the development of migratory waterfowl habitat that we respectfully suggest certain revisions.

I would now like to address myself to a problem which I think you, Senator Kuchel, were very appropriately concerned with during the testimony of Mr. Langslet.

As you know, the Klamath project and the Klamath Basin involves both the States of Oregon and California, and both S. 1988 and the committee print have an impact upon those areas in those two States.

The various organizations and governmental agencies and entities undertook to cooperatively attempt an analysis of the problems which effected each of these areas, and sought to arrive at some conclusion which would be satisfactory to all parties.

The specific questions which related to the specific areas, such as the Klamath Drainage District or the Tulelake Irrigation District, were left for resolution by these various areas.

The net effect of these conferences was to achieve a unified result, namely, the suggestions which were proposed by Mr. Langslet.

But we do not represent Oregon, and Mr. Langslet does not represent California. We are representing ourselves with respect to the problems which affect us.

One of the things that I think is important in connection with the legislation before this committee is the fact that it constitutes a departure from more than 50 years of congressional policy and administrative interpretation and action under that congressional policy.

My statement which has already gone into the record documents the policy, its genesis, and sets forth the reasons why this legislation constitutes a departure from that policy.

Secondly, I would like to point out that the committee print establishes standards which vary from those established in the contract between the United States and the Tulelake Irrigation District.

The contract between these two entities clearly reflects the intent that there would be an extension of the area in private ownership.

Mr. Stoddard, who is the consulting engineer for the district and

who participated in the original negotiations between the Bureau and the district, and who made the engineering analyses, will cover this more particularly. But I do want to point out that this policy has been reflected by the Department over the years and as recently as the appropriation hearings of 1960—I am reading from the hearings before the subcommittee of the Committee on Appropriations, House of Representatives, 86th Congress, 1st session, part 2, pages 317-318.

With your permission, the quotation is fairly brief and I would like to read it into the record.

Mr. CANNON. What about a repayment contract to cover the Tulelake division for which \$574,800 is requested?

Mr. PALMER (Assistant Commissioner of Reclamation). The Tulelake division is under contract. The money that is here sought is to do work primarily on lands within the various protective dikes.

This land is in public ownership. It is leased and annually produces lease revenues from which the Government derives upward of a half million dollars a year.

There is some deterioration of land quality because of water and salt accumulation. It is necessary to install drainage to get part of the surplus salt and water out and there is a need for rehabilitation of the distributor system and a pumping plant.

This is necessary in that area to insure continued revenue production and a sound agricultural plant. Ultimately, when full development of this area is achieved, some of this land will undoubtedly go under homestead, and under the terms of the repayment contract, the Tulelake Irrigation District will pick up its allocated share of the construction charges of the Tulelake division.

I assume, Mr. Chairman, that when these witnesses testify before the Appropriations Committee, they are testifying on behalf of the Department, and that the policy expressed before the Appropriations Subcommittee is the policy of the Department.

It is apparent that the policy reflected in Mr. Palmer's statement for which funds were requested and appropriations granted is a different policy than that reflected in the Department's position today, as indicated in the committee print.

The CHAIRMAN. All Mr. Palmer said was that some of these days some of this land may pass into private ownership.

Mr. LANDIS. That is correct.

The CHAIRMAN. Do you regard that as a commitment that all of the land will forthwith pass?

Mr. LANDIS. No, we do not regard it as a commitment. We do regard it, however, as an expression of intent and an expression of policy on the part of the Department.

The CHAIRMAN. Was this his formal statement that had been cleared by the Bureau of the Budget or was this under examination?

Mr. LANDIS. No, it was under examination.

The CHAIRMAN. You would not try to say that he had the power to commit the Government, would you?

Mr. LANDIS. No, sir. I am trying to indicate that the statement made by Mr. Palmer is a reflection of the policy and nothing more than a reflection of the policy.

The CHAIRMAN. But the money he asked for was not for carrying out the purpose of turning this land back to private ownership.

He asked for it for improvement so that they could continue to lease it; isn't that true?

Mr. LANDIS. No. The actual intent of the appropriations requested was to improve the area with the ultimate goal of placing these areas in private ownership. This is reflected.

The CHAIRMAN. Was that what you read us awhile ago? Is that the language you read us? Do you get that from the language you read us awhile ago?

Mr. LANDIS. I gather that not only from the language, Senator Anderson, which I read from the hearings, but also from many of the provisions which are included in the contract between the district and the United States.

The CHAIRMAN. Now you switch from the appropriation to the contract. We are dealing with the appropriation. Was he asking for money looking toward the eventual putting of this land in private ownership?

Mr. LANDIS. This is my understanding, that the eventual purpose for these improvements was to eventually, when the time was appropriate, to place these lands in private ownership.

The CHAIRMAN. Can I see that testimony?

Mr. LANDIS. Certainly. He says there is some deterioration of land quality because of water and salt deterioration. Is that related to the public or private ownership?

It would be related just to the utilization of the land for agricultural purposes without regard to whether it was in public ownership or private ownership.

The CHAIRMAN (reading) :

It is necessary to install drainage to get part of the surplus water and salt out, and there is need for rehabilitation in the distribution system and the pumping plant.

Is that tied into public ownership?

Mr. LANDIS. No; it is tied into the best development of the land for agricultural purposes.

The CHAIRMAN. I do not know what was involved in the contract, but I did not think that Mr. Palmer's testimony says more than ultimately, when full development of this area is achieved, some of this land will undoubtedly go under the homestead and under terms of the repayment contract.

The Tule Lake Irrigation District is to pick up its share of the construction charges of the Tulelake division.

Mr. LANDIS. May I also call attention to Senate Report No. 2582, 84th Congress, 2d session, again reflecting the policy of the Department as I view it with respect to the problem which confronts the committee today.

I am reading from page 6 of the report. It is a very brief paragraph :

In addition to providing for the adjustment of the construction charge and handling of future lease revenue credits, the contract, by article 8, limits expansion of the farming activity of the Fish and Wildlife Service in the Tule Lake National Wildlife Refuge.

This provision has been agreed to by that Service. All other provisions of the contract are in general conformance with other contracts which have been executed by this Department.

This is the letter of Fred G. Aandahl, Assistant Secretary of the Interior.

Senator KUCHEL. What conclusion do you draw from that which you just read?

Mr. LANDIS. That at the time the contract was entered into, the Department's intent with respect to the eventual disposition of the public lands which were best suited for agriculture would go into private ownership.

Senator KUCHEL. Will you read again the part from which you draw that conclusion?

Mr. LANDIS (reading) :

In addition to providing for the adjustment of the construction charge and handling of future lease revenue credits, the contract, by article 8, limits expansion of the farming activity of the Fish and Wildlife Service in the Tule Lake National Wildlife Refuge. This provision has been agreed to by that service.

The point that I want to make, Senator Kuchel, is that the committee print changes the emphasis and the priority of the land utilization in this particular area.

I do not want to indulge in semantics, and I think this is all it involves, but in S. 1988, as you recall, in section 2, the word "primarily" is used, whereas, in the committee print in section 2 the word "major" is used.

It is my humble opinion that either word would establish the order of priority, and that the construction with respect to the authority of the Secretary of the Interior to take such actions as he deems appropriate would relate itself to the order of priority toward fish and wildlife and conservation rather than to agriculture.

Why are we concerned with that?

Senator KUCHEL. While you are looking up your reference, I do believe the record should set forth section 8 of the contract between your irrigation district and the Government.

Mr. LANDIS. Senator, I am going to offer the contract for the record, or a copy thereof.

Senator KUCHEL. Very well. But in the printed record at this point, or immediately following Mr. Landis' comments on former Secretary Aandahl's statement, let the text of section 8 appear in full.

Mr. LANDIS. I was referring to the use of the term "primarily" or "major" in the committee print and in S. 1988. I think there is an important distinction between that language and the language contained in the contract.

I am reading from article 7(b) of the contract, which reads as follows:

To the extent that the sumps within the district are maintained, they shall be operated and maintained primarily for the protection of the lands within the district for agricultural purposes, including flood protection and drainage, and the use of said sumps for said purposes shall be prior to all other uses subject to the rules and regulations provided for in article 7(d).

I submit to you, Senator, that this could be and is a matter of serious concern, then, to the district, because of the change or at least the probability of a construed change in priority with respect to the operation of the facilities as well as the utilization of the land and water resources.

In accordance with your request, Senator, I will now read into the record article 8 of the contract.

The approximately 2,500 acres presently farmed by the United States in the Tule Lake National Wildlife Refuge will not be increased but may be shifted during the term hereafter; and the United States will conduct additional studies for the purpose of ascertaining the feasibility of developing substitute wildlife habitat in other areas of the Klamath Basin.

If it is determined that there is such substitute wildlife habitat that can be developed, the United States will consider reduction in the area now utilized for said Tule Lake Wildlife Refuge commensurate with demonstrated evidence that the substitute habitat area meets waterfowl management requirements acceptable to the Secretary.

Subject to the terms and provisions of this contract, jurisdiction of the United States over Tulelake National Wildlife Refuge shall be unchanged and the continued use of refuge lands and waters for refuge purposes shall be as the Secretary may direct.

I would like to emphasize at this point that the effect, or at least as I see it one of the effects, of the committee print is to preempt the utilization of the lands indicated for any other purpose but conservation, whereas it was the intent of the contract that in the event substitute habitat could be developed this land would eventually go into private ownership.

What the district is only seeking to achieve is that this remain, because, as Congressman Johnson pointed out, if it should turn out that Clear Lake Refuge is adequate substitute wildlife habitat, or if there are other substitute areas that could be made available, the district does not wish that this area be preempted.

I might add that I am only an attorney and I am not competent to discuss the facts or data with respect to the possibility or probability or the techniques required to develop substitute habitat.

However, Mr. Cushman does have information with respect to that and he will discuss that in his statement. I am merely trying to place the problem in perspective, namely, that the committee print preempts the land and precludes it from ever going into private ownership.

The district negotiated its contract, at least with respect to this particular problem, certainly in the hope that actions will be taken by the Department to develop substitute habitat and thereby make these lands available for private ownership.

The CHAIRMAN. That is what I do not follow in the section that you read. It says, "If it is determined that there is such substitute wildlife habitat that can be developed, the United States will consider reduction in the area now utilized for said Tule Lake Wildlife Refuge, commensurate with demonstrated evidence that the substitute habitat area meets waterfowl management requirements acceptable to the Secretary."

It does not say anything about returning it to private ownership.

Mr. LANDIS. No, it does not.

The CHAIRMAN. How do you get the tie?

Mr. LANDIS. Mr. Chairman, what I am pointing out is that during the course of the negotiations, and as reflected in many of the provisions in the contract, which will be discussed by Mr. Stoddard who participated in the negotiations, there was a clear intent on the part of the Bureau of Reclamation and reflected in the contract, itself, and reflected, in fact, in the legislation which approved the contract, and which I will refer to in a moment, that when substitute wildlife habitat, without regard to time, when the Secretary is satisfied that he has substitute wildlife habitat he would reduce this area and, as I mentioned, would place these lands into private ownership.

Let me read this one paragraph from the act of August 1, 1956, Public Law 877, 84th Congress, second session, in which these considerations were placed before the Congress as well as before the committee.

In section 4 of that act—and I want to repeat and emphasize, Mr. Chairman, I am not discussing any commitments made or any promises made or any contracts which are being broken. I am discussing the intent of the negotiations and the policies which were reflected. This does not mean that the Secretary ever said, "I am going to do" this or that at such and such a time.

The CHAIRMAN. When was the contract signed?

Mr. LANDIS. September 10, 1956, and was approved by the Congress. Well, I guess it was approved when it was signed, because the procedure is to submit it to the Congress after the district since it is for the authority of the Secretary to execute.

So the act approving the contract and authorizing its execution by the Department is August 1, 1956.

The CHAIRMAN. That is what you are going to read from now?

Mr. LANDIS. I just want to read one brief statement from that act, Mr. Chairman. It is, again, to indicate the basis of the discussions relating to this particular problem.

I am not taking a legal position that this constitutes a commitment on the part of the Congress or on the part of the Department, but merely that this was an underlying intent and policy consideration.

Section 4 of that act reads:

Nothing contained in this act or in the aforesaid contract shall be construed to effect the homesteading of the now unentered public lands within the Tule Lake Irrigation District as promptly as the United States may deem desirable, consistent with other authorized uses.

The CHAIRMAN. Is there homesteading there now?

Mr. LANDIS. On the unentered public land?

The CHAIRMAN. Yes.

Mr. LANDIS. So far as I know, no.

The CHAIRMAN. Then that could not be changed by this. You said that policy of not having homesteading is not to be changed.

Mr. LANDIS. I think we are indulging into semantics.

The CHAIRMAN. When you try to translate what you just read as a promise that they are trying to put this into public lands, you are indulging in semantics, too.

It is the usual disclaimer that by this act we do not repeal all the laws of the United States, they say in effect, but there is not a promise that we will do anything different. Is there?

Mr. LANDIS. That is what I said, that there was no promise.

The CHAIRMAN. Was there any intent?

Mr. LANDIS. We feel definitely that there was an intent. It is reflected in many provisions of the contract. The policy for 50 years has been to administer this area under the reclamation laws.

There have been many homestead entries, starting from 1922, when the first homestead entry was declared, and again in 1927, 1928, 1929, 1930, 1931, 1937, 1940, 1946, 1947, and 1948. So the policy has been as these lands were reclaimed and made available for entry, for the Department to open them to entry.

I assume, in the light of the history of this project, that the intent of this provision was that this policy should not be effected by the act approving the contract or any of the provisions in the contract.

The CHAIRMAN. I am sorry I am not familiar with what has been taking place in that particular area, but has there been opening of irrigable lands to homestead entry except under the Desert Entry Act, in your area?

Mr. LANDIS. It has been opened, as I understand it, under the Homestead Act.

The CHAIRMAN. Has it been opened under the Homestead Act in recent years?

Mr. LANDIS. The last one was 1948.

I might comment with respect to that, Mr. Chairman, as to at least why I believe there have been no further declarations of homestead entry.

There have been a number of reports and investigations undertaken by the Department and the Bureau of Reclamation with respect to the degree of flood protection which would be required in order to make these other lands available for homesteading.

As I recall, the standard which the Department or the Bureau indicated it would want to follow was to protect these lands from a flood of the magnitude of the estimated flood of 1866.

Many of the reports contained the kinds of additional works which would give these lands this protection, and if these works were authorized and appropriations obtained and then constructed, the lands would then have been available for homestead entry.

I am not familiar with the facts insofar as the extent to which there have been these appropriations for these works, or the extent to which these works have been additionally authorized.

But it is my opinion that the reason for withholding these lands from entry was because the Bureau and the Department felt that the flood protection to these lands was not adequate, and additional works were required in order to give them that degree of protection.

The CHAIRMAN. For my own information, is there anyone here from the Department of the Interior or from the Bureau of Reclamation who knows what this homestead entry was in 1943, 1944, and 1948? Were there large amounts of land involved in that?

Did a man just come in and file and say, "I want a homestead"?

Mr. LANGLEY. I am Maurice N. Langley, Chief of the Irrigation Branch, Division of Irrigation and Land Use, the Bureau of Reclamation.

We had public openings in those years just recited. I do not know the exact number of homesteads, but there were large groups of homesteads under secretarial public notices.

The CHAIRMAN. In this area?

Mr. LANGLEY. Yes.

The CHAIRMAN. How many acres were involved?

Mr. LANGLEY. Roughly 80 acres per unit, as I recall. I would be glad to submit the number of those, the dates, and the copies of the public notices for the record, if you wish.

The CHAIRMAN. Were they veterans entries?

Mr. LANGLEY. Yes, they were. They were similar to the ones conducted on the Gila project in about those same years.

Senator KUCHEL. And subsequent to that there have been no secretarial declarations?

Mr. LANGLEY. Not announcements of public land entries; no, sir.

Senator KUCHEL. Has there been any transfer by the Government since those years?

Mr. LANGLEY. Not to my knowledge.

The CHAIRMAN. You may proceed.

Mr. LANDIS. One other point that I would like to mention, and which has been adverted to in interrogation of some of the other witnesses is the problem of the legal complexities relating to legislation such as the committee print.

I want it clearly understood that I am not presumptuous enough to make any categorical statement that this legislation would necessarily violate either of the Cession Acts or constitute a breach of the contract with the district or contracts with other entities.

