

INDIAN APPROPRIATION BILL

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

 COMMITTEE ON INDIAN AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

CONSISTING OF

HON. JOHN H. STEPHENS, *Chairman*

HON. CHARLES D. CARTER

HON. CHARLES H. BURKE

1913



WASHINGTON
GOVERNMENT PRINTING OFFICE

1914

Mr. MERITT. Yes; that is the same. We offer for the record the following justification:

Irrigation system, Flathead Reservation, Mont. (reimbursable).

| | |
|--|--------------|
| Fiscal year ending June 30, 1914, amount appropriated..... | \$325,000.00 |
| <hr/> | |
| Fiscal year ended June 30, 1913: | |
| Unexpended balance from previous year..... | 85,429.63 |
| Amount appropriated..... | 200,000.00 |
| | <hr/> |
| | 285,429.63 |
| Amount expended..... | 167,573.52 |
| | <hr/> |
| Unexpended balance..... | 117,856.11 |

ANALYSIS OF EXPENDITURES.

| | |
|---------------------------------------|------------|
| Salaries, wages, etc..... | 78,736.95 |
| Material..... | 19,395.69 |
| Earnings on Nelson Rich contract..... | 69,440.88 |
| | <hr/> |
| | 167,573.52 |

This work is being done by the United States Reclamation Service.

Statistics, Flathead Reservation, United States Reclamation Service.

| | |
|--|-----------------------------|
| Census, 1913..... | 2,281 |
| Present irrigable area..... acres..... | 38,000 |
| Irrigated area..... do..... | 3,366 |
| Area under completed project..... do..... | 152,000 |
| Cultivated by Indians..... do..... | 1,088 |
| Cultivated by whites..... do..... | 2,278 |
| Value of irrigated land per acre..... | \$100 |
| Expended to June 30, 1913..... | ¹ \$1,214,561.78 |
| Estimate for fiscal year 1915..... | \$100,000 |
| Cost of completed project, estimated, United States Reclamation Service..... | \$6,000,000 |

DEPARTMENT OF THE INTERIOR, UNITED STATES RECLAMATION SERVICE—FLATHEAD PROJECT, MONTANA.

Justification for estimate of needs for irrigation work on the Flathead project, Montana, during the fiscal year ending June 30, 1915.

A minimum appropriation of \$500,000 is required.

The work proposed to be done with the appropriation asked for consists of the following items:

1. *Current expenses.*—The item for current expenses is presented to cover operation and maintenance costs and stream gaging. Operation and maintenance will return to the Government all, or a large part, of the expenditure on that account. The total for all expenditures takes this into account in that it exceeds the minimum appropriation of \$500,000 asked for by \$22,000.

2. *Repairs to buildings and property.*—Repairs to buildings and property will cover repairs on existing camp buildings and maintenance work on the canal systems.

3. *New construction.*—The following appear to be the most needed additions to the existing works for the reasons given below.

Additional storage should be provided. There are considerable areas in Polson, Post, and Pablo divisions not commanded by the present reservoir construction and none of the Mission division is so covered. With the cultivation of additional areas and the coming of a dry year similar to the year 1910 storage will be absolutely necessary to insure irrigation in the areas named

¹ Reported by United States Reclamation Service. Expended, Indian Office, \$1,036,650.61.

when irrigation is most needed, and the most available site for this purpose is St. Mary Lake, commanding all the area named and being apparently the cheapest site to develop. Water will be taken from branches of the Jocko River to storage in St. Mary Lake. About five miles of canal will serve for the first season, bringing water in from Fall Creek, and later three miles more of canal will be required for full supply. At the lake an outlet tunnel will be driven to lower its level, giving a storage capacity of 12,000 acre-feet below the present level.

The Pablo feeder canal will be extended south to tap Dry Creek, a distance of about 14 miles. Dry Creek is the natural outlet of St. Mary Lake and this will complete the channel by which Jocko River water may be used where needed in Mission Valley between St. Ignatius and Polson, Mont. The extension of Pablo feeder canal will also form a distributing canal for over 9,000 acres of allotted land in Mission division, to reach all of which will require small laterals only.

The estimate includes the extension of small canals in Pablo division to reach 5,000 acres of new land about equally divided between allotments and homesteads.

In Post division it is proposed to build a canal from Post Creek to reach about 5,000 acres of new land lying from 5 to 10 miles north and west from St. Ignatius. This land is about one-third Indian allotments, the remaining two-thirds being held by homesteaders who are very anxious for water.

