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HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

SECOND SESSION

ON

H.R. 13169

ISSUE COTTON CROP REPORTS SIMULTANEOUSLY WITH
THE GENERAL CROP REPORTS

APRIL 12, 1972

H.R. 645

FLOOD PREVENTION IN THE LOWER RIO GRANDE BASIN,
TEXAS

JUNE 27, 1972

H.R. 10638

RELIEF OF JOHN P. WOODSON IN CONNECTION WITH
REAL PROPERTY IN EL DORADO COUNTY, CALIFORNIA

JULY 26, 1972

Serial 92-NN



Printed for the use of the Committee on Agriculture

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ISSUE COTTON CROP REPORTS SIMULTANEOUSLY WITH THE GENERAL CROP REPORTS

WEDNESDAY, APRIL 12, 1972

HOUSE OF REPRESENTATIVES,
COTTON SUBCOMMITTEE OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. Eligio de la Garza presiding.

Present: Representatives de la Garza, Sisk, Burlison of Missouri, Jones of Tennessee, and Mizell.

Also present: Christine S. Gallagher, chief clerk; and Lacey Sharp, general counsel.

Mr. DE LA GARZA. The subcommittee will come to order. The Cotton Subcommittee is meeting this morning to consider H.R. 13169, by Chairman Poage.

(H.R. 13169, introduced by Mr. Poage, follows:)

[H.R. 13169, 92d Cong., Second Sess.]

A BILL To amend existing statutes to authorize the Secretary of Agriculture to issue cotton crop reports simultaneously with the general crop reports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of May 3, 1924, as amended (43 Stat. 115, 44 Stat. 1373, 60 Stat. 940, 72 Stat. 149; 7 U.S.C. 475), is amended to read as follows:

"COTTON CROP REPORTS.—The Secretary of Agriculture shall cause to be issued as of the first of each month during the cotton growing and harvesting season from August to January inclusive, reports describing the condition and progress of the crop and stating the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports to the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the twelfth day following that to which the respective reports relate. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton crop reporting board consisting of five members or more to be designated by him. Not less than three members of the board shall be supervisory field statisticians of the Department of Agriculture who are located in different sections of the cotton-growing States, are experienced in estimating cotton production, and have first-hand knowledge of the condition of the cotton crop based upon recent field observations. A majority of the members of the board shall be familiar with the methods and practices of producing cotton."

SEC. 2. Section 1 of the Act of May 27, 1912, as amended (37 Stat. 118, 44 Stat. 1374, 72 Stat. 149; 7 U.S.C. 476), is amended by striking out "10th" and inserting in lieu thereof "12th".

SEC. 3. Section 45 of title 13, United States Code, is amended to read as follows:

"§ 45. Simultaneous publication of cotton reports

"The reports of cotton ginned to the dates as of which the Department of Agriculture is also required to issue cotton crop reports shall be issued simultane-

ously with the cotton crop reports of that department, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the twelfth day following that on which the respective reports relate."

Mr. DE LA GARZA. In the absence of Chairman Abernethy, who is away on official business, I have the privilege of presiding today. We welcome all of the witnesses who will appear in behalf of this bill and anyone who might be here to appear in opposition to it.

The first witness that we would like to call is Mr. Bruce W. Kelly, Director, Agricultural Estimates Division, Statistical Reporting Service, USDA.

I would appreciate it if you would identify anyone who accompanies you, Mr. Kelly.

STATEMENT OF BRUCE W. KELLY, DIRECTOR, AGRICULTURAL ESTIMATES DIVISION, STATISTICAL REPORTING SERVICE, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY DONALD N. BAY, SECTION HEAD, COTTON, TOBACCO, PEANUTS, SEEDS, FERTILIZER, AND SPECIAL CROPS, STATISTICAL REPORTING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. KELLY. Very well, sir.

Mr. Chairman and members of the Cotton Subcommittee, I have with me today, Mr. Donald M. Bay, Head of the Cotton and Special Crops Section to assist in answering committee questions.

I am pleased to have this opportunity to appear before this subcommittee to discuss H.R. 13169, a bill to amend existing statutes governing the date and time cotton crop reports are released. I will also mention briefly a related amendment prepared by the Department of Commerce which changes the timing of some of the cotton ginnings reports.

It is appropriate that both pieces of legislation be considered together because of the relationship established by law between the Department of Agriculture's "Cotton Crop Reports" and the Department of Commerce's "Cotton Ginners Report".