Furthermore, I am sure, Mr. Chairman and Senator Kuchel, you are very familiar with the fact that all legislation, whether it be a zoning ordinance or a congressional act cannot build into it immunity from judicial attack.

Therefore, such a concept should not be a deterrent to the enactment of legislation. I do feel, however, that if there are complex legal problems, these problems are worthy of consideration.

To indicate the nature of the problems which are involved, and just to indicate the nature of those problems, I would like to, if I may, read briefly from an opinion of the Solicitor referred to the attorney for the Klamath Drainage District, Mr. Proctor.

The problem before the Solicitor was the drafting of legislation to achieve some of the purposes which the committee print intends to achieve, and the Solicitor pointed out:

It is suggested that an outline of legislation be made which is deemed necessary if the plan for making a bird refuge out of Lower Klamath Lake is pursued to fruition. It is my opinion that it would be necessary to repeal the act of March 3, 1923, consenting to the State of California bringing suit against the United States to determine the title to land ceded by the act of the legislature approved February 3, 1905; repeal the act of February 9, 1905, authorizing the disposition of lands ceded by Oregon and California under terms and conditions of the National Reclamation Act; repeal the so-called Raker Act, approved May 27, 1920; consents of the States of Oregon and California by legislative expression to the use of lands ceded for purposes other than contemplated by the Reclamation Act or specifically for use by the United States as a bird refuge; consent by the State of Oregon, legislative enactment to the use of the water for purposes other than reclamation; congressional action of the plan to abandon as a reclamation unit the Lower Klamath Lake area, with some arrangement for reimbursing the reclamation fund for its expenditures for investigations and reclamation of the land adjacent to Lower Klamath Lake.

In addition to this legislation, it will be necessary to arrange with the Klamath Drainage District for cancellation of its two contracts with the United States and for reimbursement to the district by moneys paid by it.

Agreement must be reached with the Oregon-California Power Co. for the amendment of its contracts with the United States, dated respectively February 24, 1917, and June 25, 1930.

This memorandum is M-27055, June 9, 1932.

As a matter of further interest, and again, I am only relating this to the fact that there are problems and not to the fact that this Congress may not resolve all of these problems by legislature under consideration here, or that these problems necessarily create justifiable controversies, or that if there are justiciable controversies that the person

attacking the legislature would necessarily be successful in such litigation.

As recently as August 27, 1956, in a memorandum to the Director of the Fish and Wildlife Service, the Solicitor with respect to a question of authority to exchange lands in the Klamath unit in Oregon pointed out in a conclusion :

In view of the need to consider many of these problems, in addition to needed legislation, I concur in the views expressed by former Solicitor Finney when he considered similar problems, wherein he said at page 699, 63, ID, with all of these things to be accomplished, it is manifestly impractical to draft the legislation which will be required.

This is signed by J. Reuel Armstrong, Solicitor.

So at least two solicitors have indicated that there are some complex legal problems involved in achieving the objectives which the committee print or S. 1988 seeks to achieve.

The CHAIRMAN. These two opinions by Mr. Finney and by Mr. Armstrong relate specifically to the problems raised by S. 1988 and the committee print ?

Mr. LANDIS. In my opinion they do.

As I said, Mr. Chairman, this is why I bring these things to you. I am not claiming that these necessarily create justiciable controversies or that if they do the litigant would be successful in such a controversy.

The CHAIRMAN. Mr. Landis, we appreciate this, or at least I do, because if we are going to pass legislation subject to severe attack, we ought to know about it in advance and try to either guard against it or abandon it if it is going to fail.

We appreciate your calling this to our attention and I know Senator Kuchel does. We want to know what you have in mind on this.

Mr. LANDIS. Thank you, Mr. Chairman.

I would also like to mention to you, Mr. Chairman and Senator Kuchel, that I, as least, as a lawyer, belong to that school which advises its clients that litigation is the most costly, the most time-consuming, and the least productive of solutions.

The CHAIRMAN. You are talking to the president of the Casualty Co. and I agree with you.

Mr. LANDIS. Thank you.

(The following exhibit was subsequently submitted:)

Attention should be called to the fact that the areas now administered by the Fish and Wildlife Service for leasing purposes are leased by that agency on a sharecrop basis, whereas the areas administered by the Bureau of Reclamation are leased on a cash basis. Both the committee reprint and S. 1988 establish the standard of administration in favor of enhancement of conservation and it would be quite appropriate for the Secretary of the Interior to grant complete administrative authority to the Fish and Wildlife Service. Article 4 of the contract between the United States and the Tule Lake Irrigation District provides that the district shall be entitled to and shall receive an amount equal to \$50,000 or 30 percent, whichever is lesser, of lease and other revenues as set forth in this article. Should administrative authority be granted to the Fish and Wildlife Service and should this agency extend the sharecropping basis of leasing to all of the public lands, the right of the district to receive lease revenues would be seriously affected.

Mr. LANDIS. With respect on the matter here, I have so advised them. I suggested that every effort should be made to attempt to resolve the technical problems, and they are very complex, leading over a history of over 50 years, every effort should be made with the De-

partment and with the various bureaus to see if the objectives to be achieved, as intended by the committee print, can be achieved.

I have advised them that insofar as binding themselves to such legislation, that they agree to amend their contract so that any such legislation becomes a condition of the contract and would not create a right to bring any action if such legislation is enacted by some future board of directors or others in authority of the district.

As I said before, I have no technical skill with respect to the problems that are endemic to this area with respect to those that are better for wildlife or better for agriculture, but some of these points which I think are relevant can be testified to by Mr. Cushman.

If the committee desires, we can file Mr. Howard's statement, which highlights many of the things which I have covered, in the interest of time.

So with your consent, Mr. Chairman, may I introduce Mr. Stoddard at this point.

#### STATEMENT OF HOWARD STODDARD, CONSULTING ENGINEER, TULE LAKE IRRIGATION DISTRICT

Mr. STODDARD. Mr. Chairman and members of the committee, I have been employed by the Tule Lake Irrigation District as consulting engineer since June 1954.

My initial assignment was the consideration of engineering matters involved in the preparation of a repayment contract between the irrigation district and the United States, providing for the repayment the construction charges and the taking over of certain facilities for operation and maintenance by the district.

Two of the principal engineering considerations were—

(1) Review of Bureau plans and estimates of cost of rehabilitating the distribution and drainage system in sump 3, preparatory to placing that area into private ownership.

The drafts of contract being considered contained provisions under which the district would undertake to pay a part of the construction charges for works deemed necessary to prepared public lands within the district for transfer to private ownership. In accepting this repayment obligation, the district desired to review any plans concerning improvement of public land facilities prior to their construction.

(2) Review of operation of the reserve sumps 1-A and 1-B for flood control purposes.

At all times during the negotiation of the repayment contract, it was the district's policy to do all in its power to secure private ownership of additional lands within the Tulelake Basin, principally the lands known as sump 3.

This policy was recognized by the Bureau of Reclamation. As a result of the lengthy negotiations several provisions reflecting this policy were inserted in the repayment contract.

On page 2 of the contract, we find the following:

Whereas there are certain unentered public lands of the United States within the District which may be opened to entry in the future; and

On page 3:

Whereas it is contemplated by the parties that, upon the entry of said lands or any portion thereof, the construction charges allocated to the lands so entered may, in part, be repaid to the United States by the District; and \* \* \*

On pages 4 and 5:

The district agrees to pay to the United States at the times and in the manner hereinafter provided the following sums in full payment and satisfaction of all construction costs, including the value of all property, the title of which is transferred to the district, pursuant to article 9 hereof, heretofore or hereafter incurred by the United States in connection with the lands of the Tulelake division lying within the district which have been or hereafter may be prepared by the United States for entry (a) \$3,544,100.50, and (b) \$85 times the number of acres of public land within the district entered, after the date of the execution of this contract, pursuant to the homestead laws of the United States.

On page 5:

(b) The sums agreed to be paid to the United States by the district pursuant to article 2(b) shall be paid by the district in 80 equal semiannual installments, which shall be due and payable on January 1 and July 1 of each year, commencing on January 1 of the year following the close of the development periods provided for in the orders of the Secretary opening the respective public lands in the district for entry, which development periods shall be for a term of not less than 2 years.

On page 7:

(c) Nothing herein contained should be construed to affect the homesteading of the now unentered public lands within the district. Such unentered public lands should be opened for homesteading as promptly as the United States may deem desirable consistent with other authorized uses.

(d) Of the funds credited or transferred to the district pursuant to this article, each year an amount that bears the same ratio to the credits or funds so extended or transferred to the district under this article that 2,078.8 bears to the total of 43,774.1, plus the number of acres of public land in the district entered pursuant to the homestead laws of the United States after the date of execution of the contract, shall be made available to the Tulelake division lands in Oregon, either by withholding by the United States or by payment by the district to the Klamath Irrigation District.

On page 13:

The approximately 2,500 acres presently farmed by the United States in the Tulelake National Wildlife Refuge will not be increased but may be shifted during the term hereof, and the United States will conduct additional studies for the purpose of ascertaining the feasibility of developing substitute wildlife habitat in other areas of the Klamath Basin.

If it is determined that there is such substitute wildlife habitat that can be developed, the United States will consider reduction in the area now utilized for said Tulelake Wildlife Refuge commensurate with demonstrated evidence that the substitute habitat area meets waterfowl management requirements acceptable to the Secretary. Subject to the terms and provisions of this contract, the jurisdiction of the United States over Tulelake National Wildlife Refuge shall be unchanged and the continued use of refuge lands and water for refuge purposes shall be as the Secretary may direct.

Pursuant to the desires of the district, the Bureau of Reclamation has proceeded to prepare lands in sump 3 for transfer to private ownership. The Bureau has submitted from time to time plans for improvement of ditches and drains, which, after a considerable amount of work on the part of the district and the Bureau, finally have resulted in the construction of such works.

The works in sump 3, as now constructed, or soon to be constructed, were designed to provide some 97 farm tracts of approximately 100 acres each. This acreage was determined to be the reasonable size for

a farm operated under private ownership. An additional 67 tracts in sump 2 are now served by a recently constructed lateral and drainage system.

We are, therefore, faced with a situation where the Tulelake Irrigation District has been working with a bureau of the U.S. Government in good faith in connection with the problem of preparing the area for private ownership and have finally arrived at the construction phase, only to have the entire program threatened by the proposed legislation that would dedicate the land to public ownership under the jurisdiction of another Federal bureau in perpetuity.

In addition, large sums of public funds have been expended for the purpose of preparing the land for private ownership, much of which need not have been expended if the land were to remain in public ownership and be administered primarily for the benefit of wildfowl management.

The publicity on this matter would seem to indicate that the Tule Lake Irrigation District people have been secretly plotting to eliminate the ducks.

As a matter of fact, the negotiations have been going on with the Bureau of Reclamation in an entirely open manner for at least 8 years to my personal knowledge, and properly so, for the project has been under the administration of the Bureau of Reclamation.

What is happening, as a matter of fact, is that after these extended negotiations and the expenditure of a large amount of public funds, the primary purpose of the project is being changed from agriculture to the management of wildlife resources.

Furthermore, that where it had been understood to be the intent of the United States to place certain lands in private ownership, it is now intended to dedicate them to public ownership in perpetuity.

The second general heading of engineering matters to be considered was the flood control operation of the restricted sumps, 1-A and 1-B.

The proper operation of these sumps for flood control is of grave concern to the district. Improper operation or operation for other purposes might well result in the flooding of agricultural lands, both in public and private ownership.

As a result of extended discussions of the operation of the sumps, the following provision was put into the repayment contract:

(b) To the extent that the sumps within the district are maintained, they shall be operated and maintained primarily for the protection of the lands within the district for agricultural purposes, including flood protection and drainage, and the use of said sumps for said purposes shall be prior to all other uses, subject to the rules and regulations provided for in article 7(d).

The interpretation of this article led to differences of opinion between the United States and the Tule Lake Irrigation District. After discussions in Washington between officials of the Department of the Interior and the district, revised rules and regulations were issued by the Secretary of the Interior.

These rules have been adhered to by the district since their adoption in February 1960.

The language in the contract concerning the operation of the sumps within the district required that they be operated and maintained primarily for the protection of the lands within the district for agri-

cultural purposes, including flood protection and drainage and the use of said sumps for said purposes shall be prior to all other uses.

Section 2 of the proposed bill, with amendments as proposed by the Secretary of the Interior, provides:

Notwithstanding any other provisions of law all lands owned by the United States lying within the Executive order boundaries of the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Tule Lake National Wildlife Refuge, are hereby dedicated to wildlife conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith.

The proposed legislation, if enacted, would change the principal purpose of portions of the project and would make the use for agricultural purposes subservient to waterfowl management.

The above discussion may be summarized as follows:

(1) The negotiations leading up to the execution of the contract between the United States and the Tule Lake Irrigation District clearly show the intent to place certain public lands within the Tule Lake Wildlife Refuge into private ownership.

The contract itself provides for the possibility of putting the lands into private ownership. Works have been constructed to develop farm units by the construction of ditches, drains, and pumping stations at the cost of a large amount of public funds.

The proposed legislation would nullify all of the past work and defeat the purpose of the longtime negotiations and the intent of the repayment contract.

(2) The operation of the Tule Lake sumps was to be carried on for the primary purpose of protection of lands within the district for agricultural purposes. The proposed legislation would change the major purpose to that of waterfowl management. This is strictly contrary to the terms of the contract.

For these reasons, and for the reasons presented by others on behalf of the Tule Lake Irrigation District, it is recommended that the proposed legislation be amended along the lines proposed by the Klamath Basin interests.

#### STATEMENT OF LESTER CUSHMAN, VICE PRESIDENT, TULE LAKE IRRIGATION DISTRICT

Mr. CUSHMAN. Mr. Chairman and members of the committee, my name is Lester Cushman. I am vice president of the Tule Lake Irrigation District, a farmer, and a sportsman. I have resided some 27 years in the greater Klamath Basin and therefore have witnessed many changes take place during that time.

I would like to state that our president, Mr. Anderson, is a victim of a great illness and was unable to attend. But he certainly is a participant in the presentation of our policy.

My testimony is given to clearly define the district's position in relation to the future development of this area in respect to what we feel would be the best multiple and cooperative use of the land and water areas of the Klamath Basin.

Our community consists primarily of small businesses which collectively depend on agriculture as our primary source of income.

The people of our community feel that wildlife and the recreation benefits derived therefrom are also important to a continued healthy economy.

We think the time and circumstances have arrived necessitating legislation but we also feel this legislation must relate itself to the geographical features concerned and their intended uses. Perhaps a more conclusive statement would be that it is our opinion that those lands best suited for wildlife should be used for those purposes and those lands best suited for agriculture should in turn be used for that primary purpose.

We readily endorse the consolidation and enlargement of Lower Klamath area for wildlife purposes, but suggest that a full development program of water control facilities, ponding and nesting areas, and things of this nature be accomplished on these additional lands to obtain maximum wildlife utilization of the area. There are other adjacent areas in the basin that this same procedure should be applied to, because in order to accomplish that which wildlife and agricultural interests both seek it is necessary to consider the Klamath Basin as a jigsaw puzzle which is not completed until all pieces are in their proper places.

An equally important piece of the puzzle left out in S. 1988 and committee print as recommended by the Secretary is that of the waterfowl habitat potential of the Clear Lake Refuge.

There are several plans under study by the Bureau of Reclamation and private power interests designed to cut down on evaporation to increase the water supply and provide flood protection as well as to provide areas for habitat developments. These plans incorporate the construction of reserve sumps by diking to permit growing of cereal crops and control of water levels to provide waterfowl habitat.

In the report entitled, "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin," dated April 1956, the Fish and Wildlife Service took the position that—I quote:

Clear Lake was not suitable for grain production due to its rocky character and unfavorable climatic conditions.

During the same year the Bureau of Reclamation and the University of California Extension Service cooperatively began a field testing program to determine the productivity of the soil and the effect of climate on plant growth.

The 4-year experimental program demonstrated that oat and barley yields averaged 2,800 pounds and 2,750 pounds respectively.

A recording thermometer, located at the field trial location showed the summer frost hazard was less than in Tule Lake during the 4-year period.

Core tests in the water area reveal sufficient soil depth for productivity and a historical search shows prior agricultural use in the present water area.

The fact that birds will move where feed and water is provided is illustrated in the attached table of waterfowl use of Lower Klamath and Tule Lake Refuges.

