

AMENDING CERTAIN PROVISIONS OF THE ACT OF MAY 25,
1948 (PUBLIC LAW 554, EIGHTIETH CONGRESS), RELAT-
ING TO THE FLATHEAD INDIAN IRRIGATION PROJECT

MAY 15, 1950.—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

R E P O R T

[To accompany H. R. 8199]

The Committee on Public Lands, to whom was referred the bill
(H. R. 8199) to amend certain provisions of the act of May 25, 1948
(Public Law 554, 80th Cong.), relating to the Flathead Indian irriga-
tion project, having considered the same, report favorably thereon
with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

AMENDMENTS

Page 1, lines 9 and 10, strike the words "by May 25, 1951, as pro-
vided for in said Act" and insert in lieu thereof the following:

conforming to the provisions of said Act on or before May 25, 1951.

Page 2, lines 8 and 9, strike the words "provisions and requirements
of section 5 of said Act shall be effective" and insert in lieu thereof
the following:

appropriation authorizations of said Act shall be effective, and moneys appro-
priated thereunder shall be available for expenditure,

EXPLANATION OF THE BILL

The bill, H. R. 8199, amends the act of May 25, 1948 (62 Stat. 269),
by extending the period of time allowed the irrigation districts of the
Flathead Indian irrigation project to execute new repayment con-
tracts.

The act of May 25, 1948, requires acceptance of the terms of such
act by the three districts of such project within 2 years from the date

of such act. Two of the districts have executed new repayments contracts pursuant to the terms of the 1948 act but the third district has been unable to complete its acceptance of the act. This bill extends the time for acceptance of the 1948 act by the irrigation districts until May 25, 1951.

The bill further provides for the immediate settlement of long-standing obligations due the Indians under subsections 5 (a) (and (b) of the act of May 25, 1948.

The committee, after consideration of the evidence and testimony presented, found no controversy or objection with reference to the provisions of the measure. The passage of the bill will not necessitate the expenditure of any additional funds by the United States Government. The committee adopted certain clarifying amendments.

The report from the Department of the Interior clearly sets forth an explanation of the facts involved and of the bill. Such report is as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington D. C., May 10, 1950.

HON. J. HARDIN PETERSON,
*Chairman, Committee on Public Lands,
House of Representatives.*

MY DEAR MR. PETERSON: This is in further reference to your request of April 26 for a report on H. R. 8199, a bill to amend certain provisions of the act of May 25, 1948 (62 Stat. 269), relating to the Flathead Indian irrigation project. I recommend that the bill be enacted with the clarifying amendments hereafter suggested.

The non-Indian landowners on the Flathead Indian irrigation project, Montana, will benefit materially by having the irrigation districts embracing their lands accept the provisions of the act of May 25, 1948, within the time allowed by law for that purpose. Section 3 of the act in question now requires such acceptance to be manifested, through the execution of new repayment contracts by all of the irrigation districts on the project, within 2 years after the approval of that act. One of the three districts has not as yet executed the new contracts. The enactment of H. R. 8199 would permit the two districts which have accepted the act to obtain its benefits, and would allow the third district an additional year to complete the steps incident to such acceptance.

The contracts with the Secretary of the Interior required by the act of May 25, 1948, must contain provisions whereby the irrigation districts (1) obligate themselves to repay the construction costs chargeable against all irrigable lands embraced within the respective districts contracting (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of the act; (2) consent to such revisions in the limits of cost for the project, or any division thereof, as the Secretary of the Interior and the districts contracting may mutually agree upon in order to facilitate the making of improvements and extensions to the irrigation and power systems; (3) provide for the redetermination by the Secretary of the irrigable area of the project, or any division thereof, and for the exclusion of lands from the project with the consent of the holders of any water rights that would be canceled by such exclusion; and (4) make such other changes in the existing repayment contracts as the Secretary and the districts contracting may mutually agree upon for the accomplishment of the purposes of the act.

There are three irrigation districts embracing non-Indian-owned lands on the Flathead Indian irrigation project, namely, the Flathead, the Jocko Valley, and the Mission irrigation districts. The largest of these is the Flathead district with approximately 70,000 acres of irrigable land under assessment for operation and maintenance of the project. The Mission district has approximately 13,000 acres of irrigable land under assessment for such charges; and the Jocko Valley district has approximately 6,000 acres of irrigable land under such assessments. The Flathead and Jocko Valley districts, comprising approximately 85 percent

of the total irrigable assessable area, have each executed a repayment contract on the form approved by the Secretary as provided for in the act of May 25, 1948, and the contracts so executed have been confirmed by proceedings in a court of competent jurisdiction. These districts accordingly have complied with the terms and conditions of the act.