West of the Flathead River in Camas division there are about 15,000 acres of sagebrush land which has been divided into farm units practically all of which, where not Indian allotments, have been entered. The settlers have for three years tried dry farming and at the present time the United States commissioner, resident at Camas, Mont., states that about one-fourth of all the settlers have left their places as they will not yield a living under dry farming. This land is most in need of water of any on the project and it is proposed to begin work here by constructing the first twelve miles of conduit from the Little Bitter Root River, beginning near the north boundary of the reservation. The construction of a small dam at the Little Bitter Root Lake, in section 21, township 27 north, range 24 west, M. P. M., to store the entire run-off above that point is also included in the estimate.

Your attention is called to the fact that with annual appropriations of \$500,000 each year it would require about 10 years to complete the Flathead project.

E. F. TABOR,
Project Engineer.

Approved, August 13, 1913.

CHAS. P. WILLIAMS,
Acting Supervising Engineer United States Reclamation Service.

DEPARTMENT OF THE INTERIOR,
UNITED STATES RECLAMATION SERVICE,
Great Falls, Mont., August 13, 1913.

Acting Supervising Engineer to the Director.

Subject: Flathead project, estimate of expenditures, year ending June 30, 1915.

1. The following is a statement of the work in progress on the Flathead project and that proposed for the fiscal year ending June 30, 1915, for which an additional allotment of \$500,000 is requested.

2. On July 1, 1913, there were on hand equipment, materials, and supplies valued at \$91,894.75; there was an unexpended balance of allotment for the Flathead project of \$24,835.19, and by act of Congress approved June 30, 1913, \$325,000 became available, making a total of \$349,835.19 for use after July 1, 1913. This amount will be required for the completion of contract No. 407, now under way, the operation of the works, and for the construction of additional structures under constructed canals in Pablo, Post, and Jocko divisions, and of three canals and sublaterals with structures to irrigate tracts known as Valley View, Buffalo Butte, and Moiese Valley. Specifications, plans, and estimates for the three canals with sublaterals, last mentioned, have been prepared and have been forwarded to you with engineer's board report, which report you have approved, covering earthwork only, and plans for the structures needed are now being prepared. A preliminary estimate shows that the whole of the money now available will be required for the completion of the work described.

3. The statement that follows for construction work for the fiscal year ending June 30, 1915, is based upon the apparently most pressing needs of the project as stated below:

Additional storage should be provided. There are considerable areas in Polson, Post, and Pablo divisions not commanded by the present reservoir construction and none of the Mission division is so covered. With the cultivation of additional lands and the coming of a dry year, similar to 1910, storage will be absolutely necessary to insure irrigation in the areas named when irrigation is most needed, and the most available site for this purpose is St. Mary Lake, commanding as it does all the area named and being apparently the cheapest site to develop.

Water will be taken from branches of the Jocko River and stored in St. Mary Lake. About 5 miles of canal will serve for the first season, bringing water in from Falls Creek and later 3 miles more will be required for full supply. At the lake an outlet tunnel will be driven to lower its level, giving a storage capacity of 12,000 acre-feet below the present level.

The Pablo feeder canal will be extended south about 14 miles to Dry Creek, which is the natural outlet of the St. Mary Lake, and this will complete the channel whereby Jocko River water may be used where needed in Mission Valley between St. Ignatius and Polson. The extension of Pablo feeder canal will also form a distributing canal for over 9,000 acres of allotted land in Mission division, to reach all of which will require small laterals only.

The estimate includes the extension of small canals in Pablo division to reach 5,000 acres of new land about equally divided between allotments and homesteads.

In Post division it is proposed to build a canal from Post Creek to reach about 5,000 acres of new land lying from 5 to 10 miles north and west from St. Ignatius, this is about one-third allotted and two-thirds homesteaded by settlers anxious for the water.

West of Flathead River in Camas division there are about 15,000 acres of sagebrush land which has been divided into farm units and practically all of which, where not allotted, has been entered. The settlers have for three years tried dry farming, and at the present time the United States commissioner, resident at Camas, Mont., states that about one-fourth of all the settlers have left their places as impossible of yielding a living under dry farming. This land is most in need of water of any on the project, and it is proposed to begin work here by constructing the first 12 miles of conduit from the Little Bitter Root River, beginning near the north boundary of the reservation. The construction of a small dam at the Little Bitter Root Lake in sec. 21, T. 27 N., R. 24 W., to store the entire run-off above that point is also included in the estimate.

Your attention is called to the fact that with annual appropriations of \$500,000 each year it would require about 10 years to complete the project.

4. The following is an estimate of the proposed principal expenditures for the Flathead project for the fiscal year ending June 30, 1915, based upon an appropriation of \$500,000.