(The table referred to follows:)

*Waterfowl use-days, Lower Klamath and Tulelake refuges*

[September to December]

| Year      | Total use of both areas by geese (use-days) | Percent of total, Lower Klamath refuge | Percent of total, Tulelake refuge | Total use of both areas by ducks (use-days) | Percent of total, Lower Klamath refuge | Percent of total, Tulelake refuge |
|-----------|---|--|-----------------------------------|---|--|-----------------------------------|
| 1954..... | 14, 592, 397                                | 19.2                                   | 80.8                              | 131, 425, 385                               | 14.4                                   | 85.6                              |
| 1955..... | 20, 457, 045                                | 32.3                                   | 67.7                              | 182, 103, 965                               | 35.9                                   | 64.1                              |
| 1956..... | 23, 557, 853                                | 31.2                                   | 68.8                              | 141, 524, 488                               | 33.7                                   | 66.3                              |
| 1957..... | 11, 079, 048                                | 19.4                                   | 80.6                              | 117, 364, 947                               | 28.9                                   | 71.1                              |
| 1958..... | 16, 516, 710                                | 30.1                                   | 69.9                              | 248, 025, 120                               | 46.4                                   | 53.6                              |
| 1959..... | 18, 839, 457                                | 32.5                                   | 67.5                              | 206, 710, 140                               | 48.2                                   | 51.8                              |
| 1960..... | 15, 951, 600                                | 39.2                                   | 60.8                              | 159, 875, 107                               | 52.9                                   | 47.1                              |
| 1961..... | 21, 222, 862                                | 42.9                                   | 57.1                              | 109, 423, 952                               | 60.3                                   | 39.7                              |

Mr. CUSHMAN. A summary reveals a change of use pattern due to development of Lower Klamath Refuge. Of the total waterfowl-use days of both refuges, use by geese in the Lower Klamath Refuge increased from 19.2 percent in 1954 to 42.9 percent in 1961.

At the same time, the use by geese of the Tulelake Refuge decreased from 80.8 percent in 1954 to 57.1 percent in 1961.

During the same period, duck use in Lower Klamath increased from 14.4 percent to 60.3 percent and on Tulelake decreased from 85.6 percent to 39.7 percent. This data proves that migratory waterfowl will move to where habitat is developed.

To complement waterfowl habitat on public land areas, much use is made of the private lands, irrigation laterals, and drains by wildfowl.

A moderate estimate of crop gleanings left on these lands after harvest time is approximately 200 pounds per acre on grain and 500 pounds per acre on row crops.

This provides some approximately 2,430 tons of grain and approximately 2,475 tons of potatoes and onions left on the ground available for waterfowl each year.

The record shows that cropping patterns in the private lands, although rotated, have been consistent in the percentage of irrigated lands devoted to row grain and green crops. Of the approximate 45,000 acres of private land farmed in the district, an average of approximately 54 percent is in grain, 22 percent in row crops, and 24 percent in legumes.

Legume crops grown on private lands perform a function of tremendous wildfowl value because they provide early spring feed for the birds on their return flight to nesting areas.

This occurs during the time of the year when other waterfowl feed in the basin is in short supply.

We, of the Tulelake Irrigation District, endorse the Klamath Basin suggestions on the changes to the committee print.

In our opinion, these suggestions do accomplish the best multiple and cooperative use of land and water areas. The exclusion of sump 3 and I-B lying within the boundaries of the Tulelake Irrigation District for—and I emphasize these words—the eventual private ownership contingent upon and subsequent to developing proven wildfowl habitat in adjacent areas is, in our opinion, a logical move.

The value of these lands for agriculture is substantiated by the following facts: Recent soil classification of these lands show the area all to be class 1 soil type.

The Tulelake Farm Advisers Office in cooperation with the Bureau of Reclamation took diamond drill cores 35 feet in depth in these areas. The cores were planted and grown in a greenhouse to determine the productivity of the soil at this particular depth.

All tests resulting from the core drillings proved to be actively productive, indicating that the agricultural potential of these areas is extremely high. Crops grown in the area are barley, Durum wheat, potatoes, and onions.

Sump 3 barley and Durum wheat yields are 3,250 pounds per acre and 3,500 pounds per acre, respectively. The potato yields are of high quality and average 300 100-pound sacks per acre. Onions average 350 100-pound sacks per acre.

These are not new farmlands but have been farmed intensively for many years, and played an important role in furnishing food for World War II and the Korean conflict.

I would like to close by saying that when the Congress approved TID's contract, we of the district felt that the lengthy negotiations and resulting language had adequately resolved the very things we are talking about today in respect to the lands and water areas within the boundaries of the district.

Apparently such was not the case and we find ourselves confronted with a new group of theories, creating situations whereby the Department is hunting for the means to justify the end. We concur in protecting wildfowl and think it is very important.

We disagree on how this can most effectively be done without hurting either interest. Through our eyes we see certain things each day which we know would be helpful in furthering the situation and we are sure if the committee would visit the area at the right time it, too, would see these same things.

With the chairman's permission, I would like to make several remarks in relation to other things I neglected to put into my statement.

In respect to the implications and the statements that have been made, particularly in the California papers, which puts the picture in a poor light, and I am speaking in relation to depredation, sir, the Fish and Wildlife Service is doing an excellent job in the Klamath Basin containing the birds there during the time of depredation.

But there is one major factor which has been overlooked when you talk about depredation, and that is simply this: You can have duck feed 2 feet deep in the ground, but when you get 2 feet of snow on top of it, Mother Nature tells those birds to go South. This is what occurs. It occurred this year. These are things that we see.

In respect to the intent that we always felt was written into the contract, I would like to say that as recently as the development in sump 3, proposed by the Bureau of Reclamation, we had the opportunity to meet and work with the Bureau of Reclamation people at the local level, and one of their very justifications was the fact that the size of the farm units in sump 3, at that particular time, was not adequate to support a family.

Truly, it did need better drainage facilities, and this was part of their thinking. But I would like to bring to light the fact that this

is what we as a group of farmers in that area, our board of directors, were told.

We actually took issue with the fact. We thought that they were large enough. But this justification was presented to us.

In respect to the picture that was shown by the Fish and Wildlife this morning, with a group of geese standing in a stubble field, I would like to state for the record that that could have been very easily been my field and my private land.

I can't overemphasize the use of birds on private land, and I can't overemphasize the fact that we sincerely feel that private lands complement wildlife more than they are a detriment.

So, with all of these statements that I have made in mind, on behalf of the Tule Lake Irrigation District, I would like to extend an invitation to this committee to come to Tule Lake, if the opportunity presents itself, and view firsthand the picture that we actually have there.

Thank you.

The CHAIRMAN. Are there any additional statements from your group?

Mr. LANDIS. This concludes the statements, Mr. Chairman.

I do not know whether there has been a ruling on filing for the record of a copy of the agreement between the United States and the district with respect to this matter.

The CHAIRMAN. I wanted to try to keep down the printing bill, if I can. If it is not essential, I generally try to limit the printing.

Mr. LANDIS. We are not asking that it be printed in the printed hearing. I think everyone who has an interest has a copy of it. Perhaps it should be in the committee files.

The CHAIRMAN. This should be filed with the committee.

I do want to call your attention to the fact that in this 1956 legislation when the committee on Interior and Insular Affairs was reporting to the Senate, said:

The bill leaves open for further action by the Secretary of the Interior the question of what portions of the undersettled lands in this division shall be open for homesteading and what part shall be dedicated to fish and wildlife purposes.

We were trying to say there that the matter was not settled at all by the legislation.

Well, thank you very much, gentlemen.

Representative JOHNSON. Mr. Chairman, I certainly want to thank you for the very generous time today that you have given us to present our case. As the Congressman from the troubled area, I greatly appreciate it.

The CHAIRMAN. You are welcome, Mr. Johnson.

Again, we have a number of people here who are what I would call local. If we do not get to you, I hope we can either have you file your statements or let us take you at a later date.

I am talking to Mr. Gutermuth, Mr. Penfold, Mr. Nadel, and so forth.

We will start off with Mr. Elser, president of the California Fish and Game Association.

**STATEMENT OF WILLIAM P. ELSER, PRESIDENT, CALIFORNIA  
FISH AND GAME ASSOCIATION**

Mr. ELSER. Mr. Chairman, my name is William Elser. I am president of the California Fish and Game Commission, and I am presenting this statement on behalf of the California Fish and Game Commission and the California Department of Fish and Game.

The purpose of this legislation is to preserve the necessary existing habitat for migratory waterfowl in the most vital single area of the Pacific flyway.

It will also assure the continued control of depredations on agricultural crops, and the preservation of one of the largest and best waterfowl public hunting grounds in the United States.

The Tule-Klamath Refuges are indispensable to the maintenance of the Pacific flyway and its waterfowl resources. Eighty percent of the waterfowl in this flyway use this area during the spring and fall migrations.

At times, the daily concentration of waterfowl reaches over 7.5 million birds. While the area is of primary value as resting and feeding habitat, it compares favorably, acre for acre, with some of the best Canadian breeding ground.

On the average, 100,000 to 125,000 waterfowl are produced here, with a large portion being the endangered specie of redhead and ruddy ducks. The need for stabilizing the existing refuges is indicated by the fact that during the past 60 years the marsh and water areas have dwindled from an original 187,000 acres to the present 25,000 acres.

Each year, additional encroachments are being made on the remaining habitat. The existing areas meet certain waterfowl requirements. If their value for this use is seriously impaired or destroyed, replacement will be necessary if the waterfowl resource is to be preserved.

On the basis of experience in California, the purchase of suitable replacement lands would be very expensive, and at this late date practically unobtainable.

It should be emphasized that in addition to being essential for the maintenance of the Pacific flyways of waterfowl, the Tule-Klamath Refuges are absolutely essential to maximum agricultural production in the central valley of California.

During the fall migration, there is no stopping place for ducks between these refuges and the central flyway that is capable of holding more than a small number of birds. Should the carrying capacity for the millions of ducks that stop over on the Tule-Klamath Refuges each fall be jeopardized, the consequences to rice farmers and other agriculturalists would be disastrous.

The proposed legislation will stop any further homesteading, but it will not reduce agricultural income. The practice of leasing 15,000 acres of farmland will be continued. This practice not only helps the local economy but it also provides waterfowl with great quantities of waste grains, seeds, and, after the fall rains, green forests.

Thus, the agricultural economy will continue, but, even more important, the more valuable waterfowl resource will be preserved.

In summary, the main purpose of the bill is to stop any further encroachment on refuge lands for reclamation and homesteading pur-

poses. Since these refuges are established only by Executive order, their status could change at any time.

This bill would establish the refuges on a permanent basis.

The CHAIRMAN. Thank you very much, Mr. Elser.

Mr. ELSEER. I believe this covers both the original bill and the committee print.

Senator KUCHEL. That was to have been my question, Mr. Elser. Your comments you have just made have been to the language of the committee print.

Mr. ELSEER. Yes, sir; that is right.

The CHAIRMAN. Thank you very much.

We will next hear from Mr. Gordon and Mr. Horn.

#### STATEMENTS OF SETH GORDON AND EVERETT E. HORN, CALIFORNIA DUCK HUNTERS ASSOCIATION

The CHAIRMAN. Are you gentlemen making a joint statement or will each of you testify?

Mr. GORDON. Mr. Chairman, I think we have complementary statements. With your permission, I would like to proceed.

My name is Seth Gordon, of Sacramento, Calif. I am the former director of fish and game for the State of California.

It is my privilege to appear before you today, for the Duck Hunters Association of California, an organization of more than 2,000 public-spirited citizens who are interested in the perpetuation of the waterfowl resources of the continent, and who also enjoy the sport of hunting ducks and geese.

Many of the association's members belong to duck clubs in our State. On the other hand, many are unattached hunters who have no affiliation with clubs but belong to the association primarily to support its objectives.

Native habitat almost gone: California originally had over 8 million acres of overflow and swamplands, where the early settlers found waterfowl and other wildlife in great abundance.

Today we have something less than 600,000 acres of these original swamp and overflow lands left. Worse still, almost two-thirds of this small remaining ancestral home of ducks, geese, swans, and other marsh-loving migrants in the Sacramento and the San Joaquin Valleys are imminently threatened by reclamation and other projects already on the drawing boards.

In view of this situation it is easy to appreciate the vital importance of the 200,000 acres of waterfowl habitat maintained by the owners of duck clubs. As President Carl F. Wente of the Duck Hunters Association so well put it, "Somebody has to provide living space and food for the 4 million to 7,500,000 ducks, geese, and swans of the Pacific Flyway that normally must winter in California."

Statements covering purposes: Senator Kuchel's statement, submitted for the Congressional Record on May 29, 1961, when he introduced S. 988, and the very comprehensive report to your committee from Hon. James K. Carr, Under Secretary of the Interior, dated November 14, 1961, cover the basic purposes of this proposed legislation.

However, two brief quotations will be helpful:

(1) Senator Kuchel concluded with the following:

In brief, the stabilization of the refuge units made possible through the enactment of the provisions of this bill will mean more to the general public than any other arrangement.

(2) Secretary Carr in his report among other things said:

We recognize the need to provide permanency to the operations of the three wildlife refuges in question. These refuges are vital to the welfare of the waterfowl population of the Pacific flyway. At times this area provides feeding and resting facilities for more than 7 million ducks and geese during migration.

These wildlife refuges perform an additional service in preventing crop depredations. Refuge crops not only hold the birds until local fields can be harvested, but also delay their migration to the wintering grounds.

Any substantial reduction in the food supply for waterfowl in the Upper Klamath Basin would cause an earlier migration to the Central Valley with serious losses to ripening rice and other crops.

If homestead entry were permitted on the presently leased croplands their value as waterfowl habitat would be reduced seriously.

Mr. Horn worked on that phase of the problem defensively for a number of years, and I am not going into that part of my statement further.

Past crop damages astounding: Just how serious could crop depredations become in the Central Valley, and even in the Imperial Valley at the extreme southern end of the State?

Twenty years ago, due to the rapid reclamation of marshlands and the dedication of those lands to ricegrowing and other crops in the Central Valley, waterfowl depredations became intolerable for the ranchers.

The California rice industry and the California Farm Bureau demanded relief, and insisted that remedial steps be taken by the U.S. Fish and Wildlife Service and the California Division of Fish and Game.

Studies indicated that in 1941 a total of 200,000 100-pound bags of rice were destroyed; in 1942 the total was 181,000 sacks; and in 1943 the total rice damage was estimated at \$1 million, other crops \$750,000, or the staggering total of \$1,750,000.

In the Imperial Valley widgeon took over \$60,000 worth of lettuce in less than a week.

Congress took remedial action: a joint wildlife management committee was set up, representing all of the interest involved. As a result of the committee's studies and recommendations Congress passed the Lea Act of 1948 (Public Law 534, 80th Cong., 2d sess.), which was the initial frontal attack upon the problems involved.

The Lea Act, with an authorized annual appropriation of \$250,000 for 5 years, served as an interim approach. The U.S. Fish and Wildlife Service and the California Division of Fish and Game entered into a cooperative agreement to develop a series of complementary waterfowl management units upon which to produce food and attract the birds away from the ranchers' crops, with provision for hunting after the areas had served their primary purpose.

Fortunately, the California Legislature a year earlier had set up a capital investment program for fish and wildlife. A fund of \$9 million, taken from horseracing revenues, was made available over a 3-year period to tackle the accumulated problems.

Wildlife board acted promptly: The California Legislature established a wildlife conservation board to allocate the funds. Late in 1948 it became my privilege to launch a comprehensive survey for the board, to develop a positive fish and game program to meet the State's future needs.

Mr. Horn was one of the men with the Federal Government then who worked closely with myself and he can speak to that.

The board in due course placed the waterfowl requirements among its top priorities, and acted promptly upon recommended projects when suitable areas were found. It approved allocations aggregating \$5,513,000 to acquire or expand key waterfowl areas totaling 27,000 acres.

The California Department of Fish and Game (successor to the former division), took over the units as they were acquired, and since 1953 has expended something like \$5,500,000 of Pittman-Robertson Federal-aid funds in the further development and operation of these waterfowl management projects, with crop-producing capacity comparable to those in the Upper Klamath Basin.

California has invested over \$11 million in this program.

Federal Government matching operations lagged: The U.S. Fish and Wildlife Service moved much more slowly to meet its obligations, and in the early 1950's additional serious crop depredations problems arose.