The Flathead and Jocko Valley districts, however, cannot now receive the benefits of the act of May 25, 1948, because the Mission district has, as yet, not met the requirements of the act. In view of the fact that the two districts which have already complied with the act embrace the great majority of the lands in non-Indian ownership within the Flathead Indian irrigation project, it seems only reasonable and just that the provisions of the act should be permitted to become effective with respect to the lands included within their boundaries, notwithstanding the failure of the third district to complete action on a new repayment contract. The interests of the United States would also be served by such action, since the provisions of the new contracts are beneficial to the United States as well as to the irrigation districts. The enactment of H. R. 8199 would afford an appropriate means of remedying this situation.

Under the provisions of this bill an additional period of time, namely, to May 25, 1951, would be accorded the Mission irrigation district in which to receive the benefits of the act of May 25, 1948, by executing a contract conforming to the terms and conditions of that measure. In the meantime, the repayment obligations of that district under its existing contract with the Secretary of the Interior would remain in full force and effect.

This bill also would permit the settlement of the obligations due the Indians of the Flathead Reservation under subsections 5 (a) and 5 (b) of the act of May 25, 1948. These subsections deal with obligations long outstanding. Further delay in their settlement would be disadvantageous to both the Indians and the United States. The proviso to the bill is designed to make possible an immediate settlement, as lands substantially in excess of the 70 percent there specified are embraced within the two irrigation districts which have already executed repayment contracts pursuant to the act.

For purposes of clarification it is recommended that at page 1, lines 9 and 10, the words "by May 25, 1951, as provided for in said Act" be deleted, and that the words "conforming to the provisions of said Act on or before May 25, 1951" be inserted in lieu thereof.

For like purposes it is recommended that at page 2, lines 8 and 9, the words "provisions and requirements of section 5 of said Act shall be effective" be deleted, and that the words "appropriation authorizations of said Act shall be effective, and moneys appropriated thereunder shall be available for expenditure," be inserted in lieu thereof.

Since the time for acceptance of the provisions of the act of May 25, 1948, will expire on May 25 of this year, the enactment of H. R. 8199 prior to the latter date would be most desirable.

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

Sincerely yours,

WILLIAM E. WARNE,
Acting Secretary of the Interior.

The committee unanimously urges favorable consideration of the measure, and further urges the immediate consideration of same inasmuch as this bill must be enacted prior to May 25, 1950, in order to bring about the desired results.

CHANGES IN EXISTING LAW

Pursuant to the provisions of clause 2a, rule XIII, of the Rules of the House of Representatives, proposed changes in existing law are set forth in the right-hand column. The existing law is set forth in the left hand column.

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[PUBLIC LAW 554—80TH CONGRESS]

[CHAPTER 340—2D SESSION]

[H. R. 5669]

AN ACT To provide for adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the repayment to the United States of all reimbursable costs heretofore or hereafter incurred for the construction of the irrigation and power systems of the Flathead Indian irrigation project in Montana (hereinafter called the project) including such operation and maintenance costs as have been covered into construction costs under the Act of March 7, 1928 (45 Stat. 200, 212-213), and supplemental Acts, and including the unpaid operation and maintenance costs for the irrigation seasons of 1926 and 1927 which are hereby covered into construction costs, shall be accomplished as prescribed by this Act, notwithstanding any provision of law to the contrary.

SEC. 2. (a) All costs heretofore or hereafter incurred for the construction of the irrigation system shall be allocated to the Mission Valley, Camas, and Jocko divisions of the project in proportion to the amount of such costs incurred for the respective benefit of each of these divisions.

(b) The net revenues heretofore and hereafter accumulated from the power system shall be determined by deducting from the gross revenues the expenses of operating and maintaining the power system, and the funds necessary to provide for the creation and maintenance of appropriate reserves in accordance with section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3).

(c) The deferred obligation established by the Act of May 10, 1926 (44 Stat. 453, 464-466), for repayment of the per acre costs of the Camas division in excess of the per acre costs of the Mission Valley division shall be determined on the basis of the costs heretofore incurred for the construction of those divisions, and shall be liquidated from the net revenues heretofore accumulated from the power system.

