

## ELIMINATION OF 12 ACRES OF LAND FROM THE FLAT- HEAD IRRIGATION PROJECT, MONTANA

JULY 24 (legislative day, JULY 20, 1950).—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs,  
submitted the following

### REPORT

[To accompany H. R. 2196]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 2196) to authorize the elimination of 12 acres of land from the Flathead irrigation project, Montana, having considered the same, report thereon with the recommendation that it do pass without amendment.

This bill has been considered by the Committee on Public Lands of the House; on August 24, 1949, that committee submitted its report (H. Rept. 1313) recommending its passage; and on October 3, 1949, it passed the House.

This bill, if enacted, would eliminate 12 acres of land from the Camas division of the Flathead Indian irrigation project, Montana.

The 12 acres in question are owned by Grace Prongua, which land is under ditch, but is now wholly unfit for agricultural uses and would entail too much expense to prepare same for irrigation and crop production. No water from the irrigation project has ever been utilized, although ditches have been constructed and the owner has been for many years compelled to pay annual water charges assessed against said land.

Mrs. Prongua, concerning said land, 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



## 2 ELIMINATION OF LAND FROM FLATHEAD IRRIGATION PROJECT

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."

Sanders County, Mont., the county in which the land herein involved is situated, is desirous of acquiring a portion of the land by purchase from Mrs. Prongua for use in connection with the constructions of an airport; and the city of Hot Springs, Mont., is desirous of acquiring a portion of said land for use as a city dump.

The Secretary of the Interior, under date of March 24, 1949, 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., as amended by the act of May 25, 1950, Public Law 528, 81st Cong., provides for contract resettlement on the project on or before May 25, 1951) 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. 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 states 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.

However, the bill as amended by the House provides that the landowner shall pay all accrued irrigation charges heretofore assessed against the said land, that the obligations to the irrigation project for the repayment of the reimbursable construction charges shall not be reduced or otherwise affected by reason of the elimination of the said 12 acres, that such elimination shall not be made until the board of commissioners of the Camas division of the Flathead Indian irrigation project has consented thereto, and that notwithstanding such elimination of said land from said project there will be reserved to the United States rights-of-way for ditches and canals now or hereafter needed for the operation and maintenance of the project works and the owner or owners of said land release the United States and its assigns from all liability for damage to said land by reason of the operations of the project.

The judgment of your committee is that the Government, the water users of the Flathead Indian irrigation project, and all concerned will not in any way be damaged or inconvenienced by the enactment of this bill as it now reads.

A copy of the said report of the Secretary of the Interior on this bill, dated March 24, 1949, is attached hereto and made a part of this report, as follows:

THE SECRETARY OF THE INTERIOR,  
Washington, March 24, 1949.

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

MY DEAR 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 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*