I can assure you, gentlemen of the committee, that when such a situation arises, State officials in charge of wildlife programs lead a miserable life. Apologizing for the delays of others is not an easy role.

The Fish and Wildlife Service did acquire four small units which the \$1,250,000 of Lea Act funds (Colusa, Sutter, Merced, and Salton Sea) aggregating 6,927 acres. But after those funds were exhausted the Federal phase of the program really lagged.

Finally, they acquired an area in Modoc County (1959, 6,050 acres); another in Kern County, not yet proven up (1960, 10,200 acres); and recently a fine project was optioned in Colusa County, in the heart of the Sacramento rice country, containing 5,700 acres, which will be before the migratory bird conservation commission next week for approval.

The Federal Government has so far put only about half as much money and effort into the joint program as did California.

Through close cooperation the crop depredations problems in recent years have been handled without great difficulty. There were times, however, when it was a case of nip and tuck.

Every acre in Klamath Basin essential: It has long been agreed by all who are conversant with the Tule Lake, Lower Klamath, and Upper Klamath Wildlife Refuges, especially by those who are thinking in terms of statewide and general public benefits, that every acre in the basin now devoted to waterfowl management should be permanently dedicated to such use.

It has further been agreed by informed, unselfish persons that additional homesteading on any part of these lands, and especially the Tule Lake refuge, would seriously aggravate the problems of the ricegrowers and other ranchers in California's Central Valley, and farther south.

In this connection, it must be born in mind, that through irrigation developments, the area of the Lower Klamath and Tule Lakes has already been reduced from 187,000 acres of uncontrolled swamp and rangeland to approximately 25,000 acres of stabilized lake and marshland, that can be managed efficiently for waterfowl purposes.

No comparable acreage available elsewhere: At this point, please permit me to quote from the conclusions of the recently retired Assistant Secretary of the Interior for Fish and Wildlife, Hon. Ross L. Leffler:

As goes Tule Lake so goes the Pacific flyway. If any attempt is made to pass a bill through Congress preserving the integrity of all the Upper Klamath Basin refuges without including Tule Lake, as is being proposed, Tule Lake will go down the drain.

Service investigations show only too well that at this date there is neither land nor water available in California for waterfowl management on a scale necessary to substitute for Tule Lake and Lower Klamath refuges—at any price.

Other overriding considerations: There are other overriding considerations which must not be overlooked.

Since 1934, when Congress enacted the duck stamp law at the request of the waterfowl hunters to help acquire badly needed breeding and feeding grounds, those who hunt ducks and geese have contributed something like \$75 million. Of this, only \$11 million have been used to increase the waterfowl acreage; over \$36 million have been expended to develop and operate refuges; a total of almost \$50.

Recent legislation dedicates the entire income from these stamps to the expansion of waterfowl nesting and feeding grounds.

Furthermore, only last year Congress wisely set up a fund of \$105 million upon which the Fish and Wildlife Service may draw to hasten this land acquisition program, to be repaid from future duck stamp income.

Congress should stabilize situation: Gentlemen of the committee, in view of the facts herein recited, it would be unthinkable to allow any reduction whatever, by homesteading or any other means, of the proven waterfowl feeding grounds of the Upper Klamath Basin, and especially the Tule Lake unit, now serving both agriculture and the waterfowl, then turn around and make large capital outlays on unproven grounds elsewhere in an effort to offset the loss.

Why take a chance, gentlemen, when the Government already has a sure thing?

There has been comment about going to Clear Lake, to develop land there.

My judgment is that from everything we can gather from that proposal, Clear Lake is just a good place for birds to get a drink and get wet. Beyond that, it does not seem as though it has feasible possibilities at all for growing crops. If it does, why not let somebody interested go over there and see if they can develop an area which will suit their purposes and not attempt to drive the birds out of the Tule Lake area.

Furthermore, we agree with the conclusions of experts who have made careful studies of the entire situation that—

There is neither land nor water available elsewhere in California to substitute for Tule Lake—at any price.

It is obvious also that Congress should act with dispatch to firm up and make permanent the use of the waterfowl management lands in the Upper Klamath Basin as proposed in S. 1988, and supported, with amendments, by the Secretary of the Interior.

Only by so doing can Congress resolve a problem that has bedeviled five or more successive Secretaries of the Interior.

Mr. Chairman, you brought up the question about the use of the word "primary" instead of "major." In my judgment, "primary" would be better, and I would like to see that continued in the bill as it goes to the Senate.

On the question of what is optimum in agricultural development ought to be made secondary to the primary purpose.

The Duck Hunters Association of California strongly believes that the legislation now under consideration is of importance comparable to the several outstanding earlier enactments enumerated, and we respectfully urge that S. 1988 with "primary" be enacted with the utmost speed.

Mr. Chairman, in behalf of the Duck Hunters Association of California, I thank you for giving us the time to present our views concerning this vital legislation.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Horn.

#### STATEMENT OF EVERETT E. HORN, CALIFORNIA DUCK HUNTERS ASSOCIATION

MR. HORN. Mr. Chairman and gentlemen, I am Everett E. Horn, fish and wildlife administrator for the Richfield Oil Co. of Los Angeles, representing the California Duck Hunters Association, in support of the pending bill, S. 1988, and the proposed amendments suggested by the Secretary of the Interior as of February 14, 1962. We want to express our appreciation for this opportunity to appear.

Adding to Mr. Gordon's statement of the Duck Hunters Association, which is composed of about 2,500 men coming from all walks of life in California—most of them engaged in various branches of commerce, agriculture, and the professions—they have an economic interest in waterfowl.

They have an interest in it as perpetuating, conserving, and utilizing a natural resource. Having some 200,000 acres of land dedicated to waterfowl, those lands in value probably appraising today from \$75 an acre to \$500, you can see they have a little sum there.

Nearly all of them are contributors to Ducks, Unlimited, that organization that gathers up private funds and expends it in Canada for the perpetuation of breeding grounds in our northern neighbors' lands.

Mr. Gordon has touched on the work that was done under the Lea Act and under the California Wildlife Conservation Board Act. I would like to comment just a bit on some of that.

This restored a certain small amount of land that had been taken out of marshlands originally, but it did more. It greatly increased the waterfowl-carrying capacity of these restored lands and, with waterfowl, as with livestock, it is not just so many acres but, rather, the productivity and carrying capacity of the lands that controls the

size and the physical condition of the herd or the flock. Some better quality lands could very well be used and should be retained.

The importance of the Tule Lake-Lower Klamath-Klamath Basin refuges has been dwelt upon quite fully. The lands within the present Executive order boundaries are considered by those who have studied it most to be the most valuable and usable for waterfowl perpetuation and management.

Stabilization of ownership and administration of these lands and regulation of water levels on these lands for the primary purpose of waterfowl management would, we feel, go a long way toward perpetuating waterfowl on the Pacific Flyway.

Those lands considered in this bill as not to be subject to homesteading constitute the very heart of these refuges and are very vital and important to them. The lands are now in Federal ownership and we feel they should be retained in such ownership, subject to such multiple use as may be made of them consistent with the primary purposes of waterfowl management.

Further, with \$105 million allocated or appropriated by the Congress as a loan for the purpose of marshland to be repaid from duck stamp funds, it would seem a little inconsistent to relinquish some highly valuable waterfowl lands that are now in Federal ownership while we are expending additional millions to acquire more lands for the identical purpose.

Further, with \$105 million allocated or appropriated by the Conservation group, a group interested in management of a resource in its conservation and in its utilization, with considerable investment in it—it is our feeling that this Nation has now reached such a point in population growth and land utilization that dedication of some parcels of lands, such as the Tule-Klamath, and those to be purchased out of the \$105 million fund for waterfowl management, it is highly essential, if we are to practice conservation stewardship, that we preserve this natural resource for those who want to follow us.

In conclusion, the duck hunters want to endorse both the bill and the amendments proposed by the Department of the Interior. We feel that they will meet the needs and fulfill the multiple use requirements, and respectfully urge your favorable action on this legislation.

Senator KUCHEL (presiding). Thank you, Mr. Horn. Do you agree or disagree with Mr. Gordon's comment with respect to the two words "primarily" versus "major" purpose?

Mr. HORN. I did not understand your question, Senator.

Senator KUCHEL. Mr. Gordon suggested that the language in the bill as I introduced it, using the word "primarily", be retained, and to that extent he objected to the other.

Is that your position?

Mr. HORN. I would agree wholeheartedly that it be retained.

Senator KUCHEL. Thank you very much.

I do not want to read the entire law into the record, but I do want to point out that Public Law 87-393, 87th Congress, H.R. 7391, which was approved by the President on October 4, 1961, is the law to which Mr. Horn adverted in his testimony, and which is the latest pronouncement by the Congress in this field.

It did, as he stated, authorize the appropriation of \$105 million over a 7-year period to "promote the conservation of migratory water-

fowl and to offset or prevent the serious loss of important wetlands, and other waterfowl habitat, essential to the preservation of such waterfowl."

Thank you very much, sir.

Mr. GORDON. Mr. Chairman, there was a good deal of discussion this afternoon about the effect of your bill. I assume that everyone in the room heard the Secretary this morning in his preliminary opening remarks call attention to the fact that the Solicitor of the Department of the Interior has carefully reviewed the bill and has advised the Secretary that there are no legal obstacles to its passage.

In his opinion, "the bill does not adversely affect valid, existing water rights, or conflict in any way with the 1905 cession acts or the Tulalake Irrigation District's contract with the United States."

Senator KUCHEL. Thank you very much. Before the record closes, I will place into the record the entire text of the Solicitor's opinion.

Mr. HORN. Thank you.

Senator KUCHEL. The statement of Mr. Philip A. Douglas, executive secretary, Sport Fishing Institute, will appear in the record in full at this point.

(Statement of Philip A. Douglas follows:)

STATEMENT OF PHILIP A. DOUGLAS, EXECUTIVE SECRETARY, SPORT FISHING INSTITUTE

Mr. Chairman, and members of the committee, my name is Philip A. Douglas. I am executive secretary of the Sport Fishing Institute, a nonprofit fish conservation organization, located in Washington, D.C. The object of the Sport Fishing Institute is a simple one. It is to improve sport fishing to the fullest extent possible through encouraging the rapid development and application of sound fish conservation practices; in brief "to help shorten the time between bites." We derive our principal operating funds from a wide representation of manufacturers of equipment used by anglers "out fishing," related industries, and concerned individuals.

At the outset, I should like to associate myself and Sport Fishing Institute with the substance of the testimony presented by our colleagues in conservation on behalf of their various national organizations here today. It is unusual for Sport Fishing Institute to involve itself directly in a waterfowl problem such as this. We are, however, vitally concerned that good conservation practices, should prevail generally, and feel an urgency in this regard to support Senator Kuchel's objectives as embodied in S. 1988. A second object of our testimony is to point out that important fishery values have been, and to a lesser extent are, involved.

THE PROBLEM

Historically, the Klamath Basin contained some 500,000-750,000 acres of ideal waterfowl habitat. Today, proposed legislation is asking for preservation of a mere 100,000 acres within the three refuges of Tule, Lower and Upper Klamath Lakes, marshes, and contingent lands. Controversies over management of these areas, have been continual between the Bureaus of Sport Fisheries and Wildlife Reclamation since formation by Executive orders of 1908 (Lower Klamath) and 1928 (Tule and Upper Klamath). Very recently, the Bureau of Reclamation proposed to remove approximately 14,000 acres from the present Tule Lake National Wildlife Refuge and place them in private ownership for agricultural purposes. Some 15,000 acres of the Upper Klamath are of limited value for waterfowl, since it is a controlled reservoir for power production and irrigation; and nearly 40 percent of the remaining lands in the Tule-Klamath National Wildlife Refuges are leased to agricultural and grazing interests, though waste products following harvests of the croplands do help feed the waterfowl. Landwise, we appear to be pretty poor in acreage dedicated to intensive habitat development by the Bureau of Sport Fisheries and Wildlife. Reclamation processes have been converting waterfowl nesting, feeding, and resting lands into crop producers since 1906. Benefits have accrued in favor of wildlife in many

instances through controls of floodwaters and construction of water distribution lines, by private irrigation districts. However, homesteading and other conceivable encroachments of this already diminishing basin are incompatible with waterfowl and must be stopped. Drought years add to the troubles, as farm demands pump out the sumps and lower water levels with accompanying stagnation and botulism.

Not only does this basin serve as the principal nesting area for "divers," which are now reduced to 100,000 canvasbacks and redheads, but 80 percent of the entire Pacific flyway rests and feeds in the Upper Klamath Basin. Over 7 million birds were counted here at one time—the greatest concentration of waterfowl in North America, if not in the entire world. The area also acts as a "crop saver" for the rice and grains of the Sacramento-San Joaquin Valleys, as well as a deterrent for depredations of lettuce, alfalfa, and other such crops in the Imperial Valley of southern California. Protection and sustenance of this migration is also of international importance, in conformance with treaties with Great Britain and Mexico.

I should point out that the fishery of this area is pretty well confined to the Upper Klamath. Rainbow and a few other trout species are caught periodically. In the past, prior to construction of the CoPCo Dam on the Klamath River, good runs of salmon (silver and king) and steelhead provided a sport fishery in the upper end of Upper Klamath Lake.

#### THE PROPOSED SOLUTION

Passage of Senator Thomas Kuchel's bill (S. 1988) would stabilize the present refuge boundaries and keep the area under public control. Without this legislation, homesteading and sale of these lands to private individuals could continue. Its six sections propose the following:

1. To stabilize the land ownership;
2. To dedicate to wildlife conservation, such to be administered primarily for waterfowl management purposes by the Secretary of the Interior, and closed to homestead entry;
3. To establish a fee to be paid the counties in which these refuge lands are resident;
4. To authorize the Secretary of the Interior to lease reserved public lands for agricultural purposes;
5. To stabilize the active sump areas of Tulelake to not less than 13,000 acres; and
6. To regulate waters to provide biologically suitable habitat for waterfowl utilization.

This legislation as proposed appears generally constructive and is sorely needed. Stabilization of the refuge boundaries, the sumps in Tulelake, some water regulations, and closure to homesteading are excellent parts of this bill.

#### CONCLUSION

Further leasing of lands for agricultural purposes would encroach on the present waterfowl habitat. It is true that grains, forage, and soil-building crops are to be encouraged and row crops limited. However, further diminution of lands for "waterfowl only" could seriously affect the entire effort. It should be pointed out that some \$100 million annually is spent in this area by businessmen, farmers, and sportsmen. The region definitely benefits by having these refuges.

Sport Fishing Institute feels that adjudication for adequate water to operate these refuges, and to safeguard these needs now and in the future should be provided for S. 1988 specifies sump levels, as established by contractual rules and regulations, for the Tule Lake National Wildlife Refuge, and enough water "to maintain the ultimate developments in the Upper and Lower Klamath National Wildlife Refuges," which "will provide biologically suitable habitat for waterfowl utilization." We understand that there is a range of surplus water that flows to the sea down the Klamath River of 150,000–1,250,000 acre-feet, annually. As near as we can determine, 80,000 acre-feet would supply the three refuges for controlled waterfowl management. Adjudication of water amounts would be absolutely necessary, in my considered opinion, to plan any sort of a development or to intelligently manage this large operation. The contractual rules and regulations with the Tulelake Irrigation District were ignored since they were agreed to in 1950 and completely so in the fall of 1959, with disastrous effects.

In conclusion, the Sport Fishing Institute respectfully urges that you take action to provide the necessary legislation for the preservation of the Tule-Klamath National Wildlife Refuges, the most important linkage in the entire Pacific flyway. There would be important secondary benefits for sport fishing.

Mr. chairman, we appreciate the opportunity to present this testimony to your committee. Thank you.

Senator KUCHEL. Next we will hear Mr. Thomas L. Kimball, of the National Wildlife Federation.

**STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR,  
NATIONAL WILDLIFE FEDERATION**

Mr. KIMBALL. I think there are two major issues to be resolved, Mr. Chairman.

I think your bill on the committee print accomplishes these purposes. One, I feel, is to have Congress give legal status to the refuges which have been long established by Executive order.

Teddy Roosevelt recognized the Lower Klamath Refuge area in 1908 as the first waterfowl refuge in the United States.

There is no question about its importance or the entire complex of refuges' importance to the Pacific flyway. Since it has been going on, for these 50 years by Executive order, we feel now that it is time to give legal status and recognition to the importance of these areas as waterfowl refuge, particularly since, as you have already mentioned, the Congress in its wisdom has enacted legislation authorizing the loan of \$105 million to acquire lands for the maintenance of waterfowl habitat.