First, I would like to discuss the bill which changes the existing statutes to permit the Secretary of Agriculture to issue Cotton Crop Reports simultaneously with the General Crop Reports. Under existing law, the cotton reports are issued at 11 a.m., Washington, D.C. time on the 8th of the month (or the next succeeding workday in case the 8th is a nonwork day). The General Crop Report is released at 3 p.m., Washington D.C. time not later than the 12th of the month. Combining the two reports would eliminate the requirement for separate security lockups each month from August through January, and would permit us to include cotton in the national and State releases with other crops, rather than issuing separate reports for cotton. We estimate that the savings gained through this change would be about \$5,000 through a reduction in the number of releases and postage costs.

Issuing the cotton crop report simultaneously with the monthly crop report would also change the release hour from 11 a.m. to 3 p.m. The 11 a.m. release was originally established to coincide with the closing of the Liverpool Cotton Exchange. At present, we understand trading on the New York Cotton Exchange is halted for 10 minutes following the release of the cotton crop report. However, many investors are not able to analyze the cotton crop report and adjust

their position in the futures market in 10 minutes. Some investors may not have instant access to the reports. A release at 3 p.m., after the closing of the exchange, would give all investors more time for analysis before the market opens the next day. Releasing cotton with crop production reports would bring cotton in line with the other speculative commodities which are now released at 3 p.m., after the close of the Chicago and New York commodity markets.

In connection with the bill now under consideration by this committee, I would like to mention the amendment proposed by the Department of Commerce. This amendment, as I understand it, would substitute January and February ginning reports for those now issued in mid-August and mid-September and change the release schedule of all ginnings reports to coincide with that of the Department of Agriculture for the combination of cotton and crop reports. All these changes are acceptable to the Department of Agriculture. The January 1 ginnings report is highly desirable for our utilization in making a January 1 cotton estimate.

Next, I would like to discuss the addition of a January 1 cotton crop report. The present schedule of cotton crop reports ends with the December 1 report. This schedule was set in 1924. Since that date, shifts in major cotton producing areas, cultural practices, and machine harvesting have all tended to extend the length of the harvest season. In recent years, about one-sixth of the U.S. crop was ginned after December 1 compared with less than one-tenth during the period when this law was first enacted. This past year, harvest was very late in parts of Texas and Oklahoma. Nearly one-fourth of the cotton remained to be ginned after December 1. In Oklahoma and on the Texas High Plains, harvest was just getting underway by the first of December. A January 1 cotton report would have provided a re-assessment of production, including any deterioration during December of the cotton still in the field.

The Department supports the addition of a January cotton crop report contingent on the approval of the Census amendment which adds a January 1 ginnings report. The January 1 Census ginnings report would provide much of the basic data upon which to base a January 1 cotton estimate. No additional funds are required to add this report as cost savings from combining the Cotton Crop Report with the General Crop Report should offset the cost of making a January 1 report.

In summary, I would like to recommend the enactment of H.R. 13169, including the amendment offered by the Department of Commerce.

Thank you, Mr. Chairman and members of the subcommittee. We will be happy to try to answer any questions you may have.

Mr. DE LA GARZA. Thank you, Mr. Kelly.

Mr. Sisk?

Mr. SISK. No questions, Mr. Chairman.

Mr. DE LA GARZA. Mr. Burlison?

Mr. BURLISON. No questions.

Mr. DE LA GARZA. Mr. Jones?

Mr. JONES. No questions.

Mr. DE LA GARZA. Thank you very much, Mr. Kelly.

Mr. KELLY. Thank you, sir.

Mr. DE LA GARZA. The next witness is Dr. George Brown, Director of the Bureau of the Census.

We are happy to have you, Dr. Brown, and would appreciate it if you would identify anyone who accompanies you.

STATEMENT OF DR. GEORGE BROWN, DIRECTOR, BUREAU OF THE CENSUS; ACCOMPANIED BY J. THOMAS BREEN, CHIEF, AGRICULTURE DIVISION, BUREAU OF THE CENSUS

Dr. BROWN. Thank you, Mr. Chairman.

Mr. Chairman, I have with me J. Thomas Breen, the staff member of the Bureau of the Census who is directly involved.

Mr. Chairman, I appreciate the opportunity to appear before this subcommittee to discuss how the Department of Commerce will be affected by H.R. 13169 and the proposed amendment.

The Department of Commerce is affected by this legislation because of the requirements in section 45 of title 13, United States Code, that:

* * * reports of cotton ginned to the dates as of which the Department of Agriculture is also required to issue cotton crop reports shall be issued simultaneously with the cotton crop reports of that department, the two reports to be issued from the same place at 11 o'clock antemeridian on the eighth day following that on which the respective reports relate.

If passed, H.R. 13169 will amend section 45 of title 13, United States Code, to permit issuance of the cotton crop reports with the regular monthly crop reports and will change the language to read: "to be issued from the same place at 3 o'clock postmeridian on or before the twelfth day following that on which the respective reports relate."