(d) The remainder of the net revenues heretofore accumulated from the power system shall be applied to reduce the reimbursable costs heretofore incurred for the construction of the power system, and the reimbursable costs heretofore incurred for the construction of the irrigation system (exclusive of the deferred

That the repayment adjustments and other provisions of sections 1 and 2 of the Act of May 25, 1948 (Public Law 554, Eightieth Congress), providing for the adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes, shall be effective as to lands included in any irrigation district which has or which shall have entered into a contract conforming to the provisions of said Act on or before May 25, 1951. Said Act as herein amended shall not be deemed to defer the repayment obligations provided for in existing contracts between the Secretary of the Interior and any irrigation district on the Flathead Indian irrigation project which has not entered into a repayment contract conforming to the provisions of the Act of May 25, 1948, as herein amended, unless and until such district shall have entered into such a contract: *Provided*, That the appropriation authorizations of said Act shall be effective, and monies appropriated thereunder shall be available for expenditure when an irrigation district or districts containing not less than 70 per centum of the irrigable acreage of the non-Indian lands within the Flathead Indian irrigation project shall have entered into repayment contracts under said Act.

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obligation for the excess costs of the Camas division) as allocated among the several divisions pursuant to subsection (a) of this section, in proportion to the respective amounts of each of the foregoing categories of costs.

(e) The reimbursable costs heretofore incurred for the construction of the irrigation system of each division of the project and not repaid through the credits provided for in subsections (c) and (d) of this subsection shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period of fifty years from January 1, 1950. The reimbursable costs hereafter incurred for the construction of the irrigation system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be distributed over all irrigable lands within the division on an equal per acre basis, and the costs so charged against any parcel of lands within the division shall constitute a first lien thereon under the Act of May 10, 1926 (44 Stat. 453, 464-466). Upon the maturity or prepayment of any annual installment, the amount of the installment shall be reduced by deducting any sums included therein which are chargeable to lands on which the collection of construction costs is then deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or which are chargeable to other lands and have been already repaid to the United States.

(f) The reimbursable costs heretofore incurred for the construction of the power system and not repaid through the credits provided for in subsections (c) and (d) of this subsection, or through other credits from the revenues of the power system, shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period not exceeding the remaining useful life of the power system as a whole, or not exceeding fifty years from January 1, 1950, whichever period is the lesser. The reimbursable costs hereafter in-

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curred for the construction of the power system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be repaid to the United States solely out of the revenues from the power system.

(g) Electric energy available for sale through the power system shall be sold at the lowest rates which, in the judgment of the Secretary of the Interior, will produce net revenues sufficient to liquidate the annual installments of the power system construction costs established pursuant to subsection (f) of this section, and (for the purpose of reducing the irrigation system construction costs chargeable against the lands embraced within the project and of insuring the carrying out of the intent and purpose of legislation and repayment contracts applicable to the project) to yield a reasonable return on the unliquidated portion of the power system construction costs, and (for the same purpose) to yield such additional sums as will cover the amount by which the wholesale value of the electric energy sold exceeds the cost thereof where such excess is the result of the electric energy having been obtained on a special basis in return for water rights or other grants.

(h) All net revenues hereafter accumulated from the power system shall be applied annually to the following purposes, in the following order of priority:

(1) To liquidate all matured installments of the schedule of repayments for construction costs of the power system;

(2) To liquidate all matured installments of the schedule of repayments for construction costs of the irrigation system of each division, on an equal per acre basis for all irrigable lands within the division;

(3) To liquidate unmatured installments of the schedule of repayments for construction costs of the power system which will mature at a date not later than the maturity of any unliquidated installment of irrigation system construction costs;

(4) To liquidate unmatured installments of the schedule of repayments for

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construction costs of the irrigation system of each division which will mature at a date prior to the maturity of any unliquidated installment of power system construction costs, on an equal per acre basis for all irrigable lands within the division;

(5) To liquidate construction costs chargeable against Indian-owned lands the collection of which is deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a); and

(6) To liquidate the annual operation and maintenance costs of the irrigation system.

(i) In applying net revenues from the power system to the annual installments of irrigation system construction costs for any division of the project under the preceding subsection, allowance shall be made for any construction costs deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or already repaid to the United States which have been deducted from such installments under subsection (e) of this section, by distributing the net revenues available for such application over all irrigable lands within the division on an equal per acre basis, and by applying the net revenues distributed to the lands chargeable with the construction costs that have been so deferred or repaid, in amounts proportionate to the deductions made on account of such costs, to any then unpaid or subsequently assessed costs of operating and maintaining the irrigation system which are chargeable against the same lands.

(j) Any matured installment of irrigation system construction costs, or portion thereof, which is not liquidated at or before its maturity through the application thereto of net revenues from the power system under subsection (h) of this section shall be repaid to the United States by an assessment against the lands chargeable with the construction costs included in the installment. Such repayment shall be deferred for any period of time that may be requisite to provide for the assessment and collection of such costs in conformity with the laws of the State of Montana, but shall be completed within two years after the maturity of the installment concerned.