Certainly here we have some of the most valuable lands already in Government ownership, set aside by Executive order, for the very purpose of improving our waterfowl condition in the country. It makes little sense to me not to give legal status to this problem when we are already authorized, or the Government is, to acquire lands necessary to preserve our waterfowl population.

I would like to also point out for the record that the waterfowl populations now in the United States are in critical condition.

We have seen bag limits go from 30 in possession just a few years ago to 2 at the present time. It is the feeling of a good many conservationists in the country that, unless sufficient habitat is preserved, our waterfowl populations are going to go the way of the passenger pigeon.

We would like to see legal status given to these areas that we feel are so necessary to preserving a satisfactory waterfowl population.

The second deals with maintaining these lands in Federal ownership. Testimony has been given that perhaps a good portion of these lands should pass into private ownership.

Again, from the standpoint of preserving waterfowl habitat when they go into private ownership, there is little control exercised over what is done with these lands. Crops of various types and kinds can be planted on them, which may be not quite so effective in improving waterfowl conditions.

So, we would like to see these lands that are valuable for waterfowl production and so designated by Executive order these many years retained in Government ownership.

Senator KUCHEL. Thank you very much, sir.

(The prepared statement of Mr. Kimball follows:)

STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR, NATIONAL WILDLIFE  
FEDERATION

Mr. Chairman, the National Wildlife Federation is a private organization dedicated to the attainment of conservation goals through educational means. It is composed of 51 independent affiliates in all States and the District of Columbia. These affiliates are constituted of local groups and individuals who, together with other supporters of the National Wildlife Federation, number an estimated 2 million persons.

Wild waterfowl, due principally to losses of suitable habitat through drought and drainage, are in severe circumstances. Only last fall, the Congress saw fit to authorize an emergency loan of \$105 million over a 7-year period to permit the acquisition of wetlands, these funds to be repaid from future sales of migratory bird hunting stamps. Officials of the United States and Canadian Governments met earlier this week in a continuing attempt to develop a coordinated program for saving this international resource of such great value to millions of North Americans. The National Wildlife Federation and its State affiliates believe the preservation of waterfowl wetlands is the single most important problem facing wildlife today and this was made the theme of the 1962 National Wildlife Week observance, scheduled March 18-24.

Members of the subcommittee know there are four major waterfowl flyways on the continent. The Pacific flyway extends from Alaska and Canada in the north to Mexico in the south. The most important single area in this entire flyway is the Tule Lake-Klamath complex under consideration here today. An estimated 80 percent of all ducks and geese in the Pacific flyway utilize this area.

In view of the foregoing, Mr. Chairman, we believe there is an urgent need to preserve and protect by Federal statute the national wildlife refuges in the Tule Lake-Klamath area. S. 1988, as amended by proposals of the Department of the Interior in its report of November 14, 1961, to this committee, would accomplish this. We also are encouraged by announced endorsements of the general plan by appropriate governmental officials of the States of California and Oregon, in which the areas are located. Our affiliates in these two States, the California Wildlife Federation and the Oregon Wildlife Federation, also have expressed the need for preservation and protection of the areas.

As we view it, there are two major requirements to preserve waterfowl at the Tule Lake-Klamath areas. These are:

(1) Retention of adequate amounts of land and water in permanent U.S. ownership for the primary purpose of waterfowl use and production, thus permanently excluding any possibility of disposition of the valuable waterfowl areas into private ownership; and

(2) Insuring ample supplies of water for proper wildlife management at the refuges.

These major objectives can be achieved in harmony with already existing agricultural operations for best overall public benefits. It should be emphasized that these national wildlife refuges not only are vital to the preservation and reproduction of waterfowl, but they also perform a valuable function in holding the birds until grain crops elsewhere can be harvested without danger of depletions.

Section 2 of the proposal prohibits homestead entry to described areas. This, we believe, is necessary. There is no valid reason why the United States should dispose of these lands at any price when Congress has already authorized a \$107 million loan to purchase additional important wetlands similar to those described in S. 1988.

Since the words "major" and "optimum" are somewhat synonymous and to avoid any misunderstanding, it is suggested that the phrases "major purpose of waterfowl management" in this section be amended to read: "primary purpose of waterfowl management," with full consideration to agricultural use that is not incompatible therewith. The last sentence in this section should be amended to read: "All of the lands described in this section shall remain permanently the property of the United States."

Section 4 is in accord with the present agreement, and provisions in sections 5 and 6 are necessary for the efficient operation of the refuges for waterfowl management purposes.

In conclusion, Mr. Chairman, we hope early favorable consideration may be given to this important proposal.

Thank you for the opportunity of expressing these views.

The CHAIRMAN. Mr. Gutermuth.

**STATEMENT OF C. R. GUTERMUTH, VICE PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE, WASHINGTON, D.C.**

Mr. GUTERMUTH. Mr. Chairman and members of the committee, I am C. R. Gutermuth, vice president of the Wildlife Management Institute of Washington, D.C. The institute is one of the older national conservation organizations and its program has been devoted to improved management of natural resources in the public interest since 1911.

Conservationists everywhere have endorsed the objectives of S. 1988. Congressional action definitely is needed to safeguard the important national wildlife refuges involved. An invaluable waterfowl resource and the recreational and economic interests of residents of at least nine Western States are in jeopardy. Unhindered management of the three refuges also is necessary to fulfill this country's obligations with Canada and Mexico under the migratory bird treaties.

Before the close of this hearing the committee will have the assurance that congressional protection of the Tule Lake, Lower Klamath, and Upper Klamath refuges is being urged by National, regional, State, and local conservation groups and sportsmen's organizations in all parts of the country, and by the California and Oregon Game Departments, the International Association of Game, Fish, and Conservation Commissioners, and the Department of the Interior.

The people are grateful to Senator Kuchel for his recognition of the time necessity for resolving this problem and to Secretary Udall and his associates for reconciling views within Interior, and for suggesting the constructive amendments in the Department's favorable report to this committee.

It is necessary to glance briefly into the past to explain why stabilization of the boundaries of the three refuges is being requested. The wetlands there now encompass virtually all of the waterfowl habitat that remains of the once-vast Klamath Marsh. During the past 60 years, the water and marsh areas in Tule and Lower Klamath Lakes have dwindled from an original 187,000 acres to only 25,000. Despite this tremendous reduction, the refuges provide nesting, resting, and feeding habitat for fully 80 percent of the ducks of the Pacific flyway. Millions of waterfowl and shore and marsh birds use the areas during spring and fall migrations.

Some of the northbound migrants stop there. They nest on the refuges and more than 100,000 ducks and several thousand Canada geese are reared there each year. Judging solely from the production standpoint, these refuges are making a sizable contribution to the well-being of the overall waterfowl resource which, I am sure the committee knows, is at a precarious level. Large number of two of the Pacific flyway's scarcest species of diving ducks—redheads and ruddies—are produced on the refuges. Acre for acre, these refuges are fully as productive as Canada's best duck nesting marshes.

In recognition of the grave threat to waterfowl by drainage and other habitat destruction, the Congress, last year, authorized a 7-year, \$105 million, waterfowl wetlands acquisition and leasing program. That action, for which we are grateful, was based on the sure knowledge that specialized wetlands habitat for waterfowl is disappearing before the combined forces of both necessary and unregulated and sometimes contradictory human expansion. We appreciate what the Congress has done, and stabilization of these three refuges will be a consistent and desirable sequel to last year's enactment. Quality waterfowl habitat is a precious commodity.

While I know the areas well, I am not going to recite the many reasons for protecting these refuges, Mr. Chairman. The committee has heard much from the departmental witnesses and others, and the record will reflect the paramount values of these refuges to waterfowl of the continent and to people of the West.

This Tule Lake problem has been inherited from the past. Successive Secretaries of the Interior have had this situation under continuous review. It has been created and perpetuated by a few irrigation interests that seek to devote every last acre to crop production—to average annual yields far below the waterfowl values. The Tule and Lower Klamath refuges have been reduced considerably below their original Executive order boundaries. The remaining acreage meets present waterfowl marsh, feeding, and buffer needs, but no further encroachments dare be permitted.

We are pleased that S. 1988 calls for continuation of existing agricultural leasing agreements on the refuge lands. Conservationists are not recommending that the farmers be put out of business. In fact, we reject that idea.

A few people have been suggesting that the U.S. Fish and Wildlife Service should relinquish all of the land in the Tule Lake refuge in exchange for substitute acreage that would be developed at Clear Lake for growing grain for waterfowl. Despite what has been said, Mr. Chairman, there is no proof that comparable substitute waterfowl habitat ever could be developed at Clear Lake. In fact, even the latest information is to the contrary.

Some folks have been citing yield statistics gathered at a test plot for barley near Clear Lake, and that insignificant experiment should be examined carefully. It is believed that the committee will find that Clear Lake, which is higher in elevation than Tule Lake, averages one barley killing frost during each month of the growing season. The actual location of the test plot should also be evaluated. Is it located on a level with the lake bed or is it at a higher site where the soil is better? How much fertilizer and water were applied? How does the soil at that test site compare with the peat and boulders of the lake bottom that those people suggest for development? How much natural aquatic vegetation is produced in Clear Lake? These are vital questions, Mr. Chairman.

Clear Lake has little value either for agriculture or for waterfowl. If those who are suggesting Clear Lake as substitute acreage for Tule Lake contend otherwise, they should be questioned closely because they have knowledge not available to Federal and State agricultural and wildlife technicians.

A final point on Clear Lake, and then I will finish my statement. If, as the proponents of substitute acreage avow, Clear Lake really is good for agriculture, why not homestead that land? I am sure that conservationists and perhaps even the Department of the Interior would be pleased to turn Clear Lake over to them.

Even those who advocate the Clear Lake substitution would agree, I am sure, that good beef and good crop production requires good land. The same holds true for waterfowl and other wildlife. The U.S. Fish and Wildlife Service cannot take care of millions of waterfowl each year on worthless land.

Some persons have been advocating intensified management of other national wildlife refuges in Oregon and California to obviate the need for S. 1988. It is known that those refuges are too far from the historical flight paths of the Klamath Basin birds to solve the problems that easily. The Fish and Wildlife Service, in cooperation with the States, conducted a national survey of wetlands of value to waterfowl a few years ago, and they know the location of every area down to a few acres. The study shows that there are no substitute wetlands near the three refuges.

Ducks and geese are in short supply, Mr. Chairman. Yet, as the distinguished chairman of the committee and other Senators know, the recent excellent report of the Outdoor Recreation Resources Review Commission makes clear that the demands for more hunting and for all other kinds of outdoor recreation will increase materially in the coming years. The challenge now is to make sure that through local, State, regional, and national action this country's recreational resources will be managed and developed properly so as to meet the Nation's requirements. The Klamath Basin refuges included in S. 1988 already are accommodating a number of these recreational needs. S. 1988 is not asking that new lands be purchased and developed, Mr. Chairman. These lands already are owned by the entire citizenry.

Enactment of S. 1988 would help to meet the Federal Government's responsibilities under the Migratory Bird Treaty Acts. It would show good faith with America's sportsmen who have spent more than \$70 million for duck stamps to purchase national wildlife refuge lands. These same sportsmen were more than willing to pledge future duck stamp receipts to repay the \$105 million advance authorized by Congress last year for waterfowl wetlands.

Conservationists everywhere urge the committee to give this worthwhile proposal its prompt and favorable consideration.

I would like to say that while we have great respect and admiration for Representative Johnson, we certainly can't go along with his statement that these areas should be kept as is. He contended that these problems could be solved. Our answer to that is that we have been trying for many years to solve these problems, and there is only one way we are ever going to solve them, and that is for the Congress to stabilize the boundaries of these important refuges by congressional action. I personally have watched these areas go down and down for 25 years or more.

If we do not stabilize these boundaries by congressional action now, 25 years from now you are not going to see very much of anything there.

I have a brief statement that hit my desk this morning. It was for release yesterday, February 22, from the U.S. Fish and Wildlife Service. I would like to have this one-page press release entered into the record, if I may.

The CHAIRMAN. Without objection, it may be done.

Mr. GUTERMUTH. It is headed "Pacific Flyway Wintering Waterfowl Estimates Down 7 Percent." But in the middle it calls attention to the fact—and this is the wintering survey by both the Federal and State Governments—

Redheads and canvasbacks, even though protected by complete hunting closures, declined 53 and 21 percent, respectively.

(The press release referred to follows:)

#### PACIFIC FLYWAY WINTERING WATERFOWL ESTIMATES DOWN 7 PERCENT

A decline of 7 percent in the estimated number of wintering waterfowl in the Pacific flyway, compared with a year ago, was reported today by the Department of the Interior. The decrease was due primarily to a 5-percent decline in ducks observed and a 40-percent drop in coots. The number of geese observed was up 11 percent. Whistling swans, a fully protected bird, were 20 percent below the number seen in 1961.

Redheads and canvasbacks, even though protected by complete hunting closures, declined 53 and 21 percent, respectively.

The 1962 estimates are based upon the annual winter survey made by the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, and cooperating State and Federal agencies.

Within the flyway, small gains were noted in Washington, Idaho, and on the west coast of Mexico. Small to moderate declines were noted in the remaining areas, including Alaska, British Columbia, Oregon, Nevada, California, Utah, and Arizona.

A total of 379 State and Federal observers participated in this annual survey of wintering waterfowl. In addition to car and boat travel, 40 aircraft were used for aerial observation. Flights totaled more than 28,000 miles.

The purpose of the annual survey is to obtain an indication of waterfowl population trends and to estimate the waterfowl remaining after the close of the hunting season, as well as to record changes in the wintering distribution pattern of ducks and geese from year to year.

Mr. GUTERMUTH. In my statement I have dealt quite a bit on Clear Lake. I would like to say that we do not think there is any chance in the world of meeting the waterfowl needs with this Clear Lake area. If it is so good as these people contend for agricultural purposes, I don't know why they have not had it or after it long since. They know as well as we do that you cannot produce cattle, you cannot produce crops, on poor land, and you certainly cannot meet the needs of millions of waterfowl on poor land.

In one concluding statement I would like to say that we are witnessing here today just another one of these cases of where a few more people—and I want to emphasize a few more people—want to get a hold of some more Federal land. That is what it amounts to. When you measure the agricultural values involved and the waterfowl values involved over the long haul, I think you are going to find that this land should be for waterfowl purposes.

I would like to say that the institute favors the language in the Kuchel bill.

Senator KUCHEL. The original text?

Mr. GUTERMUTH. That is right, the original language.

Senator KUCHEL. I do not wish to pose as any scholar around here, but I have to say that I would have to study it a while to determine

what precise difference there is between the word "primarily" on the one hand and "major purpose" on the other.

Mr. GUTERMUTH. I think it is a matter of semantics, as far as that part goes. But on the other hand, it look to us that when you say that this is primarily for this purpose, it is pretty hard to quibble with that word "primarily." So we favor the language as you had it originally.

Senator KUCHEL. All right, sir.

The CHAIRMAN. Thank you, Mr. Gutermuth.

Is Mr. John Marshall here?

Evidently he is not here.

Mr. Penfold?

#### STATEMENT OF JOE PENFOLD, IZAAK WALTON LEAGUE OF AMERICA

Mr. PENFOLD. Mr. Chairman, I have a very brief statement which I will hurry through. As this committee is well aware, a couple of weeks ago the Outdoor Recreation Review Commission presented its report to the President and to the Congress. For the results of that report we certainly owe a great debt to the chairman and the members of this committee for their leadership. One of the key points of the outdoor recreation report was to make it abundantly clear that we are going to have to make more effective recreation use of the land and water areas which we have now, in addition to added acquisition that we may acquire.

Other have pointed out the tremendous importance of the Klamath Basin waterfowl, not only for that particular area, but for the entire Pacific flyway. We believe it would be folly to permit these values to deteriorate further when that can only mean their eventual total losses or their replacement elsewhere at great public cost if, indeed, they could be replaced at all. It would seem to us that it would be the best of good judgment to retain the remaining land and water resources area to enhance their productive ability to serve these recreation needs throughout the Pacific flyway. This would be consistent with the recommendations of ORRC, and also established national and international policy to conserve the continental migratory waterfowl.

The CHAIRMAN. There was an original bill submitted by Senator Kuckel, and a revised bill of the Department. You would probably prefer the original Kuchel bill, but would be satisfied with either of them, would you not? How do you feel about it?