The proposed amendment would amend existing legislation, section 42, and again that will be of title 13, United States Code, which requires:

The statistics of the quantity of cotton ginned shall show the quantity ginned from each crop prior to August 1, August 16, September 1, September 16, October 1, October 18, November 1, November 14, December 1, December 13, January 16, and March 1; * * *

Since a large proportion of the cotton is now ginned toward the end of the season, the Bureau had been requested by the Department of Agriculture, as well as the Cotton Council to consider adding reports of cotton ginned prior to January 1 and February 1 in order that the statistics would provide better information on the size of the cotton crop prior to the final report on March 1. In order to avoid additional reporting requirements for the respondents and to avoid an increase in the cost of the program, we suggested the alternative of shifting some of the reporting dates from the earlier to the latter part of the season. Subsequently, it appeared feasible to shift the August 16 and September 16 reports to January 1 and February 1, as called for in the proposed amendment. At the same time, it appeared desirable to standardize the mid-month reporting date at the 15th of the month. The present mid-month dates vary between the 13th and the 18th without any objective reason for the variation.

A table showing the cotton ginned as of each reporting date for the past 5 years is available for the record.

The Department of Commerce favors enactment of H.R. 13169 and is fully in accord with the proposed amendment to section 42

of title 13, United States Code which would change the dates of two ginning reports and standardizing the reporting dates.

We shall be glad to answer any questions that the committee might have.

Mr. DE LA GARZA. Thank you very much, Mr. Brown.
Are there any questions of Dr. Brown?

Mr. SISK. No questions. I would like to commend both the Department of Agriculture and the Department of Commerce but I have no questions.

Mr. DE LA GARZA. Mr. Burlison?

Mr. BURLISON. No questions.

Mr. DE LA GARZA. Mr. Jones?

Mr. JONES. No questions.

Mr. DE LA GARZA. Thank you, very much, Dr. Brown. We are very happy to have had you here.

The next witness is Mr. F. Marion Rhodes, New York Cotton Exchange.

STATEMENT OF F. MARION RHODES, PRESIDENT, NEW YORK COTTON EXCHANGE

Mr. RHODES. Thank you, Mr. Chairman.

Mr. BURLISON. Will the Chairman yield to me?

Mr. DE LA GARZA. I shall be happy to yield to the gentleman.

Mr. BURLISON. Mr. Chairman, I do not want to pass up this opportunity to introduce my constituent. At least, if he is not a constituent, he is a former constituent. My colleagues all know him well and know the high respect and regard with which he is held, without and within the cotton industry, as well.

We are certainly glad to have you here, Mr. Rhodes.

Mr. RHODES. Let me first assure Congressman Burlison that I am his constituent. I have voted in every election that has been held in Missouri since I was 21—maybe some before, I am not sure.

I have a short prepared statement. It may be a bit repetitious if I read it, but since it is only two pages long, I shall go ahead and do it.

My name is F. Marion Rhodes. I am president of the New York Cotton Exchange, the only active cotton futures market in the United States. I am appearing here today on behalf of that organization. I welcome the opportunity to present the views of our organization on H.R. 13169 and urge its approval by this committee.

Historically, the Statistical Reporting Service, and its predecessor organizations, of the U.S. Department of Agriculture has issued its July cotton acreage report and August, September, October, November, and December cotton production reports at 11 a.m. on the 8th day of the month, except when it fell on the weekend. On those occasions, it has been issued on the first business day following the 8th day of the month. All other crop acreage and production reports have been issued at 3 p.m. on the 10th day of the month, or the first business day thereafter when the 10th fell on a weekend.

For a number of years, the New York Cotton Exchange has advocated that all Government cotton acreage and production reports as well as all press releases pertaining to the various cotton programs be released after 3 p.m. when the market closes. The Department of Agriculture has been very cooperative in withholding press releases

on the cotton program until after the market closes but have been prevented by law in changing the time of release of the monthly acreage and production reports.

Historically, the New York Cotton Exchange has followed a practice of discontinuing trading just before, during, and a few minutes after the U.S. Department of Agriculture releases monthly cotton acreage and production reports. The market is closed at 10:55 a.m. and reopened at 11:15 a.m. This practice was instituted years ago and has been maintained to give the cotton industry in the United States as well as in foreign countries an opportunity to obtain and analyze the monthly reports and to be in position to protect their market positions when the market is reopened.

Despite the speed of modern communications, it should be apparent to everyone that 15 minutes is not an adequate period of time for people interested in the cotton market to receive, analyze, and formulate new positions based on new information on crop acreage and production. I think it is also clear that those people who happen to be at the right spot at the right time will be able to get the jump, so to speak, on other people who are interested in the market but are not so fortunately located.

H.R. 13169 merely provides that USDA cotton acreage and production reports will be issued at 3 p.m.—after the market is closed—on the same day and hour that all other crop reports are issued. It also provides for an additional monthly production report to be issued in January which will be very helpful in years when harvest is delayed by unfavorable weather.