5. Pablo division: The proposed development here will consist of small canal extensions from constructed main lines and the necessary farm turnouts, etc., and will consist approximately of the following work:

| | |
|---|---------|
| Excavation, class 1, 50,000 cubic yards, at 18 cents----- | \$9,000 |
| Structures for 5,000 acres, at about \$3 per acre----- | 15,000 |
| Engineering, administration, and contingencies----- | 6,000 |

| | |
|------------|--------|
| Total----- | 30,000 |
|------------|--------|

Continuation of paving of Pablo Dams:

| | |
|---|--------|
| 4,100 cubic yards (18 inches thick), at \$3.90----- | 15,990 |
| Engineering, administration, and contingencies----- | 4,010 |

| | |
|------------|--------|
| Total----- | 20,000 |
|------------|--------|

Post division: The proposed work here will consist of the construction of a canal from Post Creek to reach about 5,000 acres of land mainly entered under the homestead act, the balance allotted Indian land.

| | |
|---|----------|
| Excavation, class 1, 77,000 cubic yards, at 18 cents----- | \$13,860 |
| Excavation, class 2, 800 cubic yards, at 50 cents----- | 400 |
| Excavation, class 3, 200 cubic yards, at \$1.50----- | 300 |
| Overhaul, 10,000 sta. yards, at 2 cents----- | 200 |

| | |
|---|---------|
| Headworks..... | \$4,000 |
| Structures for 5,000 acres, at \$3..... | 15,000 |
| Pipe line across canyon, 900 feet..... | 3,000 |
| Engineering, administration, contingencies..... | 9,240 |

Total 46,000

Mission division: It is proposed to extend the Pablo feeder canal through this division where it will form lateral "A" of the distributing system and command locally about 9,000 acres of land, of which about 3,000 acres may receive water directly. This will require approximately the following work:

| | |
|---|----------|
| Excavation (steam shovel), all classes, 200,000 cubic yards, at 20 cents..... | \$40,000 |
| Structures, 3 crossings, at \$5,000..... | 15,000 |
| Road along feeder canal, 40 miles, at \$200..... | 8,000 |
| Engineering, administration, contingencies..... | 16,000 |

Total 79,000

St. Mary storage: The work proposed here for present development consists of tapping the St. Mary Lake by cut and tunnel and placing of controlling works in tunnel to make use of about 12,000 acre-feet of storage between tunnel level and the natural overflow level of the lake; also the construction of a feeder canal to bring water from Jocko River—the first work to take water from only one branch thereof, Falls Creek—to insure filling the lake each season, as the natural run-off is not dependable for the amount needed.

St. Mary Reservoir tunnel and controlling works—Comparative estimate, line 3.

| | |
|---|---------|
| Open cut inlet, 3,100 cubic yards, at 50 cents..... | \$1,550 |
| Open cut inlet (branch trench), 3,000 cubic yards, at \$1.50..... | 4,500 |
| 100,000 feet b. m., bracing, at \$32..... | 3,200 |
| Temporary shaft, steel cylinder, 10 feet diameter, 30 feet high, 19,000 pounds, at 6 cents..... | 1,140 |
| 120 cubic yards excavation, at \$2..... | 240 |
| 4,500 feet b. m. cribbing below cylinder, at \$40..... | 180 |
| Tunnel section driven 1,470 linear feet, at \$25, complete..... | 36,750 |
| Cut and cover section, 150 linear feet, concrete lining, at \$11.16..... | 1,674 |
| Open cut, 700 feet, 7,000 cubic yards, at 43 cents..... | 3,010 |
| Creek channel change..... | 300 |
| Gate shaft, 135 feet, excavation 930 cubic yards, at \$1.50..... | 1,395 |
| Timbering shaft, 25,000 feet b. m., at \$30..... | 750 |
| Concrete lining, 315 cubic yards, at \$20..... | 6,300 |
| Gates and screens..... | 6,000 |
| Contingencies..... | 13,011 |
| Engineering and overhead charges..... | 8,000 |

Total 88,000

St. Mary feeder canal.

| | |
|--|----------|
| Excavation, all classes, 120,000 cubic yards, at 20 cents..... | \$24,000 |
| Structures..... | 5,000 |
| Engineering, administration, and contingencies..... | 8,000 |