Sec. 3. The repayment adjustments provided for in sections 1 and 2 of this Act shall not become effective unless, within two years after the approval of this Act, the irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into contracts satisfactory to the Secretary of the Interior, whereby

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such districts (1) obligate themselves for the repayment of the construction costs chargeable against all irrigable lands embraced within the districts contracting (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of this Act; (2) consent to such revisions in the limits of cost for the project, or any division thereof, as the Secretary and the districts contracting may mutually agree upon in order to facilitate the making of needed improvements and extensions to the irrigation and power systems; (3) provide for redetermination by the Secretary of the irrigable area of the project, or any division thereof, and for the exclusion of lands from the project, with the consent of the holder of any water rights that would be canceled by such exclusion; and (4) make such other changes in the existing repayment contracts as the Secretary and the districts contracting may mutually agree upon for accomplishment of the purposes of this Act. In order to facilitate the commencement of repayment at the earliest practicable time, such contracts may provide for adjusting the maturity dates or amounts of the annual installments in a manner which will ultimately place the repayment schedules on substantially the same basis as though such contracts had been entered into prior to their actual execution, but not earlier than January 1, 1949.

SEC. 4. Unpaid charges for operation and maintenance of the irrigation system which were assessed prior to May 10, 1926, against any lands within the project, amounting to a sum not exceeding \$40,549.89, and unpaid charges due from consumers for electric energy sold through the power system between July 1, 1931, and June 30, 1942, amounting to a sum not exceeding \$2,195.16, are hereby canceled. The cancellation of the operation and maintenance charges shall be reported in the reimbursable accounts rendered to the Comptroller General of the United States, pursuant to the Act of April 14, 1910 (36 Stat. 269, 270; 25 U. S. C., sec. 145), as deductions from the total indebtedness of the project without regard to the fiscal years in which, or the appropriations from which, the expenditures were made.

SEC. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the following sums, for the following purposes, to be reimbursed

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to the United States as hereinafter provided:

(a) The sum of \$64,161.18, with interest thereon at the rate of 4 per centum per annum from May 18, 1916, and the sum of \$409.38, with interest thereon at the same rate from December 1, 1925, to be used to repay the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana the balance remaining due them under the Act of May 18, 1916 (39 Stat. 123, 141). The aggregate principal amount of \$64,570.56 so repaid shall be added to the construction costs of the project and shall be reimbursable.

(b) The sum of \$400,000 to be deposited in the United States Treasury to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana; of which sum one-half shall be in full settlement of all claims of said tribes on account of the past use of tribal lands for the physical works and facilities of the irrigation and power systems of the project, or for wildlife refuges; and the other one-half shall be in full payment to said tribes for a permanent easement to the United States, its grantees and assigns, for the continuation of any and all of the foregoing uses, whether heretofore or hereafter initiated, upon the tribal lands now used or reserved for the foregoing purposes. The said tribes shall have the right to use such tribal lands, and to grant leases or concessions thereon, for any and all purposes not inconsistent with such permanent easement. The amount deposited in the Treasury pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(c) The sum of \$1,000,000 to continue the construction of the irrigation and power systems of the project. Amounts expended pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(d) No expenditure shall be made from any appropriation granted under the authorizations contained in this section until the repayment of all reimbursable construction costs incurred through such expenditure has been secured by contracts conforming to the requirements of section 3 of this Act.

SEC. 6. In each fiscal year commencing after the approval of this Act for which an appropriation of the power revenues from the project is made in an indefinite amount pursuant to section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3), the power revenues so appropriated shall be avail-

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able, to the extent of not to exceed \$75,000, for the purpose, in addition to those other purposes now required or permitted by law, of making such improvements and extensions to the power system as the Secretary of the Interior may deem requisite for the provision of electric service to persons whose applications for such service could not otherwise be complied with in due course of business. Amounts so expended shall be added to the unmatured portion of the reimbursable construction costs of the power system in accordance with subsection 2 (f) of this Act, so as not to reduce the net power revenues available for application under subsection 2 (h) of this Act.

SEC. 7. Consistent with the terms of the repayment contracts heretofore or hereafter executed, the Secretary of the Interior is hereby authorized to issue such public notices fixing construction costs and apportioning construction charges, to enter into such contracts, to make such determinations, to effect such adjustments in project accounts, to prescribe such regulations, and to do such other acts and things as may be necessary or appropriate to accomplish the purposes of this Act.

SEC. 8. All Acts or parts thereof inconsistent with the provisions of this Act are hereby repealed.

Approved May 25, 1948.

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