Insofar as I have been able to determine, this piece of corrective legislation has the unanimous support of the entire cotton industry. I strongly recommend that it be passed by this committee at the earliest possible date in order that it may be enacted into law prior to the first 1972 cotton acreage report in July 1972.

Mr. Chairman, I would like to add that although I have not commented on the proposed amendment, I strongly support the addition of the amendment.

I would also like to advise the committee that the American Cotton Shippers Association, although not here today, advised me yesterday that they would submit a statement before the end of the week in support of this legislation. They just happen to be all out of pocket today and could not get here.

Mr. DE LA GARZA. Thank you very much, Mr. Rhodes.

It is the intention of the Chair to allow any statements received within the next 3 or 4 days to be included in the record.

Do you have any questions, Mr. Sisk?

Mr. SISK. I want to join with my colleague, Mr. Burlison, in welcoming a good friend of the cotton industry, as well as a good personal friend of mine, Dusty Rhodes, to the committee. Dusty Rhodes is a name to be reckoned with in the cotton industry across this country. We admire him in California, also.

Mr. RHODES. Thank you, sir.

Mr. DE LA GARZA. Mr. Burlison, would you like a rebuttal?

Mr. BURLISON. I shall have to agree with those remarks and associate myself with them, Mr. Chairman.

Mr. DE LA GARZA. Mr. Jones?

Mr. JONES. Thank you, Mr. Chairman, I would like to say, me too. I have known Dusty for many, many years. I consider him to be one of the real authorities of the cotton industry. I support his position always.

Mr. DE LA GARZA. Mr. Mizell, any questions?

Mr. MIZELL. No questions, Mr. Chairman. Certainly I think the remarks that have been made in behalf of our witnesses today are appropriate. I endorse fully those remarks.

Mr. DE LA GARZA. Thank you very much, Mr. Rhodes.

From the statements made you are probably ready for retirement.

Mr. RHODES. Just about.

Mr. DE LA GARZA. The next witness is Mr. Raymond L. Schafer, Washington representative of the National Cotton Council of America. We shall be very happy to hear from you, Mr. Schafer.

STATEMENT OF RAYMOND L. SCHAFFER, WASHINGTON REPRESENTATIVE, THE NATIONAL COTTON COUNCIL OF AMERICA

Mr. SCHAFFER. Thank you, Mr. Chairman. I have a statement here from the National Cotton Council that I would like to read into the record.

My name is Raymond L. Schafer. I am Washington representative of the National Cotton Council of America and appear before you in behalf of that organization. The council with headquarters in Memphis Tenn. is the central organization of the raw cotton industry, representing cotton producers, ginner, merchants, warehousemen, cooperatives, spinners, and cottonseed crushers.

At their annual meeting in New Orleans in February, our delegates unanimously adopted a policy position that the council should:

Urge Congress to enact the necessary legislation to direct the Crop Reporting Board of the U.S. Department of Agriculture to change the date for issuing monthly cotton acreage and production reports from 11 a.m. on the 8th day of July, August, September, October, November and December to 3 p.m. on the 10th day of the same months; and urge the Crop Reporting Board to make a January survey, using the same procedures that were used in making the August through December reports.

In pursuance of this policy the Council supports H.R. 13169, the bill before your committee. The bill, if enacted, will enable the Department of Agriculture to publish its cotton crop estimates at the same time as those for other crops, thus improving the efficiency of its operations. The additional crop estimate in January is provided for, and we are pleased that the bill also modifies the ginning report dates to conform more nearly to the harvesting season.

The legislation requiring both the cotton crop estimates by USDA and the ginning reports by census was passed in 1924. In the 3 years 1922-24, an average of 92.1 percent of the crop was ginned prior to December 1.

In that half century which has elapsed since that time, better land selection, irrigation, and fertilization have extended the length of the growing season. The changeover from 100 percent hand-harvest to 98 percent machine harvest has meant that instead of beginning harvest when 15 to 20 percent of the cotton bolls were open, growers using conventional spindle pickers now wait until at least 75 or 80 percent or more are open. Those who use strippers, of course, must wait until

all the bolls are open. There is now in commercial production a new spindle picker that cuts the stalks like a combine and runs the whole plant past the spindles. If this is widely adopted, harvest will be further delayed.

Since the growing season is longer and the harvest begins later, a little weather interference during the normal harvest season often means that the harvest is delayed beyond the optimum time. As a result of all this, an average of only 85.2 percent of the crop was ginned prior to December 1 in the years 1968-70, compared with 92.1 percent in 1922-24. In 1965 only 78½ percent was ginned prior to that date.