Total 37,000

Camas division: The work proposed here is a storage dam about 10 feet high at Little Bitter Root Lake and the beginning of construction of the main canal taking water from Little Bitter Root River. The conduit will consist of a canal and flume line beginning near the north boundary of the reservation and leading out to the bench land on the right bank of the river. The preliminary location of the canal line from Little Bitter Root River indicates about 2 miles of flume will be required in Rocky Canyon and side hill work. Preliminary surveys only have been made here, and the following is a rough

estimate of the work desirable during the year, the canal will be built for about 12 miles:

| | |
|--|----------------|
| Metallic flume, 10,000 linear feet, at \$5 (or lined canal or pipe)----- | \$60,000 |
| Excavation, all classes, 175,000 cubic yards, at 20 cents----- | 35,000 |
| Structures, miscellaneous----- | 25,000 |
| Administration, engineering, and contingencies----- | 30,000 |
| Total ----- | 150,000 |

For Camas storage, a rock filled crib dam at Little Bitter Root Lake will cost about \$5,000. This work will store the run-off of the lake and deliver water to the edge of the main body of irrigable land from which it may be conducted to many farms at slight expense, but the work should be continued the following year to distribute water to 10,000 to 15,000 acres of land.

Telephone lines will necessarily be extended to reach new areas opened to irrigation. It is estimated that about the following will be spent for extensions and new lines:

| | |
|--|--------------|
| St. Mary feeder canal, 8 miles, at \$100----- | \$800 |
| Camas Canal lines, 50 miles, wires only on Indian Service poles, at \$50-- | 2,500 |
| Administration, engineering, and contingencies----- | 700 |
| Total ----- | 4,000 |

Buildings and grounds will be needed in the new areas brought under water and to complete accommodations for employees on older portions to the extent of about \$8,000.

Survey and design, to be apportioned later to divisions, for the year, about \$30,000.

6. Statement of results under proposed operation at end of fiscal years 1913, 1914, and 1915 is as follows:

| | 1913 | | 1914 | | 1915 | |
|------------------------------|------------------------------|-------------------|------------------------------|-------------------|------------------------------|-------------------|
| | Lands which may beirrigated. | Storage. | Lands which may beirrigated. | Storage. | Lands which may beirrigated. | Storage. |
| | <i>Acres.</i> | <i>Acre-feet.</i> | <i>Acres.</i> | <i>Acre-feet.</i> | <i>Acres.</i> | <i>Acre-feet.</i> |
| Pablo division..... | 4,000 | | 8,000 | | 18,000 | |
| Pablo reservoirs..... | | 1,000 | | 3,000 | | 5,000 |
| Post division..... | 19,000 | | 22,000 | | 27,000 | |
| Ninepipe reservoir..... | | 5,000 | | 5,000 | | 5,000 |
| St. Mary Lake reservoir..... | | | | | | 12,000 |
| Mission division..... | 6,000 | | 6,000 | | 9,000 | |
| Joeko division..... | 8,000 | | 14,000 | | 14,000 | |
| Polson division..... | 1,000 | | 1,000 | | 1,000 | |
| Total | 38,000 | 6,000 | 51,000 | 8,000 | 69,000 | 22,000 |

7. The irrigable land of the Flathead project is about 152,000 acres. The appropriations made to date for this work amount to \$1,539,161.18, of which there has been expended to July 1, 1913, \$1,214,561.78. A rough estimate of the amount needed to complete the work is as follows, including for storage amounting to 130,740-acre feet, and mechanical and electrical equipment to utilize for pumping all the available power which can be developed at Newell Tunnell without a storage dam in connection therewith:

Estimate to complete Flathead project.

| | |
|--|-------------|
| Big Arm Canal, including pumping equipment, 3,000 acres----- | \$77,800.00 |
| Camas storage, Big Draw, Hubbard and Little Bitter Root Lake Reservoirs----- | 268,000.00 |
| Camas Canals, 20,000 acres----- | 409,000.00 |
| Crow Canals, 14,000 acres----- | 133,000.00 |
| Joeko Canals, 16,000 acres----- | 63,000.00 |
| Mission storage, Mission and McConnell Reservoirs----- | 291,000.00 |
| Mission Canals, 23,000 acres----- | 170,000.00 |
| Pablo storage----- | 723,000.00 |

| | |
|--|--------------|
| Pablo Canals, 40,000 acres..... | \$422,000.00 |
| Polson storage: Polson and Twin Reservoirs..... | 138,000.00 |
| Polson Canals, including pumping equipment, 6,000 acres..... | 159,000.00 |
| Post storage: Crow, Kickinghorse, McDonald, and Ninepipe Reservoirs..... | 557,000.00 |
| Post Canals, 30,000 acres..... | 128,000.00 |
| St. Mary storage..... | 357,000.00 |
| Steam gaging..... | 10,000.00 |
| Telephone lines..... | 18,750.00 |
| Buildings and grounds..... | 55,000.00 |
| Power and pumping..... | 545,000.00 |
| Drainage..... | 300,000.00 |
| Survey and design..... | 350,000.00 |
| | <hr/> |
| | 5,174,550.00 |
| Expended to July 1, 1913..... | 1,214,561.78 |

152,000 acres, at \$42.03..... 6,389,111.78

8. Drawing S-3337 tinted to show the developments proposed is enclosed herewith.

CHAS. P. WILLIAMS.