Mr. PENFOLD. I think the difference between the two, as far as we are concerned, essentially is very little. It is a matter of clarification, the semantics, as between "primary" and "major" purpose. I like "primary" better because it says "this you will consider first, and after that we will consider agriculture and give it the optimum or the best deal that it possibly can be given—after the waterfowl."

"Major purpose" might be construed to mean that out of 100,000 acres, 85,000 of them are agriculture. That is a major purpose. But the 15,000 out of that 100 might be the primary purpose which would determine how much was for waterfowl and how much would be dedicated primarily to agriculture.

The CHAIRMAN. Thank you.

The Izaak Walton League has had a fine witness, and I am glad to close this hearing today with their appearance.

Senator KUCHEL. On the point you just made, Mr. Penfold, maybe we ought to get a dictionary around here, but "primary," I suppose, rather infers that there is a secondary purpose. Major purpose certainly means that there would be a minor one. I don't know. I think the intention of the bill has been made pretty clear by all witnesses. I think the statement of the Secretary this morning, indicating the fashion in which he believed the legislation would be administered, was quite clear. At any rate, I am glad to have the views of the people on that subject.

Mr. PENFOLD. Thank you.

Senator KUCHEL. I wish to ask consent that a copy of the Interior Solicitor's memorandum opinion to the Under Secretary be placed in the record. I assume that a copy of the State of Oregon letter to you, Mr. Chairman, favoring the bill and discussing some of the verbiage will be in the record.

The CHAIRMAN. If they have not previously been placed into the record, and this fine letter that you referred to, they will be.

(The memorandum and letter referred to follow:)

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., February 16, 1962.

MEMORANDUM

To: Under Secretary.

From: Solicitor.

Subject: Hearings on Senate bill 1988, concerning the Upper Klamath, Lower Klamath, and Tule Lake National Wildlife Refuges.

In connection with S. 1988, with amendments proposed in the departmental report, you have asked for my views on the two following questions:

(1) Would the enactment of the proposed legislation be in conflict with the 1905 enactments by the State of California and the State of Oregon by which some of the lands involved were ceded to the United States?

(2) Would the provisions of the bill be violative of the terms of article 8 of the contract between the United States and the Tulelake Irrigation District as suggested in the letter of January 30, 1962, from the district?

It is my view that the first question is to be answered in the negative. The estate ceded is absolute and there is no restriction in the grant or in its acceptance which would prevent any otherwise legal use or disposition of the lands. Nor would retention of the lands as property of the United States amount to a breach of any obligation undertaken in the acceptance of the cession. The provision of the acts of cession is that the ceded lands "may be disposed of" and is permissive rather than obligatory. In fact, the proposed legislation would not remove the lands from the reclamation program but would specifically reserve such uses thereunder as are consistent with the multiple benefits sought to be achieved.

The answer to the second question is likewise in the negative. Article 8 expressed an intention that if substitute wildlife habitat could be provided, which would meet waterfowl management requirements acceptable to the Secretary, the United States would consider a reduction in the area subject to wildlife use. Substitution would necessarily involve relinquishment of the area in question as a wildlife area. I am advised that appropriate investigation has led to a determination that such relinquishment cannot be effected consistently with waterfowl management requirements in the basin area. In these circumstances, the only commitment undertaken in the contract, namely to investigate and to make a determination of the matter, has been met.

FRANK J. BARRY, *Solicitor.*

STATE OF OREGON,  
OREGON STATE GAME COMMISSION,  
*Portland, February 15, 1962.*

SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE,  
*Senate Office Building, Washington, D.C.*

GENTLEMEN: The Oregon State Game Commission strongly urges enactment of S. 1988, or similar legislation, which will clearly define the Federal intent to retain ownership of public lands in the Klamath Basin that are essential for the maintenance of the Pacific Flyway waterfowl resource and public recreation.

The Commission believes that S. 1988 with the amendments recommended by the Secretary of Interior will not resolve all of the wildlife, recreation, and agricultural problems in the Klamath Basin, but it does provide more security for those values than any prior action and it is considered an essential step in the development of a sound resource management program for the area.

In studying S. 1988 and the proposed amendments, the following questions have arisen and we submit them to you for evaluation and favorable consideration in your study of the matter.

*Section 2. Terms "major and optimum"*

The words "major" and "optimum" in lines 6 and 7 of section 2, in our judgment, leave some question as to the priority waterfowl may receive in the development and management of the refuge lands. It is assumed that the definition of these terms rests with the Secretary of Interior; however, the term "optimum agricultural use" could certainly be given a different interpretation by each of the interests involved in use of the lands. We would recommend use of the word "primary" in lieu of "major" and the words "compatible with waterfowl needs" for the word "optimum" in section 2.

*Section 2. Miller Lake and Straits unit*

The intent of the last sentence of section 2 (all the above lands shall remain permanently the property of the United States) is not clear. Does this sentence apply to all of the lands described in section 2 or only to those parcels described after line 9? We believe the intent of this clause should be more clearly defined.

With reference to the straits units in Oregon, we wish to emphasize that this 5,900-acre tract is currently fully utilized for agricultural purposes and is one of the most popular and heavily used public hunting areas in Oregon.

We question that the 97 acres of Federal land within the bed of Miller Lake in Oregon can be feasibly developed for waterfowl or agriculture as an individual unit.

*Section 3. Lieu payments to counties*

The provisions of section 3 provide for a reasonable payment to Modoc and Siskiyou Counties in lieu of taxes, but make no provision for similar payments upon lands within the Upper Klamath Refuge. Potential lease revenues from Hanks Marsh and the developed Upper Klamath Refuge give cause to suggest that the provisions of section 3 apply to all lands described in the act.

It also appears that all of the Federal lands within the Tule Lake and Lower Klamath refuges in Modoc and Klamath Counties are revenue producing and the provision for prorating lease revenues on the basis of total acreage in each county gives Siskiyou County a large portion of the benefits.

*Section 4. Agricultural leases*

This provision delegating leasing authority to the Secretary of Interior gives some cause for concern, but the stated objective of "administering the lands for the major (or primary) purpose of waterfowl management" is believed reasonable security.

The 25-percent limitation upon row crops is good and should be maintained.

*Sections 5 and 6. Security of water*

Provisions of the Oregon-California Klamath River compact and increasing demands for water for all beneficial purposes in the Klamath Basin give cause to be concerned for future water supply problems upon all of the refuge lands.

It is believed that sections 5 and 6 provide reasonable security of water at the present time and that plans for future water development in the basin should include water storage for wildlife purposes.

In conclusion, the Oregon Game Commission emphasizes that the immediate need in the Klamath Basin is for congressional action to stabilize the existing refuge lands so that an orderly multiple-use development program can be initiated and executed by both wildlife and agricultural interests. Past speculation upon homesteading or other disposal of the Federal lands has been a cause of turmoil and delay for the past quarter century or more.

The commission recognizes that this proposal does not authorize needed development programs for existing and potential refuge lands in the basin, but is confident that with the security provided in this act the Department of the Interior will be able to develop constructive development plans that will be acceptable to the Congress and all interests.

Your consideration of the commission's views on this important matter is appreciated and I request that this statement be made a part of your hearing record.

Sincerely yours,

P. W. SCHNEIDER, *Director.*

The CHAIRMAN. May I thank everyone for a very long day.

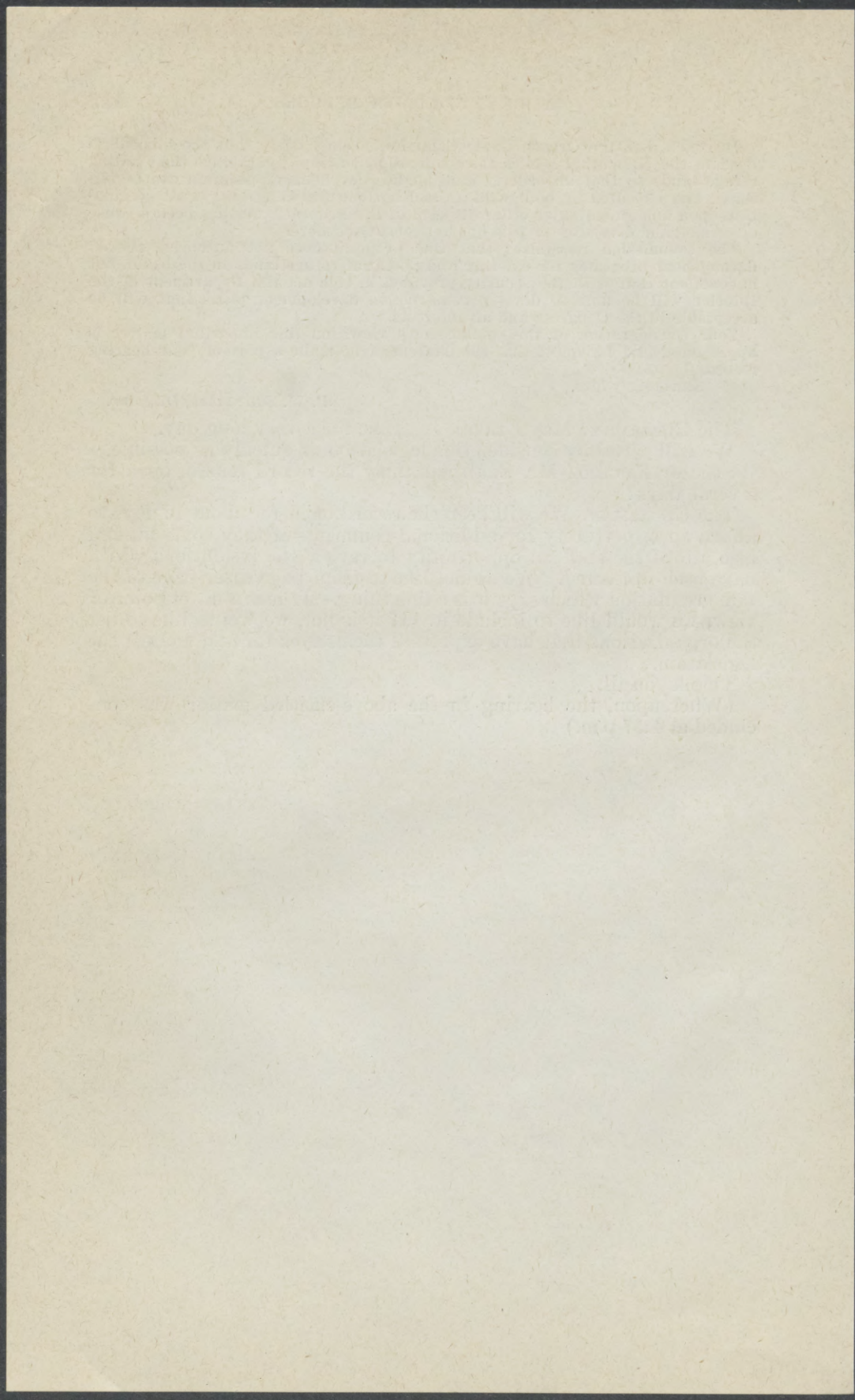
We will certainly consider this legislation as quickly as possible.

Senator KUCHEL. Mr. Chairman, may the record remain open for several days?

The CHAIRMAN. We will keep the record open for about 10 days to afford an opportunity for additional comments if they come in, and also afford the staff an opportunity to review the resolutions which have been presented. We do not like to print page after page of the same resolution which says it is a fine thing. If it is a novel point of view, we would like to include it. If it is not, we would like to list the organizations that have expressed themselves for and against the legislation.

Thank you all.

(Whereupon, the hearing in the above-entitled matter was concluded at 4:57 p.m.)



## APPENDIX

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(The following letters, statements, and editorials were submitted during and after the hearing. They were ordered printed as an appendix to the record:)

### COOPERATIVE EXTENSION WORK IN AGRICULTURE AND HOME ECONOMICS

#### STATE OF CALIFORNIA

TULELAKE, CALIF., *February 2, 1962.*

Re cereal production on Clear Lake Wildlife Refuge.

HON. THOMAS KUCHEL,  
U.S. Senator, Senate Office Building,  
Washington, D.C.

DEAR SENATOR KUCHEL: In 1956, at the request of the U.S. Bureau of Reclamation, I started a field testing program on the Clear Lake Wildlife Refuge near Tulelake. The field tests were carried on for 4 years, starting in 1956 and were completed in 1959. The land preparation, fertilization, planting, irrigation, and harvesting was done jointly with personnel from the U.S. Bureau of Reclamation and from my office.

The results of these 4 years of testing were conclusive in proving that good yields of high-quality oats and barley can be raised on much of the land in the refuge. We also found out that the summer frost hazard at Clear Lake is much less than in Tulelake. This data was obtained by a recording thermometer placed at the field trial locations.

Our tests included irrigation, fertilization, and variety studies. We learned that by applying 40 pounds of nitrogen per acre to barley and oat land that the resulting yields will average about 2,800 pounds and 2,750 pounds per acre, respectively, for the above-mentioned crops. In 1957 the barley yielded slightly over 2 tons per acre.

The results of these tests should lead to a development of the Clear Lake Refuge for a waterfowl feeding and resting area. Very few birds now use this refuge, for there is no food available for them. Of the 32,740 acres on the refuge, several thousand acres should be developed and planted to cereal grains. If this is done and properly cared for, it would make an available feed supply for several million birds during the spring and fall migrations.

If you have any questions regarding this work, I will be very happy to try to answer them for you.

Sincerely yours,

K. G. BAGHOTT, *Farm Adviser.*

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*Waterfowl use days, Lower Klamath-Tule Lake refuges, September-December*

| Year | Lower Klamath geese | Tule Lake geese | Total geese (use days) | Lower Klamath percent of geese use | Tule percent of geese use |
|------|---------------------|-----------------|------------------------|------------------------------------|---------------------------|
| 1954 | 2,796,814           | 11,795,583      | 14,592,397             | 19.2                               | 80.8                      |
| 1955 | 6,617,023           | 13,840,022      | 20,457,045             | 32.3                               | 67.7                      |
| 1956 | 7,356,164           | 16,201,689      | 23,557,853             | 31.2                               | 68.8                      |
| 1957 | 2,149,180           | 8,929,868       | 11,079,048             | 19.4                               | 80.6                      |
| 1958 | 4,973,290           | 11,543,420      | 16,516,710             | 30.1                               | 69.9                      |
| 1959 | 6,119,610           | 12,719,847      | 18,839,457             | 32.5                               | 67.5                      |
| 1960 | 6,258,350           | 9,693,250       | 15,951,600             | 39.2                               | 60.8                      |
| 1961 | 9,099,228           | 12,123,634      | 21,222,862             | 42.9                               | 57.1                      |

| Year | Lower Klamath ducks | Tule Lake ducks | Total ducks (use days) | Lower Klamath percent of ducks use | Tule percent of ducks use |
|------|---------------------|-----------------|------------------------|------------------------------------|---------------------------|
| 1954 | 18,901,820          | 112,523,565     | 131,425,385            | 14.4                               | 85.6                      |
| 1955 | 65,382,611          | 116,721,356     | 182,103,965            | 35.9                               | 64.1                      |
| 1956 | 47,734,155          | 93,790,333      | 141,524,488            | 33.7                               | 66.3                      |
| 1957 | 33,941,742          | 83,423,205      | 117,364,947            | 28.9                               | 71.1                      |
| 1958 | 115,049,270         | 132,975,850     | 248,025,120            | 46.4                               | 53.6                      |
| 1959 | 99,690,500          | 107,019,640     | 206,710,140            | 48.2                               | 51.8                      |
| 1960 | 84,498,057          | 75,377,050      | 159,875,107            | 52.9                               | 47.1                      |
| 1961 | 65,960,623          | 43,463,329      | 109,423,952            | 60.3                               | 39.7                      |

## STATEMENT OF DEVEREUX BUTCHER, EDITOR, NATIONAL WILDLANDS NEWS

The editors of National Wildlands News, an independent, monthly newspaper with nationwide circulation, approve of the provisions of S. 1988, with the amendments proposed by the Department of the Interior.

Having followed for many years the problems involved in maintaining these national wildlife refuges—namely, Tulelake, Lower Klamath, and Upper Klamath—in northern California and southern Oregon, and having visited them during an autumn migration of waterfowl, when there were estimated to be 3 million birds on them, the editors feel that it is time these strategic wildlife areas be given the permanence provided by this legislation, and which is fully justified by their natural significance.