In addition, a later-maturing crop is more subject to late season weather damage. For example, in 1971, the Texas Plains crop was planted late and there was a little earlier-than-usual frost in the fall. As a result, the crop in that area fell short of the earlier estimates, even that of December 1.

Since price is extremely sensitive to the size of the crop farmers and buyers alike need to have the best possible information. A January crop estimate and semimonthly ginning reports through February 1, under present practices would be related to the harvest season in the same way that the December estimate and twice-a-month ginning reports through mid-December were related to it a half century ago.

We note that the mid-August and mid-September ginning reports would no longer be required under H.R. 13169, so that the new reports on January 1 and February 1, would not increase the total number of ginning reports required. We are reluctant to give up the mid-September report, since the southernmost areas of the Cotton Belt are harvesting in early September.

It is important to cotton, however, that this bill be passed quickly so that administrative plans can be worked out in time for it to be effective with the 1972-73 season. It is our understanding that the cost of an additional ginning report would likely cause delays and perhaps even jeopardize the bill's passage, and for this reason, we are not opposing elimination of the legal requirement for a mid-September report.

We would point out to the Bureau of Census, however, that the bill does not preclude reports that are not actually required.

Mr. Chairman, we appreciate the opportunity to present our views, and respectfully request favorable subcommittee consideration of the bill, including the amendment I referred to, dealing with Bureau of Census reports.

Mr. DE LA GARZA. Thank you very much, Mr. Schafer.

Are there any questions of Mr. Schafer?

Mr. SISK. Thank you, Mr. Schafer.

Mr. DE LA GARZA. Mr. Burlison?

Mr. BURLISON. No questions.

Mr. DE LA GARZA. Mr. Jones?

Mr. JONES. No questions, Mr. Chairman.

Mr. MIZELL. I have no questions, Mr. Chairman.

Mr. DE LA GARZA. Thank you very much. We are very happy to have had you.

Mr. SCHAFFER. Thank you, Mr. Chairman.

Mr. DE LA GARZA. Is there anyone else who would like to appear, for or against the legislation?

Mr. SISK. Mr. Chairman, if it is appropriate—and I would inquire of the chairman as to what his feelings are—in view of what seems to be a unanimous position here, both by the Department of Commerce and the Department of Agriculture and other interested parties, if the chairman would be amenable, I would be glad to make a motion. Perhaps the chairman desires to go into executive session to conclude action on the bill, but as far as I am concerned, I would be glad to move the amendment. There was unanimous agreement, I understand, on the proposed amendment. Then we could report the bill, if the chairman is agreeable to that kind of procedure.

Mr. DE LA GARZA. It was the intention of the chairman to recess subject to the call of the Chair in order that the actual chairman of the subcommittee might be here for any executive session action on this legislation. I agree with my colleague that the unanimity seems to be such that we probably can act expeditiously on this legislation without any problems. So, leaving the record open for any possible statement that might be included for the next 3 days, the committee will now recess and will reconvene in executive session in 3 minutes.

We thank all of you for being here.

(At 10:35 a.m. the subcommittee proceeded into executive session.)

(The following letter was subsequently submitted to the subcommittee:)

AMERICAN COTTON SHIPPERS ASSOCIATION,
Washington, D.C., April 13, 1972.

HON. THOMAS G. ABERNETHY,
*Chairman, Cotton Subcommittee, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.*

DEAR CHAIRMAN ABERNETHY: On behalf of the American Cotton Shippers Association I wish to provide the Subcommittee with our views on H.R. 13169.

The American Cotton Shippers Association was founded in 1924, and is basically comprised of merchants, shippers and exporters of raw cotton, who are members of five federated associations, located in sixteen states throughout the cotton belt.

Arkansas-Missouri Cotton Trade Association; Atlantic Cotton Association; Southern Cotton Association; Texas Cotton Association; and Western Cotton Shippers Association.

The 447 member firms of the ACSA handle over 70% of the domestic cotton crop and 80% of the export market; four cooperative marketing associations control most of the remaining portion of these markets.