Amount of appropriation requested by the United States Reclamation Service for irrigation work on the Flathead Reservation during the fiscal year 1915, \$500,000.

Amount of appropriation requested by the United States Indian Service for field work on the Flathead Reservation during said period, \$100,000.

Referring to the above reduction in the requested appropriation for irrigation work on the Flathead Reservation in Montana, it should be stated that as it was expressly understood that the estimates for irrigation appropriations for the United States Indian Service during the fiscal year 1915 must be materially reduced, it was considered best, as far as the interests of the Indians are concerned, to make this reduction apply principally to the estimates for work upon the reservations where the Indians are less benefited than the white settlers by the system or project now under construction, where the largest reimbursable amounts have already been expended by the Indians for irrigation purposes, and where there is no immediate necessity of expediting the work for the purpose of protecting the Indian water rights thereunder.

CONSTRUCTION WORK, NOVEMBER, 1913.

Montana. Flathead project: Jocko division, 84 per cent completed; Mission division, 11.6 per cent completed; Pablo division, 49.7 per cent completed; Polson division, 13.3 per cent completed; Post division, 43.1 per cent completed.

Weather conditions in general were favorable for construction work. The temperature ranged from a maximum of 60° to a minimum of 12°, and the precipitation amounted to 1.36 inches. The supply of labor was ample for all needs. Construction work was in progress on the Moiese Valley Canal with a Government force consisting of 175 men, 100 animals, and a steam shovel. Twelve thousand cubic yards of excavation were moved by the steam shovel, and the same amount by team work on the sublateral system. The manufacture of 30-inch reinforced concrete pipe was completed for five culverts, and the placing of same was nearly finished. At the headworks all concrete work was completed and the forms removed. Two wasteways were completed on the main canal and a considerable number of farm turnouts, pipe sluiceways, checks, bridges, and drops were constructed in the distribution system. All main canal structures were completed except flumes. Contract work was begun on the Valley View canals on the 24th. Adjudication of private water rights on the reservation was continued by the special commission appointed for the purpose.

Mr. MERITT. It will be noted that we are asking for only \$100,000 for this project this year as compared with an appropriation of \$325,000 last year.

The CHAIRMAN. You will find that it will not be necessary to ask for more than \$100,000 for the purpose of carrying on this work next year.

Mr. MERITT. I will state, Mr. Chairman, that I am not prepared, personally, to justify the manner in which this project has been financed heretofore. This project, as now estimated by the Reclamation Service, will cost about \$6,000,000. It will irrigate about 150,000 acres of land, and only about 75,000 acres of that land belongs to the Indians. The funds of the Indians are being used to construct a great irrigation project, and in my judgment the method of financing this project is wrong. It should be conducted as a reclamation project and the Indians should pay their proportionate cost for this project rather than pay all the cost and have the white people gradually reimburse them.

The CHAIRMAN. There is no question about their having water rights to this stream, is there?

Mr. MERITT. The Indians have the water right at the present time to this stream. I have set this matter out with some detail in two memoranda that have been prepared.

The CHAIRMAN. Have you any objection to putting them in the record?

Mr. MERITT. I have no objection, Mr. Chairman, if the committee wishes to have them go into the record. In my judgment the method of financing certain irrigation projects is a subject that should be investigated by the congressional commission.

The CHAIRMAN. Then if you have no objection, the memoranda will be inserted in the record at this point.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS,

Washington, September 5, 1913.

Memorandum for the commissioner:

In compliance with your request for a memorandum on the Flathead irrigation project, your attention is invited to the memorandum herewith prepared by me on January 12, 1912, regarding this subject.

