

ELIMINATION OF LANDS FROM THE FLATHEAD INDIAN
IRRIGATION PROJECT, MONTANA

AUGUST 24, 1949.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MORRIS, from the Committee on Public Lands, submitted the
following

REPORT

[To accompany H. R. 2196]

The Committee on Public Lands, to whom was referred the bill (H. R. 2196) to authorize the elimination of lands from the Flathead Indian irrigation project, Montana, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 3, delete the word "and".

Page 1, line 4, delete the word "directed".

Page 1, line 7, delete the figure "22" and substitute in lieu thereof the figure "21".

Page 1, line 12, at the end of the line insert the following:

Provided further, That the obligations of the Flathead irrigation district for the repayment of the reimbursable construction costs of the Camas division of the Flathead Indian irrigation project shall not be reduced or otherwise affected by reason of the elimination of the land, and such elimination shall not be made until the board of commissioners of that district has consented thereto: *And provided further*, That notwithstanding the elimination of said land from the Flathead irrigation project there shall be reserved to the United States a right-of-way for ditches and canals now or hereafter needed for the operation and maintenance of the project works, and the owner of said land shall release the United States and its assigns from all liability for damage to said land by reason of the operations of the project.

EXPLANATION OF THE BILL

H. R. 2196, as amended, provides for the elimination of 12 acres of land from the Camas division of the Flathead Indian irrigation project, Montana.

The 12 acres in question, owned by Grace Prongua, Hot Springs, Mont., is now included in an irrigation district, which 12 acres, according to all testimony is wholly unfit for irrigation purposes. Water charges are made against the land, but no water is or can be used on the land. Mrs. Prongua, by letter, sets forth the following:

I am in the cattle business and purchased this land because it joins pasture of mine and afforded some grazing. The 12 acres more or less under the ditch is rough clay gumbo and alkali ground covered with scrub sage and is wholly unfit for agriculture. The cost to clear and level such ground would be too great to justify the venture if the soil when cleared and level, were productive. For the above reason I want this land eliminated from the project and water charges stopped. And while there is a kind of ditch to the land, I have been using the land for the past 10 years and I am positive that no water has been in the ditch other than that from rain or snow. And I have no knowledge of there ever having been water from the project in the ditch. However, water charges have always been assessed against this land, and collected, too. Living as I do on the Flathead irrigation project I pay for so much that I do not get, that I certainly do not want to pay water charges for this piece where I could not even water my saddle horse from project water. I tried to get the water commissioner here to do something for me and all the satisfaction I got was, "We can't do a thing about it. It will take an act of Congress to get anything done."

Evidence further discloses that Saunders County, Mont., is desirous of acquiring this land by purchase from Mrs. Prongua for use in connection with an airport to be constructed. The county does not want the land included in the irrigation district since the irrigation charges would continue although the land after purchase from Mrs. Prongua would be for airport purposes.

The Department of the Interior reported unfavorably on the bill for the reason that after all renegotiated contracts in the irrigation district are signed and approved (Public Law 554, 80th Cong., provides for contract resettlement on the project on or before May 25, 1950) the Secretary of the Interior would have authority to eliminate lands such as those in question from the irrigation district. The Department of the Interior agrees that the land should be eliminated, but desires that it be done under the provisions of Public Law 554, Eightieth Congress. The county, however, wishes to begin construction of the airport and does not want to wait until after all contract resettlements are made. The Department of the Interior replies by stating that if the land is eliminated, all contract resettlements now made would of necessity have to be renegotiated since the pro rata share on the land would be affected if certain lands were eliminated.

The committee, therefore, recognizing the position of all parties concerned, amended the bill to provide authorization for the Secretary of the Interior to eliminate the land in question from the irrigation district prior to all contract resettlement pursuant to Public Law 554, yet protecting the interests of all water users in the district by providing that the elimination of this 12 acres should not affect the reimbursable construction costs of the Camas division of the Flathead Indian Reservation.

The committee urges passage of the bill as amended.

No appropriation will be involved by the passage of this bill.

THE SECRETARY OF THE INTERIOR.

Washington, March 24, 1949.

HON. ANDREW L. SOMERS,
*Chairman, Committee on Public Lands,
House of Representatives.*

MY DEAR MR. SOMERS: Further reference is made to your letter of February 4, requesting a report on H. R. 2196, a bill to provide for the elimination of certain land from the Flathead Indian irrigation project.