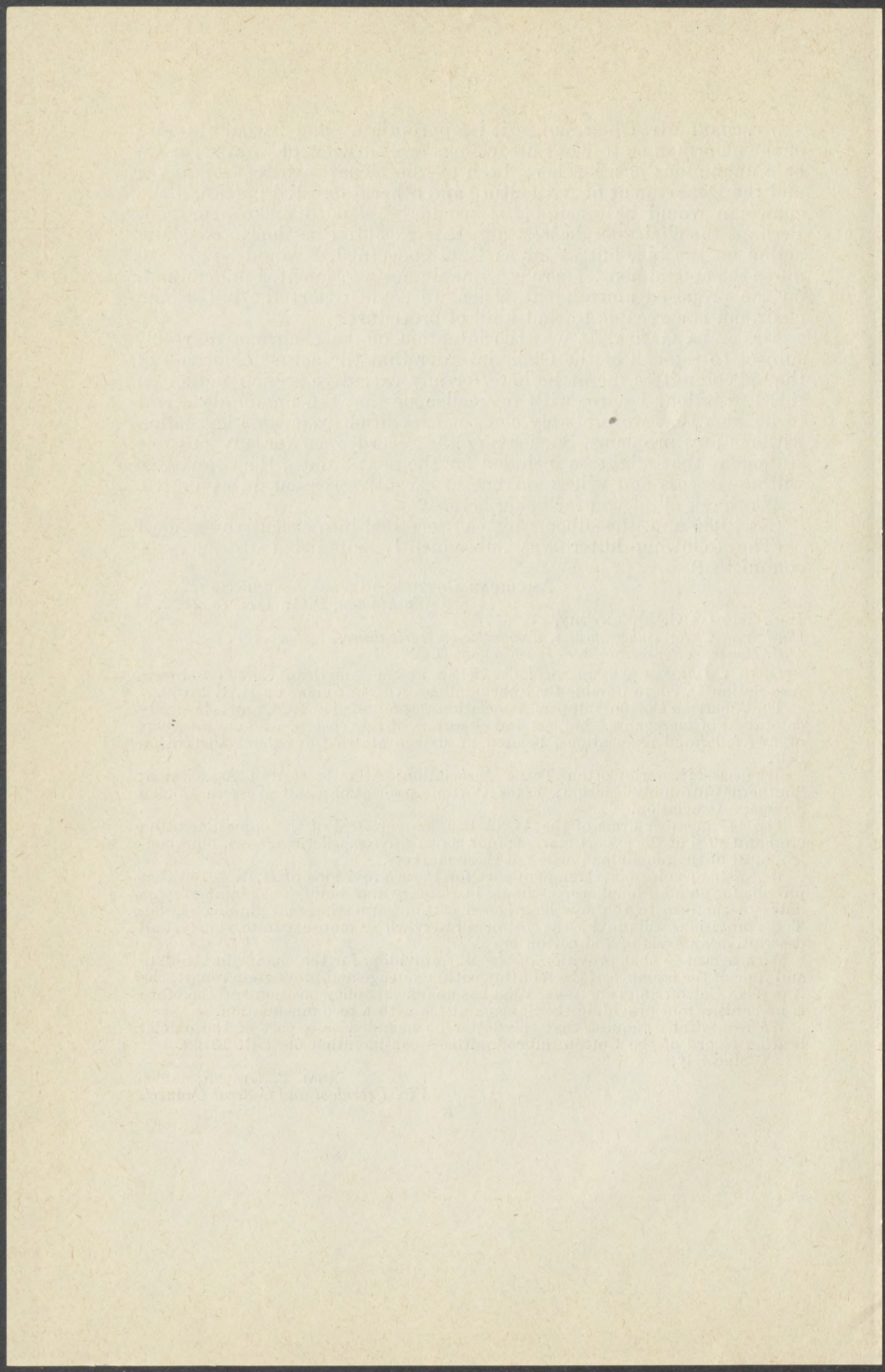
We wish to voice our strong support for those provisions of H.R. 13169 that provide for an additional crop estimate in January and modify the ginning report dates to conform to the now lengthened cotton harvesting and ginning season. These provisions will provide the cotton industry with a more accurate, timely, and descriptive analysis of the cotton crop.

With regard to that provision of the Bill providing for the change in the date and time of the issuance of the monthly cotton acreage and production report, the American Cotton Shippers Association has no official policy position and therefore is precluded from providing the Subcommittee with a recommendation.

We respectfully request that this letter be included as a part of the official hearing record of the Cotton Subcommittee's consideration of H.R. 13169.

Sincerely,

NEAL P. GILLEN,
Vice President and General Counsel.



FLOOD PREVENTION IN THE LOWER RIO GRANDE BASIN, TEXAS

TUESDAY, JUNE 27, 1972

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION AND CREDIT OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1301, Longworth House Office Building, Hon. W. R. Poage (chairman of the subcommittee) presiding.

Present: Representatives Poage, Abbitt, de la Garza, and Teague.

Also Present: Christine S. Gallagher, chief clerk; Lacey C. Sharp, general counsel and Fowler C. West, staff consultant.

(H.R. 645, introduced by Mr. de la Garza, and the Department's report, follow:)

[H.R. 645, 92d Cong., first sess.]