These wildlife refuges, in effect, constitute a bottleneck in the Pacific waterfowl flyway, which accounts for the exceptionally large number of birds to be seen on them during migration periods. At these times of the year, the refuges comprise a spectacle comparable to many of the inspiring wonders of nature to be seen in our country, including such features as the Grand Canyon and Crater Lake. It is our opinion, therefore, that no effort should be spared to retain or increase the value of the areas to the birds. Much has been said about the importance of these refuges to the Pacific Flyway and what their impairment would mean to the flyway, and we need not reiterate it here. We simply emphasize that the status of the areas, as refuges, has been far too precarious, particularly Tule Lake, and they should be given the security that their importance demands.

We, therefore, urge that S. 1988, with Department of the Interior amendments, be reported favorably to the full committee by this subcommittee.

## STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY OF CITIZENS COMMITTEE ON NATURAL RESOURCES

Mr. Chairman, I am Spencer M. Smith, Jr., secretary of the Citizens Committee on Natural Resources, a national conservation organization with headquarters in Washington, D.C. We wish to add our support to the efforts of conservationists throughout the country who have strongly endorsed S. 1988. The inexorable encroachment upon waterfowl habitat for one use after another has consistently reduced marshland everywhere.

Sometime ago, as members of this committee are aware, the duck stamp program, initiated and supported by American sportsmen to the extent of \$70 mil-

lion, purchased wildlife refuge stamps to purchase fast disappearing waterfowl and duck areas. Congress, in the last session manifested its concern by authorizing a \$105 million advance per year, for 7 years, to be repaid from the proceeds of duck stamps. It was deemed impossible to meet the immediate needs by the usual methods of acquisition, and this accelerated program resulted.

In a very real sense, the three refuges under consideration have a significant impact on the recreation of those residing in about nine Western States. In an effort to stabilize the boundaries of these three refuges, this is really a last ditch effort to maintain good producing waterfowl areas. Once the Klamath Marsh consisted of approximately 190,000 acres, but over the years the marsh areas of Tule and Lower Klamath Lakes have been reduced to approximately 25,000. It is amazing that the refuges, from such a reduced land base, continue to provide nesting and eating habitat for approximately 80 percent of the ducks of the Pacific Flyway.

In addition, these areas make a significant contribution to the overall waterfowl resources which is at this time in jeopardy. Unless we are able to not only stabilize, but turn the tide of the disappearance of wetlands area, the future for waterfowl production will be dark indeed. There is little that we can add to the long list of most capable witnesses as to the specific reasons for maintaining and protecting these refuges, and we are likewise aware that the so-called Tule Lake problem has long been with us. The competition of waterfowl areas, with the irrigation interests, has been long and involved. Suffice to say, however, the relative yields from crop production are not as significant as the yields from waterfowl production. We are not protesting the agricultural lease agreements on these refuge lands, nor have we done so in the past. We do protest, however, that all of the values found at these three refuges can be duplicated at other areas, thus leaving the area to be utilized by irrigation activities. The area most indicated as an alternative to these three refuges is that of Clear Lake.

There appears to have been too great a generalization from a test case near Clear Lake. As the committee is aware, such an experiment cannot be generalized to the degree that this area will survive all of the requirements for waterfowl production that is found in the three refuges. The location, cost of inputs to obtain high productivity, natural vegetation, are all pertinent questions that have not been answered by those advocating this substitute. It has been suggested by the witnesses that if the area is so desirable for agriculture, why not shift the agricultural activities rather than the more unique and peculiar needs of waterfowl.

Still others have been advocating the use of other areas or greater intensive use of other refuges in order to compensate for the refuge loss at the Tule Lake area. There are significant problems, however, the most important being that these areas and other refuges are not within the historical flight paths of the Klamath Basin birds. From all the evidence that is available to our committee, and I might add that many of our members are outstanding biologists, there seems to be no substitute wetlands near these three refuges.

We hope the committee will favorably consider S. 1988 and report the measure at an early date.

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RESOLUTION OF INTERNATIONAL ASSOCIATION OF GAME, FISH, AND CONSERVATION COMMISSIONERS

Whereas the management and preservation of waterfowl resources in Western North America depend in large part on the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in California and Oregon; and

Whereas these refuges provide essential nesting, resting, and feeding habitat for 75 percent of the ducks and geese in the Pacific Flyway; and

Whereas these refuges prevent substantial crop depredation losses in California by retarding the annual fall migration: Now, therefore, be it

*Resolved*, That this association hereby reaffirms and renews its request that the Department of the Interior refuse to consider any proposals that would reduce the area or effectiveness of the aforementioned refuges; and, be it further

*Resolved*, That the International Association of Game, Fish, and Conservation Commissioners again urges the Secretary of the Interior to recommend and the Members of Congress to enact legislation along the lines of S. 1988 that will establish and permanently dedicate the Tule Lake, Lower Klamath, and

Upper Klamath National Wildlife Refuge for the purposes of waterfowl preservation and management, rather than to allow their future existence to rest entirely upon the insecure foundation of Executive orders.

SEATTLE, WASH., February 4, 1962.

Senator WARREN G. MAGNUSON,  
U.S. Senate,  
Washington, D.C.:

Since you, Senator Magnuson, are a resident of Washington, you are no doubt already well aware of how important the Klamath-Tule Lake waterfowl refuge is to our migratory ducks.

Ducks do not have much trouble finding places to rest, feed, and obtain water \* \* \* until they reach California. From there on it is sometimes more than 1,000 miles between stops. And, one of the most important stops is the Klamath-Tule Lake waterfowl refuge. Without that refuge we will kiss the ducks—at least the migratory ones—goodby in our Western States.

I therefore urge you not only to support Senator Kuchel's bill which gives the refuge permanent status, but also to use your influence to persuade other Senators to do likewise. With your prestige you will—I'm sure—swing many crucial votes which will be necessary to insure passage of the bill.

In return you will have the heartfelt thanks—and support—of the conservation minded people in Washington.

Sincerely yours,

VIRGIL E. HARDER.

PORTLAND CHAPTER,  
Izaak Walton League of America, Inc.,  
Portland, Oregon, February 7, 1962.

Hon. CLINTON ANDERSON,  
Senate Interior and Insular Affairs Committee,  
U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: The Portland Chapter of the Izaak League firmly supports the principle of S. 1988 relating to stabilization of Federal waterfowl lands in the upper Klamath Basin of Oregon and California.

The Klamath Basin waterfowl refuges are a key to the maintenance of waterfowl resources in the entire Pacific Flyway. It is absolutely essential that the requirements of waterfowl receive primary consideration in the planning for development and utilization of the Federal lands remaining in the basin.

The Portland Chapter has, for many years, aggressively urged both the Congress and the Department of the Interior to classify all of the existing refuge lands and certain additional Federal lands for retention in public ownership and compatible multiple-use development. These efforts have resulted in a series of Secretaries' decisions, which have permitted disposal of much of the original Federal ownership, but have maintained a nucleus of key lands essential for waterfowl.

We are confident that a clear-cut congressional definition of the Federal policy relating to these lands will beneficially serve waterfowl, public recreation, and agriculture.

I am enclosing a copy of a report by the chapter's waterfowl committee for reference by your committee.

We trust that the Senate Interior and Insular Affairs Committee and the Congress will act favorably upon this important legislation.

Sincerely yours,

W. H. HAYDEN, *President.*

SPECIAL REPORT, PORTLAND CHAPTER, IWLA MIGRATORY BIRD COMMITTEE  
FEBRUARY 6, 1962

The migratory bird committee, composed of H. C. Tobin, Dr. Roy Deiter, and Frank B. Wire, has studied the Kuchel bill, S. 1988, and related amendments suggested by the Department of the Interior.

The primary objective of this legislation is to provide security for the waterfowl resource in the Klamath Basin by precluding disposal of federally owned land and water areas within the Executive order boundaries of the

Tule Lake, Lower Klamath, and Upper Klamath Refuges and certain other tracts.

In reviewing the many past resolutions of the Portland Chapter and the Oregon Division of the Izaak Walton League, it is our opinion that S. 1988, with amendments suggested by the Department of the Interior, provides a reasonable compromise of the league's stated objectives and local demands of agricultural and other land uses.

The league has in the past resolved that essential Federal refuge lands should be retained in public ownership and administered by the U.S. Fish and Wildlife Service, so that primary consideration of wildlife and recreational values would be assured and that agency would have more security for needed development work. S. 1988 leaves the refuge lands under a dual administration, with the Bureau of Reclamation responsible for all leasing and agricultural development, but providing that not more than 25 percent of the land can be planted to row crops.

In recent years the Fish and Wildlife Service has been producing 5,000 to 7,000 acres of barley on refuge lands for the essential purpose of feeding and holding birds in the Klamath Basin until rice and other vulnerable crops in the Sacramento Valley have been harvested. As we read the proposed legislation, the Bureau of Reclamation could lease farming privileges on all of the refuge lands. It is assumed that the definition "for the major purpose of waterfowl management" provides cause to believe that the two agencies, under the supervision of the Secretary of Interior, will cooperate in developing a compatible land use program.

The intent of the last sentence of section 2 of the proposed legislation "All of the above lands shall remain permanently the property of the United States" is not clear to the committee. If this clause applies to all lands described in section 2, it seemingly precludes any future land exchanges such as those suggested by Tulana Farms, and it assures continued public ownership of the 5,900-acre "Straits" unit, which is the only portion of Lower Klamath Refuge extending into Oregon.

In some instances, blocking of the Federal ownership through land exchanges appears desirable, but such a provision in the act would leave the door open for further exploitation of the more productive lands within the refuges.

Section 3, relating to payments to counties (25 percent of lease revenues) in lieu of taxes, appears desirable, but for some reason Klamath County is not listed as one of the beneficiaries of this section. It appears that the provision should embrace all of the described lands and all three counties.

Section 6, relating to security of water, is not fully understood by the committee. It is assumed that this section provides as much security of water as is possible in the light of existing contracts with irrigation districts and other valid water rights in the basin.

If and when additional water storage or development programs are initiated, it should be possible to allocate additional water for beneficial use in essential refuge lands.

#### CONCLUSION

It is the judgment of the Portland Chapter's Migratory Bird Committee that the principles of S. 1988 with the amendments suggested by the Department of the Interior is deserving of the league's wholehearted support.

It represents the first essential step in the development of a stable and coordinated land-use program upon Federal waterfowl lands remaining in the Klamath Basin.

The committee suggests that the Portland Chapter immediately notify the Senate Interior and Insular Affairs Committee that it endorses the principle of S. 1988 and urges passage of it or similar legislation that will preclude further disposal of essential waterfowl habitat in the Upper Klamath Basin.

The first hearing on this bill is scheduled for February 28, 1962.

#### RESOLUTION NO. 328 OF CITY COUNCIL OF THE CITY OF TULELAKE, CALIF.

Whereas the city of Tulelake is composed of a number of small businesses whose economy is dependent primarily on agriculture but welcomes the seasonal trade derived from hunting; and

Whereas Senate bill, S. 1988, does not provide satisfactory in-lieu taxpayment on public lands in Siskiyou and Modoc Counties within the immediate area of Tulelake; and

Whereas the United States is completing a \$3,500,000 construction program to reconstruct the irrigation facilities and establish 164 farm units averaging 100 acres in size for eventual private ownership; and

Whereas the effect of Senate bill, S. 1988, would stifle the present and future economy of this area and promote conflicts between local government and Federal Government: Now, therefore be it

*Resolved by the City Council of the city of Tulelake*, That Senate bill, S. 1988, as proposed to be amended by the Department of the Interior be opposed; and be it further

*Resolved*, That this council endorse the amendments to Senate bill, S. 1988, as proposed by the people of the Klamath Basin as legislation more fully recognizing the cooperative utilization of the public land and water resources within the Klamath Basin.

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SAN LUIS OBISPO SPORTSMEN'S ASSOCIATION,  
*San Luis Obispo, Calif., February 1, 1962.*

HON. CLINTON P. ANDERSON,  
*Senate Office Building, Washington, D.C.*

SIR: We sincerely urge your support for bill S. 1988 concerning the Tule-Klamath legislation. This bill will surely mean much to California sportsmen for years to come.

Sincerely,

---

GILBERT W. BABCOCK, *Secretary.*

REDLANDS FISH & GAME CONSERVATION ASSOCIATION,  
*Redlands, Calif., January 31, 1962.*

HON. CLAIR ENGLE,  
*Senate Office Building,  
Washington, D.C.*

DEAR SENATOR ENGLE: The Redlands Fish & Game Conservation Association wishes to go on record as being in favor of Senate bill 1988, giving permanent protection to the Tule-Klamath waterfowl management area.

We feel that this bill is of extreme importance to the waterfowl resources of California and the Pacific Flyway.

The 300 members of our club urge you to give your support to the passage of this bill.

Yours truly,

---

WILLIAM D. DERBY,  
*Secretary-Treasurer.*

REDLANDS, CALIF., *January 31, 1962.*

HON. CLINTON P. ANDERSON,  
*Chairman, Senate Committee on Interior and Insular Affairs,  
Senate Office Building, Washington, D.C.*

DEAR SIR: May I urge you to support Senate bill 1988, the Tule-Klamath waterfowl management area legislation, to be heard by the committee on February 21, 1962.

This legislation would give permanent protection to an area vital to the waterfowl population of the Pacific Flyway by halting any further encroachment by reclamation of this important marshland.

Sincerely,

---

FRANK D. ADAMS.

RESOLUTION OF THE BOARD OF SUPERVISORS OF SISKIYOU COUNTY, CALIF.

Whereas Senate bill 1988 as proposed to be amended by the Secretary of the Interior has been introduced for passage by the Congress of the United States; and

Whereas the effect of such bill would be to eliminate the securing of private property of Federal land in the Klamath Basin; and

Whereas the United States owns approximately 63 percent of the county of Siskiyou and there is a dire need for more land to be available on which to build homes and farms; and

Whereas such land which would be subject to this bill is desirable and useful for such purposes without in any way endangering the protection of wildlife; and

Whereas Senate bill 1988 does not provide satisfactory in-lieu taxpayment on public lands in Siskiyou County within the Executive order boundaries of Lower Klamath National Wildlife Refuge and Tule Lake National Wildlife Refuge: Now, therefore, be it

*Resolved by the Board of Supervisors of the County of Siskiyou*, That such board of supervisors go on record as opposing Senate bill 1988 as proposed to be amended by the Secretary of the Interior; and be it further

*Resolved*, That the Board of Supervisors of the County of Siskiyou go on record as endorsing the amendment to Senate bill 1988 proposed by the people of the Klamath Basin as a possible solution.

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RESOLUTION No. 5 OF THE IZAAK WALTON LEAGUE OF AMERICA, INC.

Whereas the United States through the Bureau of Reclamation administers approximately 95,000 acres of Federal land in the vicinity of Tule Lake, Lower Klamath Lake, and Upper Klamath Lake; and

Whereas these and other Federal lands in the Klamath Basin were declared to be a waterfowl refuge by Executive order in 1908 for the purpose of maintaining migratory waterfowl in the Pacific Flyway; and

Whereas through reclamation, homesteading, and other acts, approximately 87 percent of the original 187,000 acres of marsh and water habitat in the Tule Lake and lower Klamath areas has been drained; and

Whereas a decision of the Secretary of the Interior dated 1958 indicated that a further disposal of Federal lands within existing waterfowl refuges was anticipated; and

Whereas any further disposal of Federal lands within the Tule Lake, Lower Klamath, or Upper Klamath Lake refuges will jeopardize the waterfowl resource, increase depredations upon privately owned agricultural lands, and reduce recreational opportunities for the public: Now, therefore, be it

*Resolved by the Izaak Walton League of America in national convention assembled in Chicago, Ill., this 24th day of June 1961*, That the Congress of the United States be urged to enact legislation that will preclude further disposal of the Federal lands within the Executive order boundaries of Tule Lake, Lower Klamath and Upper Klamath Lake refuges, and declare that the production and maintenance of migratory waterfowl and public recreation shall be the primary use of these Federal lands.