While the land involved is suitable for elimination from the Flathead project, its exclusion by statute at this time appears to be both unnecessary and undesirable for reasons explained below. Accordingly, I recommend that H. R. 2196 be not enacted.

The tract of land referred to in the bill is part of a 120-acre tract owned by Grace Prongua. It is understood that she plans to sell the land to be eliminated from the project to the city of Hot Springs, Mont., for use as a city dump.

The Department has also been informed that an airport is being constructed on a tract of land contiguous to the land owned by Grace Prongua and west thereof, and that the construction work may make it necessary to relocate the irrigation ditch now crossing the land of Grace Prongua, so that the project may be in a position to continue to serve the irrigable land which lies to the east thereof.

The act of May 25, 1948 (Public Law 554, 80th Cong.), provides for the revision of the repayment contracts with the three irrigation districts on the Flathead Indian irrigation project. The new contracts must be completed within 2 years from the date of the approval of the act if the irrigation districts are to receive the benefit of the adjusted repayment provisions contained in the act. Section 3 of the act provides that the contracts are to contain, among other provisions, authority for the exclusion of land from the project by the Secretary of the Interior, with the consent of the holders of the water rights that would be canceled thereby.

A tentative draft of the contracts necessary to implement the provisions of the foregoing act has been prepared, after conferences with the boards of commissioners of the irrigation districts serving the Flathead project, and has been submitted to the local people for further study. This draft contains provisions for the exclusion of lands from the project which would be of general applicability to all lands suitable for elimination. When the contracts with the irrigation districts are executed, this Department will be in a position to consider an application from Grace Prongua for the elimination from the project of the land here in question, without the enactment of additional legislation.

The enactment of H. R. 2196 would tend to impede the completion of the new repayment contracts, and the authorization of the general procedure for eliminating lands from the project to be contained in those contracts, by necessitating revisions in the project acreage figures and the divisional cost allocations included in the tentative draft now being studied by the irrigation districts. If completion of the pending negotiations were to be deferred until final action by both Houses of the Congress on this bill, the putting into effect of the new contracts would be possibly delayed for several months, to the detriment of the water users of the project as a whole. On the other hand, if the negotiations were to be proceeded with during the pendency of the bill, its enactment would require subsequent revision of the acreage and cost figures which appear at several places in the tentative drafts of the proposed contracts.

Once the process required by Montana law for obtaining the consent of the individual water users to the contracts, the execution of the contracts by the irrigation districts, and the confirmation of the contracts by court action is started, the making of any revision in the terms of the contracts would seem to be impractical without starting the whole process anew. The making at the present time of the revisions that would be necessitated by this bill would be equally impractical, since the propriety of these revisions would be dependent upon the final enactment of the bill.

For these reasons I consider that the enactment of H. R. 2196 would be contrary to the best interests of the water users on the Flathead Indian irrigation project.

If your committee determines that favorable action should be taken on this bill, I recommend that two amendments be adopted. First, in line 7 the figure "22" should be changed to "21" in order to correct an error in the designation of the township in which the land involved is situated. Second, in order to prevent misconstruction of the intended effect of the bill, it would be desirable to insert

4 ELIMINATE LANDS FROM FLATHEAD INDIAN IRRIGATION PROJECT

at the end of line 12 the following clauses, which are designated to protect the interests of the United States and the Flathead irrigation district in the land to be eliminated:

“Provided, further, That the obligations of the Flathead irrigation district for the repayment of the reimbursable construction costs of the Camas division of the Flathead Indian irrigation project shall not be reduced or otherwise affected by reason of the elimination of the land, and such elimination shall not be made until the board of commissioners of that district has consented thereto: And provided further, That notwithstanding the elimination of said land from the Flathead irrigation project there shall be reserved to the United States a right-of-way for ditches and canals now or hereafter needed for the operation and maintenance of the project works, and the owner of said land shall release the United States and its assigns from all liability for damage to said land by reason of the operations of the project.”

Because of the imminence of scheduled hearings on the bill, this report has not been cleared with the Bureau of the Budget and I am unable to inform you as to its relation to the program of the President.

Sincerely yours,

OSCAR L. CHAPMAN,
Under Secretary of the Interior.

○