A recent report of the superintendent of the Flathead Reservation contains the following information, regarding allotments on that reservation:

| | Minors. | | | Adults. | | | Total. | | |
|--------------|---------------------|---|---------------|---------------------|---|---------------|---------------------|---|---------------|
| | (1) Able-bodied. | (2) Mentally or physically disabled. | (3) Total. | (4) Able-bodied. | (5) Mentally or physically disabled. | (6) Total. | (7) Able-bodied. | (8) Mentally or physically disabled. | (9) Total. |
| Allotted: | | | | | | | | | |
| Males..... | 214 | 190 | 404 | 540 | 81 | 621 | 754 | 271 | 1,025 |
| Females..... | 208 | 143 | 351 | 342 | 117 | 659 | 731 | 259 | 1,010 |
| Total..... | 422 | 333 | 755 | 1,082 | 198 | 1,280 | 1,505 | 530 | 2,035 |

There are 246 Indians on this reservation unallotted, making a total Indian population of 2,281, consisting of 1,136 males and 1,145 females.

There have been 231,000 acres allotted. The records also show that there are 3,820 acres cultivated by Indians on this reservation; that the irrigable area consists of 152,000 acres, about half of which is owned by Indian allottees and the remainder is owned by white homesteaders; that the irrigation project has cost up to date (July 1) \$1,201,517.30, and when completed it is estimated that it will cost \$6,389,000, approximating an acreage cost of \$42 for irrigation.

The Reclamation Record for August, 1913, shows the following status of the work on the Flathead project:

"Jocko division, 84 per cent completed; Mission division, 11.6 per cent completed; Pablo division, 47.4 per cent completed; Polson division, 14.3 per cent completed; Post division, 37.8 per cent completed."

The act of April 23, 1904 (33 Stat. L., 302), authorizes the survey and allotment of lands embraced within the limits of the Flathead Reservation, and the sale and disposal of all surplus lands after allotment. The Flathead irrigation project was authorized by the act of March 3, 1909 (33 Stat. L., 795).

Your attention is particularly invited to the following significant language used in the Indian appropriation act of June 21, 1906 (34 Stat. L., 325-355):

"Sec. 19. That nothing in this act shall be construed to deprive any of said Indians or said persons or corporations, to whom the use of land is granted by the act, of the use of water appropriated and used by them for the necessary irrigation of their lands or for domestic use or any ditches, dams, flumes, reservoirs constructed and used by them in the appropriation and use of said water."

This provision of law, as will be observed, was very shrewdly drawn, and it would appear from the first reading that it was drafted for the benefit of the Indians rather than requiring them to make beneficial use of the waters of the reservation.

The following provisions relating to the water-right laws of Montana are found in Mills Irrigation Manual, page 504:

"The right to use unappropriated water may be acquired by appropriation.

"Appropriation must be for some beneficial purpose. When appropriator abandons or ceases to use water for such purpose, right ceases. Abandonment question of fact.

"Government of United States may appropriate water in same manner and subject to same conditions as individuals. Appropriation held valid for three years after filing of notice. Work of construction must commence within three years. Notice of abandonment may be filed before three years."

On a number of our reservations where irrigation projects are being constructed all the Indians are required to pay for the construction of the project out of their tribal funds, and only a part of the Indians receive any benefit from the irrigation project. This necessarily works an injustice, and it should be possible to work out a plan so that the Indians who receive the benefit will be required to pay for the cost of construction.

In order to protect the water rights of the Flathead Indians, I suggest that the following proviso be added to the item in the estimates for the year 1915, requiring an appropriation for continuation of construction work on the Flathead irrigation project:

"Provided, That the use of so much water as may be necessary to supply for domestic, stock watering, and irrigation purposes, the land allotted to Indians on the Flathead Reservation or set aside for administrative purposes within said reservation is hereby reserved, and the failure of any individual Indian or Indians to make beneficial use of such water shall not operate in any manner to defeat his or her right thereto. All laws and parts of laws in conflict herewith are hereby repealed."

I believe that Mr. Reed, chief engineer of the Indian Reclamation Service, or one of his assistants, should make a thorough investigation of all the details of this Flathead project, so that you can be furnished with exact information in regard thereto.

It may be that the project has progressed too far to change the present general plan, but I feel that there are certain phases of this work that should have very careful attention and certain existing conditions remedied at the earliest possible date.

Very respectfully,

E. B. MERITT,
Law Clerk.

LAW
E B M

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 12, 1912.

Memorandum for the Commissioner.

In compliance with your request for a memorandum on the Flathead irrigation project you are advised that the records show that in 1907 an agreement was perfected whereby the Reclamation Service was authorized to make investigations, surveys, development of plans, and construction of irrigation works on certain Indian reservations, and under this agreement the Reclamation Service made a report on the feasibility of an irrigation project on the Flathead Indian Reservation.

Congress, in the Indian appropriation act of March 3, 1909 (35 Stat. L., 795), authorized the construction of an irrigation system on the Flathead reservation and appropriated \$250,000 therefor and directed that the cost of the entire work should be reimbursed from the proceeds of the sale of the lands and timber within said Flathead reservation.