A BILL Authorizing the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Rio Grande Basin, Texas, to enhance and stabilize the agricultural economy of the area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes that flood problems of the Lower Rio Grande Basin, in Wallacy, Hidalgo, and Cameron Counties, Texas, are of such a magnitude and interdependence that such problems must be treated on a basin-wide basis and such area exceeds that authorized to be treated under the Watershed Protection and Flood Prevention Act (Public Law 83-566), hereinafter referred to as Public Law 83-566, and it is the intent of Congress to provide with respect to such area for the cooperation by the United States with the State of Texas and its political subdivisions, soil and water conservation districts, flood prevention and control districts, and other local public agencies, for the purpose of preventing erosion, floodwater and sediment damages, and to provide for the conservation, development, utilization, and disposal of water, and thereby preserve, protect, and enhance the Nation's soil and water resources and the quality of the environment, and provide for the general welfare.

SEC. 2. The Secretary of Agriculture is hereby authorized and directed to carry out the plan for flood prevention, and the conservation, development, utilization and disposal of water (Phases I, II, and III) substantially in accordance with the recommendations therefor contained in the Comprehensive Study and Plan of Development, Lower Rio Grande Basin, Texas, dated July 1969, prepared by the United States Department of Agriculture in cooperation with the Texas Water Development Board, the Texas State Soil and Water Conservation Board, and the Texas Water Rights Commission, a copy of which is on file with the appropriate Committee of the House of Representatives and the Library of Congress at an estimated Federal cost hereunder of \$84,805,000, which amount is hereby authorized to be appropriated.

SEC. 3. The Secretary of Agriculture is directed to utilize, to the extent feasible, ongoing programs in the carrying out of Phase III of the plan herein authorized: *Provided,* That the Secretary shall be authorized to provide financial and other assistance for accelerating the installation of land treatment measures for runoff and waterflow retardation and the control and prevention of erosion, floodwater, and sediment damages, and to cooperate with farmers and ranchers, and other landowners, operators, and occupiers in the installation of soil and water conser-

vation practices and measures, including changes in cropping systems and land uses, needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of farm and other lands within the area included in sub-watershed plans and as provided in such subwatershed plans, such assistance to be comparable to the assistance provided for planning and installing similar practices and measures under Public Law 83-566, as amended, or as may hereafter be amended, and other existing national programs: *Provided further*, That the portion of the costs of such practices and measures needed to protect structural works of improvement installed with Federal assistance should be that part determined by the Secretary to be necessary and appropriate to effectuate the timely installation of such practices and measures.

SEC. 4. Prior to participation in the installation of the structural works of improvement on non-Federal lands, cooperating non-Federal entities shall furnish assurances satisfactory to the Secretary of Agriculture that an adequate land treatment program is being or will be installed to provide necessary protection to the watershed lands and planned structural measures; that such entities will acquire all land rights needed in connection with the installation of such works of improvement and in such acquisition there may be used such Federal cost-sharing assistance as may be available under other Federal programs; and that such entities will operate and maintain all upstream structural works of improvement on non-Federal lands, after installation, in accordance with the provisions for non-Federal participation described herein or as may be required under other similar Federal programs.

SEC. 5. Except as herein otherwise provided, the provisions of the Watershed Protection and Flood Prevention Act (Public Law 83-566) shall apply to the furnishing of assistance hereunder.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 26, 1972.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 645, a bill "Authorizing the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Grande Basin, Texas, to enhance and stabilize the agricultural economy of the area".

We recommend that the bill not be enacted at this time.

H.R. 645 authorizes the Secretary of Agriculture (the Secretary) to carry out a program for flood prevention and soil and water conservation in the Lower Rio Grande Basin, Texas, pursuant to the Plan, which was developed by the Department of Agriculture in conjunction with several Texas State agencies. The estimated Federal cost of the program is \$84,805,000, which the bill authorizes to be appropriated.

The project contemplated by the bill is important and complex, involving land use changes over the entire Lower Rio Grande Basin. It includes some 1500 miles of channelization and could have substantial effects on fish, wildlife, recreational and other natural resources for which this Department has primary responsibility.

Of particular concern is the effect of the project on the waters of the Laguna Madre, a salt-water body along which Padre Island National Seashore stretches more than 80 miles. The national seashore boundary also includes submerged lands of the Laguna Madre on the inland side. We believe that the project will have serious adverse environmental effects on the Laguna Madre, as well as the Padre Island National Seashore. In particular, pollutants now in use, including insecticides and herbicides that are toxic to marine animals and plant life, could adversely affect estuarine areas which support a vast and complex ecology. To this would be added greater sediment loads, water flows of altered salinity, and channelization which could cause direct environmental damage.

It is our understanding that the U.S.D.A. will further examine unresolved environmental issues pertaining to this project. This Department would be prepared to cooperate with the Department of Agriculture in such an examination.

We have not undertaken a review of the economic analysis of the Comprehensive Study and Plan of Development and would defer to the Department of Agriculture concerning it.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN W. LARSON,
Assistant Secretary of the Interior.