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RESOLUTION No. 14 OF OREGON DIVISION OF THE IZAAK WALTON LEAGUE OF AMERICA

(Relates to waterfowl habitat in Klamath-Tule Lake Basin)

Whereas the matter of stabilizing with security existing assential waterfowl habitat in the Klamath-Tule Lake Basin of Oregon and California continues to be a matter of urgent necessity; and

Whereas there is legislation currently before Congress along with recommendations from the U.S. Secretary of the Interior designed to accomplish this end: Now, therefore, be it

*Resolved*, That the Oregon division of the Izaak Walton League of America, in convention assembled at Eugene, Oreg., this 3d day of December 1961, urge the Congress of the United States to proceed with all possible dispatch to pass this necessary legislation with appropriate amendments which will accomplish the necessary legal stability and security for waterfowl in this urgent matter so necessary to the maintenance of the internationally important natural resource of migratory waterfowl.

PORTLAND CHAPTER,  
 IZAAK WALTON LEAGUE OF AMERICA, INC.,  
 Portland, Oreg., August 4, 1961.

Senator CLINTON P. ANDERSON,  
 Chairman, Internal Affairs Committee,  
 Senate Office Building, Washington, D.C.

DEAR SENATOR: For many years this chapter has taken the lead in sponsoring protection of the natural duck preserves in the Tule Lake area.

We urge that you bring up for immediate hearing and action Senate bill 1988 and enter this letter in the record in behalf of the legislation.

Yours truly,

CARROLL P. WILLIAMS, *President.*

GRASSLAND WATER DISTRICT,  
 Los Banos, Calif., February 15, 1962.

Re bill No. S. 1988.  
 Hon. CLINTON P. ANDERSON,  
 U.S. Senate,  
 Senate Office Building, Washington, D.C.

DEAR SENATOR ANDERSON: Pertaining to bill No. S. 1988, the Tule Lake-Klamath legislation, to be heard by your committee on February 23, the Grassland Water District urges a favorable report for passage of this necessary legislation.

It is our belief that this legislation is within President Kennedy's natural resource program and within the Outdoor Recreation Resource Commission.

To allow these lands to revert to productive croplands would only be compounding the problem of surplus supply and the lands would not be placed for the beneficial use as suggested by Secretary of Agriculture Orville Freeman, wherein he recommended that 51 million acres of presently productive cropland must be withdrawn from production of food and fiber just to balance the supply with the demand.

It would be greatly appreciated by this district that our support of S. 1988 be placed of record in the committee hearing.

Sincerely yours,

J. MARTIN WINTON, *President.*

RESOLUTION No. 2920 OF CITY COUNCIL OF THE CITY OF REDDING, CALIF.

Whereas four recent drought years have brought the waterfowl population to dangerously low levels; and

Whereas the heritage of waterfowl along the Pacific Flyway, attenuated as it is, is dependent on the maintenance and preservation of waterfowl refuge areas in such as the Tule Lake and lower Klamath areas; and

Whereas continued encroachment by homesteading upon the wet lands can only unfavorably tip the scales against these migratory species of waterfowl; and

Whereas U.S. Senate bill No. 1988 will provide for the management of these marshlands so that the heritage of waterfowl along the Pacific Flyway will be preserved and made available for this and succeeding generations: Now, therefore, be it

*Resolved by the City Council of the City of Redding, as follows:*

1. That all of the foregoing recitals are true and correct; and
2. That U.S. Senate bill No. 1988, designed to preserve waterfowl refuge areas in the Tule Lake and Lower Klamath areas, is hereby approved and wholeheartedly supported.

PORTLAND, OREG., February 14, 1962.

Senator CLINTON P. ANDERSON,  
 Chairman, Committee of Interior and Insular Affairs,  
 U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: I am writing you in order that I may express my endorsement of the objectives of bill 1988 (as amended), which concerns the jurisdiction of certain public lands in the Lower Klamath Basin.

I feel that the Lower Klamath area mentioned in this bill is of an unusual importance to waterfowl, first because of its location and second, because of the

relative scarcity of suitable waterfowl habitat. In view of these facts and the apparent success of managing land for both ducks and agriculture in this locality, it does not seem unreasonable to ask that the U.S. Fish and Wildlife Service be able to exercise sufficient control over the future use of these lands to assure a management program which is reasonably compatible to wildlife as well as agriculture.

I wish that this letter be included as a part of the record of the forthcoming hearing.

Sincerely yours,

CHARLES E. TRAINER.

\_\_\_\_\_  
CALIFORNIA WILDLIFE FEDERATION, INC.,  
*Fresno, Calif., February 13, 1962.*

HON. CLINTON P. ANDERSON,  
*U.S. Senate, Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: I understand S. 1988, the Tule Lake-Klamath legislation, will be heard by your committee on February 23.

The more than 100,000 members of this federation join me in urging a favorable report for passage of this badly needed legislation.

We believe this proposal is entirely in keeping with President Kennedy's natural resources program and also fits in well with the recommendations of the Outdoor Recreation Resources Commission. In addition, Agriculture Secretary Orville Freeman publicly stated just last week that in the next 20 years more than 51 million acres of presently productive cropland must come out of production of food and fiber just to balance supply with demand. Secretary Freeman also suggested in his report to the people that the most beneficial use of this excess cropland would be for recreational and wildlife use. This alone would seem to warrant the permanent dedication of the Tule-Klamath to waterfowl use rather than to additional production of crops already in surplus supply.

I would very much appreciate these comments being inserted in the record of the committee hearing.

Sincerely,

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CECIL A. PHIPPS, *President.*

MERRILL, OREG., *February 19, 1962.*

HON. CLINTON P. ANDERSON,  
*Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: The proposed Tulana Farms, fish and wildlife land exchange has caused much controversy here in the Klamath Basin.

The enclosed tabulation of total landowners within the irrigation district of lower Klamath Lake is to correct a misunderstanding that the owners of adjacent lands are in favor of the exchange. We are opposed to such an exchange.

The above action was culminated at an orderly group meeting May 24, 1961, of the Klamath Drainage District members with all landowners represented. Mr. Dick Henzel, president of Tulana Farms, was asked to explain his position and all landowners expressed theirs.

The land in question, known as the straits unit, is surrounded on three sides by Klamath Drainage District landowners, and on the south by the State line of Oregon and California. This public land is now administered by the Bureau of Reclamation. We feel this land would best serve the local economy in several farm units.

Yours truly,

\_\_\_\_\_  
S. T. WALDRIP, *Acting Secretary.*

We the undersigned landowners in the Klamath Drainage District do hereby protest any trade or exchange of Bureau of Reclamation lands within the Klamath Drainage District for any other lands either adjacent or removed.

We further petition that the Bureau of Reclamation proceed without delay to prepare legislation, and to dispose of these lands by public sale.

We lastly petition that this land be sold in family units approximating the size and boundaries of the present lease lots without further construction by the Bureau of Reclamation.

The undersigned landowners represent 17 of a total number of 20 landowners. George Andrieu, Regis Andrieu, Leon Andrieu, S. T. Waldrif, administrator with the will annexed for the estate of Minola J. Cuddy, deceased, Oscar DeMault, W. S. Edwards, J. D. Finchum, Lawrence Gray, W. P. Hooper, Verland Huff, Liskey Farms, Inc., Virginia L. Liskey, Murel Long, Lawrence Motschenbacher, Lester C. Newton, O. H. Osborne, Richard Takacs.

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KLAMATH FALLS, OREG., *February 21, 1962.*

Senator WAYNE MORSE,  
*Senate Office Building,*  
*Washington, D.C.:*

As regards S. 1988, which comes up for consideration February 23, please be advised it is a special-interest bill and will not serve the best interests of the public. The land in Klamath Straights area serves several thousand hunters per year and most of us in the area feel that it should remain as it is, in the public domain.

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WARREN FRYBERGER ASHLAND.

SANTA CLARA, CALIF., *February 12, 1962.*

Hon CLINTON P. ANDERSON,  
*Chairman, Senate Committee on Interior and Insular Affairs,*  
*Senate Office Building,*  
*Washington, D.C.*

DEAR SENATOR ANDERSON: I wish to go on record as being in favor of Senator Kuchel's bill, S. 1988, and to have my views presented at the hearing on February 28.

The importance of the Tule Lake, Upper Klamath and Lower Klamath National Wild Life Refuges cannot be ignored by anyone who looks at a map of the migration routes followed by our wildfowl coming down from the north. This area is the most important resting and feeding area on the entire Pacific flyway. Even a lowering of the water level, as was allowed to happen within the last couple of years, was extremely disastrous to thousands and thousands of our ducks and geese.

If homesteading and drainage are permitted to "reclaim" this area, the resulting elimination of suitable habitat and necessary resting area will be the doom of wildfowl now using these refuges. They will go the way of the passenger pigeon, and face extinction, even as our national emblem, the bald eagle, is now doing, along with the whooping cranes, ivory-billed woodpeckers, and many other species. This wildlife is an extremely important part of our national heritage, which we are morally bound to perpetuate and to pass on to the generations to follow.

Such a small percentage of our national land is now in wildlife refuges; if we cannot get along and survive without "reclaiming" and "developing" that small percentage—at the expense of future generations who would be deprived of what we have had, and still enjoy—then we should declare a state of national bankruptcy, and "turn in our suit."

The need for preserving these areas as national wildlife refuges is much greater than the need for turning them over to individuals, or vested interests, motivated perhaps by the desire for the "fast buck" to be obtained by so-called development.

I hope that my views, as a citizen interested in the preservation of our natural resources and wildlife, will be presented and recorded at the hearing.

Very sincerely yours,

Dr. EVELYN H. CASE.

STATE OF NORTH CAROLINA  
WILDLIFE RESOURCES COMMISSION,  
*Raleigh, N.C., February 15, 1962.*

HON. CLINTON P. ANDERSON,  
*U.S. Senate,  
Washington, D.C.*

DEAR SENATOR ANDERSON: We understand that your Senate Committee on Interior and Insular Affairs will hold a hearing on S. 1988, the Tule-Klamath refuge bill, on Wednesday, February 28, 1962.

The passage of this bill is important in the work which is now being done to save and increase our valuable continental waterfowl populations. We hope that you will add our name to the list of the many other conservation organizations that are giving support to this measure.

We will appreciate very much your assistance and the assistance of Senator Sam J. Ervin and Senator Everett Jordan of North Carolina with the enactment of this measure.

Respectfully yours,

CLYDE P. PATTON.

SPORTSMEN'S COUNCILS OF NORTHERN CALIFORNIA, INC.,  
*North Highlands, Calif., February 16, 1962.*

Senator CLINTON P. ANDERSON,  
*Chairman, Irrigation and Reclamation Subcommittee,  
New Senate Office Building, Washington, D.C.*

DEAR SENATOR ANDERSON: The 40,000 organized sportsmen of the Sportsmen's Councils of Northern California urge your support of S. 1988, Klamath-Tule refuge bill.

The council has given this bill careful consideration and believes it essential to enhance the Pacific coast migratory waterfowl flyways.

In conclusion, we again urge your favorable support of this bill and request that it be read into the official committee records.

Sincerely,

ROBERT E. McMULLEN, *Secretary*  
(for EVERETT H. WATKINS, President).

OREGON DUCK HUNTER'S ASSOCIATION,  
*February 16, 1962.*

HON. Senator MAURINE NEUBERGER,  
*U.S. Senate, Washington, D.C.*

HON. SENATOR NEUBERGER: At our membership meeting held on February 13, 1962, a motion was made, seconded, and carried that we endorse the objectives of Senate bill 1988, as amended. It is requested that the recommendation of this club be made a part of the official record on this legislative proposal.

Respectfully yours,

R. F. SCHILLINGER, *Secretary.*

OREGON AUDUBON SOCIETY,  
*Portland, Oreg., February 19, 1962.*

Senator CLINTON P. ANDERSON,  
*Chairman, Senate Committee on Interior and Insular Affairs,  
Washington, D.C.*

DEAR SENATOR ANDERSON: The Oregon Audubon Society is most interested in the future of the three existing Federal wildlife refuges in the Upper Klamath River Basin of Oregon and California. Our concern goes back to the very beginnings of this society when through the photographic efforts of William L. Finley and Herman T. Bohlmann, national attention was brought to these areas. Ter-

rible depredations by the plume and market hunters during the migrations inspired President Roosevelt to set aside the Lower Klamath Refuge in 1908.

The Oregon Audubon Society has maintained interest over the years, only last fall it sponsored a caravan trip which included over 30 members from Portland alone to these refuges at the peak of the fall migration. When members are willing to drive 700 miles and cross snowy mountain passes, and be prepared to camp in snow if necessary, just to see and photograph birds, that indicates real interest. There was also the desire to learn about the refuges first hand: its management and its policies and problems, and then lend its voice for more positive legislation and effective administration.

Therefore the Oregon Audubon Society respectfully suggests that legislation to be enacted cover these points:

1. Retain in Federal ownership the use of these lands primarily for waterfowl management by the U.S. Fish and Wildlife Service.
2. Round out the refuges by addition of suitable tracts of public land.
3. Close all refuge lands to homestead entry.
4. Continue present system of leasing certain agricultural lands and provide for the distribution of a portion of lease revenues, perhaps 25 percent among the counties in which the refuge is located.
5. Safeguard water supplies for the refuge, and make available an adequate amount for best waterfowl management.
6. Give adequate recognition to the Federal Government contractual obligations to the Tulelake Irrigation District in California and Klamath Drainage District in Oregon, and with the two States in setting aside this land, many years ago.

Very truly yours,

(MRS.) MARTHA ANN PLATT, *President.*

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STATE OF COLORADO,  
DEPARTMENT OF GAME AND FISH,  
*Denver, Colo., February 20, 1962.*

HON. CLINTON P. ANDERSON,  
*Chairman, Senate Committee on Interior and Insular Affairs,  
Washington, D.C.*

DEAR SENATOR ANDERSON: We here in Colorado are following closely the Tule-Klamath Refuge bill as well as other legislation and actions concerning conservation. We are in favor of S. 1988 with amendments suggested by the Department of the Interior, and we respectfully request that our views be considered when hearings are held on this bill February 28, 1962.

If you or members of your committee feel we can be of assistance in any wildlife conservation matters, please call on us any time.

Very truly yours,

HARRY R. WOODWARD,  
*Director.*  
ROBERT R. ELLIOTT,  
*Assistant Director, Management.*

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SOUTHERN COUNCIL OF CONSERVATION CLUBS, INC.,  
*Los Angeles, Calif., February 19, 1962.*

HON. CLINTON P. ANDERSON,  
*U.S. Senate,  
Senate Office Building,  
Washington, D.C.*

DEAR SENATOR ANDERSON: I understand S. 1988, the Tule Lake-Klamath legislation, will be heard by your committee on February 23.

The more than 23,000 members of this conservation council join me in urging a favorable report for passage of this badly needed legislation.

We believe this proposal, with Secretary of Interior Udall's proposed amendment, will stand out as some of the greatest conservation legislation for the preservation of one of our natural resources, migratory waterfowl.

The public shooting areas in the Tule-Klamath is of immeasurable value to the counties of Modoc and Siskiyou, the States of California, Oregon, and the United States of America. The recreation value of this area far overshadows the values placed on this area by selfish interest groups who would turn it over to private ownership.

I would very much appreciate these comments being inserted in the record of the committee hearing.

Sincerely,

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JOHN LOWERY, *President.*

WILDERNESS OF THE WEST,  
*Carmel, Calif., February 21, 1962.*

senator CLINTON P. ANDERSON,  
*Chairman, Senate Interior and Insular Affairs Committee*  
*Washington, D.C.*

DEAR SENATOR ANDERSON: I should like to urge immediate consideration and passage of S. 1988, which as I understand it will provide a more permanent basis for the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges. I have followed this controversy for some 40 years, dating back to my residence in Oregon at that time. A tragic mistake was made in draining much of the region at that time at the instigation of a small but powerful agricultural group. They still seem to be wielding considerable power and I think it is high time that the interests of the country as a whole were given primary consideration.

Very sincerely,

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C. EDWARD GRAVES.

STATE OF WYOMING,  
GAME AND FISH COMMISSION,  
*Cheyenne, February 21, 1962.*

Hon. CLINTON P. ANDERSON,  
*U.S. Senator,*  
*Senate Office Building,*  
*Washington, D.C.*

DEAR SENATOR ANDERSON: It is our understanding that hearings will be held on Wednesday, February 28, 1962, regarding the Tule-Klamath Refuge bill, S. 1988. We are writing this letter to make it a matter of record and wish to have included in the hearing proceedings that the Wyoming Game and Fish Commission very definitely supports the provisions of S. 1988.

Very truly yours,

S. J. JIACOLETTI,  
*State Game and Fish Commissioner.*