Under the act of April 23, 1904 (33 Stat. L., 302), there has been allotted to 2,425 Indians 228,146 acres.

There has been appropriated for the Flathead irrigation project \$950,000 as follows:

| Amount. | Limit. | Act. | Approved. |
|-----------|----------------|--------------------|---------------|
| \$250,000 | 1910..... | 35 Stat., 795..... | Mar. 3, 1909 |
| 250,000 | Permanent..... | Pub., 114, 9..... | Apr. 4, 1910 |
| 50,000 | do..... | 35 Stat., 83..... | Apr. 30, 1908 |
| 400,000 | do..... | Pub., 454..... | Mar. 3, 1911 |

Of this amount \$506,926.01 had been expended up to June 30, 1911. The irrigable area of the Flathead irrigation project is estimated at 150,000 acres. It is estimated by the Reclamation Service that it would require \$3,781,260.72 to complete the project as now planned. It is estimated that it will cost about \$30 per acre to irrigate the land in question. When the project is completed as planned it will irrigate about 75,000 acres of Indian land and 75,000 acres of land under the control of white settlers.

The Reclamation Record for November, 1911, shows the following status of the work on the Flathead project:

Jocko division, 78.7 per cent completed; Mission division, 8.9 per cent completed; Pablo division 22.9 per cent completed; Polson division, 9.4 per cent completed; Post division, 29.6 per cent completed.

It will be seen from the figures herein given that the Flathead project can hardly be called an exclusively Indian project, but is more in the nature of a quasi-public project, as about one-half of the lands that will be irrigated under this project belong to white settlers.

According to estimates of the Reclamation Service it will require nearly \$3,000,000 to be further appropriated by Congress to complete this project, the money appropriated to be reimbursable out of the proceeds of the sale of land and timber of the Flathead Indians.

I wish to call your attention to the fact that under the proposed arrangement the property of the Indians is required to be held as security for the reimbursement of appropriations made by Congress to construct the Flathead irrigation project, which will benefit the white settlers as much as it will benefit the Indians, and the project when completed will irrigate as much land in the ownership of white settlers as allotted to the Indians. In view of this fact, I want to suggest the advisability of Congress making direct appropriations for the construction of this project as a regular irrigation project under the supervision of the Reclamation Service rather than an Indian irrigation project, the Indians to pay their proportionate share of the cost per acre for irrigation, and the money heretofore appropriated by Congress and made reimbursable by the Indians could be considered as part payment of the cost of the irrigation of the Indians' lands.

This is offered merely as a suggestion without full knowledge of all the facts and without claiming any knowledge regarding the engineering problems.

I would also suggest that in view of the conditions that have arisen in connection with irrigation matters on the Pima and Yakima Indian Reservations, a very careful investigation by a representative of the Indian Bureau should be made of the entire work so far done on the Flathead irrigation project by the Reclamation Service.

In connection with this matter I might add that there is an item in the estimates for the Indian appropriation bill for the fiscal year ending June 30, 1913, for an appropriation of \$250,000 for continuing the construction of the irrigation system on the Flathead Indian Reservation.

Very respectfully,

E. B. MERITT,
Law Clerk.

I concur with the above.

W. H. ROSECRANS.

Approved.

R. G. VALENTINE, *Commissioner.*

Mr. CARTER. I understand you to say there will be how much land irrigated by this project?

Mr. MERITT. 150,000 acres.

Mr. CARTER. And the maximum amount that could be used by these Indians will be how much?

Mr. MERITT. 75,000 acres.

Mr. CARTER. Are the other 75,000 acres that will be used by the white men already taken up?

Mr. MERITT. Yes, sir.

Mr. CARTER. And the white men are already on the land and are using the water, I assume, in some cases?

Mr. MERITT. Yes, sir; where they can get it.

Mr. CARTER. How long has this project been in operation, Mr. Meritt?

Mr. MERITT. Congress has been making appropriations for about five years.

Mr. CARTER. Will you put in the record a statement showing how much it has cost already?

Mr. MERITT. Up to the 30th day of June, \$1,201,517.30.

Mr. CARTER. All of which has been paid from Indian appropriation bills?

Mr. MERITT. Yes; except \$64,161.18, which was paid from tribal funds under the provisions of the act of May 29, 1908 (35 Stat., 450).

Mr. CARTER. From tribal funds?

Mr. MERITT. Secured by tribal funds.

Mr. CARTER. It is a reimbursable appropriation?

Mr. MERITT. Yes, sir.

Mr. CARTER. All of the money has been paid out of the Federal Treasury as Federal funds?

Mr. MERITT. Yes, sir; except the \$64,161.18 tribal funds. Congress has made an appropriation out of the Treasury and has made those appropriations reimbursable and payable out of the tribal funds of the Indians, and as a result of this method of financing this project the funds of the Indians are used for paying back into the Treasury money heretofore advanced by Congress for this purpose.

Mr. CARTER. How much of the funds of the Indians have been used for that purpose?

Mr. MERITT. Congress has appropriated \$1,475,000 and the amount that has been reimbursed to the Government on account of the irrigation appropriations is \$340,217.78. So that \$404,378.96 of tribal funds has actually been paid out on account of this project.

Mr. CARTER. When did you say this project was begun?

Mr. MERITT. About five years ago.

Mr. CARTER. Was it started in the Indian appropriation bill or some special act?

Mr. MERITT. In special act of April 23, 1904 (33 Stats., 302), opening the reservation, authority was given to expend tribal funds for benefit of the Indians in constructing irrigation ditches, purchase of cattle, etc.

Mr. CARTER. When was the first appropriation made for it?

Mr. MERITT. The act of April 30, 1908, provided for preliminary surveys, plans, and estimates of irrigating systems for the allotted lands, and the surplus unallotted lands to be disposed of as provided by the special act of April 23, 1904, and appropriated \$50,000 therefor, which was reimbursable by the tribal funds.

Mr. CARTER. It was in an Indian appropriation bill?

Mr. MERITT. Yes, sir; making appropriations for the Indian Service for the fiscal year 1909.

Mr. CARTER. Please give us the date of that act.

Mr. MERITT. The Flathead Reservation was opened by act of April 23, 1904 (33 Stat. L., 302), and further references may be found in Thirty-third Statutes at Large, page 1008; Thirty-fourth Statutes at Large, page 355; and act of March 3, 1909 (35 Stat. L., 791), and act of June 25, 1910 (sec. 29, 36 Stat. L., 863).

Mr. CARTER. Did this original act provide for any irrigation project?

Mr. MERITT. Yes, sir; to benefit the Indians and to be paid for from the money to be received for the surplus land.

Mr. CARTER. It did not make an appropriation, but simply authorized the project, did it?

Mr. MERITT. That is correct.

Mr. CARTER. Have you any other projects similar to this one?

Mr. MERITT. Two others—the Fort Peck and Blackfeet projects.

There is a reference to this irrigation project in the following acts, and I give the appropriations carried by each one: Act of April 23, 1904, found in section 14, volume 33, page 305; act of May 29, 1908 (35 Stats., 450).

These two acts relate to use of tribal funds for building ditches to irrigate allotted lands:

| | |
|---|----------|
| Apr. 30, 1908 (35 Stats., 83)----- | \$50,000 |
| Mar. 3, 1909 (35 Stats., 795)----- | 250,000 |
| Apr. 4, 1910 (36 Stats., 277)----- | 250,000 |
| Mar. 3, 1911 (36 Stats., 1066)----- | 400,000 |
| Aug. 24, 1912 (37 Stats., 526)----- | 200,000 |
| June 30, 1913 (Public, No. 4, 63d Cong.)----- | 325,000 |

Before leaving this item, Mr. Chairman, it is my opinion if this matter can be worked out properly by Congress it will result in benefits not only to the Indians but to the white people under that project. We are not prepared at this time, under this method of financing the irrigation project, to recommend appropriations sufficient to construct that project within the early time it should be constructed. If it were made a regular reclamation project and appropriated for by Congress and the Indian Service authorized to pay for the benefits the Indians will receive, the entire project could be started at a much earlier time and the white people would get water at a much earlier time; but the present method of financing this project is absolutely unfair to the Indians, and I personally can not justify it.

Mr. CARTER. Mr. Meritt, what Mr. Reed has said with reference to another project a few moments ago ought to convince us that we are not the proper people to handle a project for white people, because he referred to one case where Congress had authorized—and, of course, through this committee—the white men to have the benefits of irrigation at one-third its actual cost.

Mr. MERITT. That legislation can not be justified. It was purely political legislation.

Mr. CARTER. In what State was that?

Mr. REED. Idaho.

Mr. MERITT. The Fort Hall project. It was not initiated by the Indian Office.

The CHAIRMAN. What is the next item?

Mr. MERITT. The next item reads as follows:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Blackfeet Indian Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, \$50,000, reimbursable in accordance with the provisions of the act of March 1, 1907, and to remain available until expended: *Provided*, That the use of so much water as may be necessary, etc.

Then follows the usual proviso.