Mr. POAGE. The committee will please be in order.

We meet this morning for the purpose of discussing H.R. 645 by Mr. de la Garza relating to the establishment of a new type of flood prevention district in the Rio Grande Basin of Texas.

We have a number of witnesses. We have a very short time. The House convenes at 11 o'clock.

Mr. TEAGUE. May I ask one question first, Mr. Chairman. Why does this come to our committee, rather than Public Works?

Mr. POAGE. I couldn't tell you.

Mr. TEAGUE. I don't object at all.

Mr. POAGE. I didn't assign it. I don't know. I presume because this establishes a different kind of program. Soil conservation is under this committee. Therefore, I presume that the arrangement for these other large watershed projects with the Department of Public Works is simply an arrangement relating to Public Law 566. Since this is not a 566 project, it comes to us, I think.

Mr. de la Garza, I think it might be well if we just let you call the witnesses as you see fit.

Mr. DE LA GARZA. Mr. Chairman, I will defer to Mr. Buie, who is representing the department. Then I will introduce the witnesses from my area later, if you don't mind.

Mr. POAGE. We will be glad to do that. Mr. Buie, we will be glad to hear from you.

STATEMENT OF EUGENE C. BUIE, ASSISTANT DEPUTY ADMINISTRATOR FOR WATERSHED PLANNING, SOIL CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. BUIE. Thank you, Mr. Chairman.

My name is Eugene C. Buie. I am Assistant Deputy Administrator for Watershed Planning, Soil Conservation Service. If it pleases the committee I will present the testimony for the Department of Agriculture with respect to H.R. 645.

H.R. 645 proposes that the Secretary of Agriculture be authorized to carry out the comprehensive plan of development of the Lower Rio Grande Basin, Tex., essentially as recommended in the Comprehensive Study and Plan of Development, Lower Rio Grande, Tex., July 1969. This study and plan were developed by the Department of Agriculture in cooperation with the Texas Water Development Board, the Texas State Soil and Water Conservation Board, and the Texas Water Rights Commission. In addition, representatives of the local government participated actively in this planning effort which was carried out under the provisions of section 6 of the Watershed Protection and Flood Prevention Act (Public Law 566, 83d Congress, as amended).

The need for the study arose from a realization that the problems connected with the control of floodwaters and inadequate surface and

subsurface drainage in the basin cannot be solved on a project by project basis under Public Law 566. The topographic and institutional interrelationships are too complex to permit such an approach. The purpose of the study was to clarify the problems and needs and define a plan which would be both workable and acceptable from the physical, financial, and aesthetic points of view.

This was not the first attempt to develop a plan to alleviate the water and related land resource problems of this area. In 1914 the Office of Experiment Stations of the U.S. Department of Agriculture made drainage investigations to stimulate interest in drainage developments. In 1934 the Texas Departments of Reclamation and Health, and the Texas Reclamation and Health Commission developed a plan for the control of floods and drainage in this three-county area. In 1948 the Bureau of Reclamation, U.S. Department of the Interior, developed a plan known as the valley gravity project. This was a revision of an earlier plan known as the valley gravity canals and storage project. In 1951 the Corps of Engineers published a preliminary examination of the Lower Rio Grande Valley. It concluded that a drainage system for storm runoff only would not be justified at that time but that improvements for a drainage system to control the underground water and irrigation water appeared to be justified. Cameron County took advantage of available outlets and Public Law 83-566 to alleviate its problems. Three watershed projects, the Arroyo Colorado, the Los Fresnos Resaca, and the Rancho Viejo are now in operation. Due to lack of natural water courses, Hidalgo and Willacy Counties were not able to take a similar action.

The cooperating State agencies requested the USDA to undertake the present study in December 1962. It was initiated in 1966 and completed in 1970. It is fully supported by them and has strong support from local people.

The Department of Agriculture agrees with the principle of the approach to the solution of the water and related land resource problems of the Lower Rio Grande Valley which is described in the report and proposed for authorization by H.R. 645. It believes that the installation of the proposed plan would contribute to a more stable agricultural economy for this area, provide a more desirable human environment, and improve the quality of life of many of its residents. However, this Department recommends that H.R. 645 not be enacted at this time for the following reasons:

(1) Phase III should be deleted from the proposal. It accounts for about 50 percent of the total cost. All the works of improvement included in this phase can be installed with assistance under going programs of this Department.

(2) Immediate action on phases I and II should be deferred to permit more time to further examine some unresolved environmental issues and to help hold down current demands on the Federal budget.

(3) This proposal also raises a unique question with respect to project execution. The Secretary of Agriculture has not been given nor has he sought project authorization on areas in excess of 250,000 acres since the enactment of the Flood Control Act of 1944 (Public Law 78-534). The enactment of H.R. 645 would revert to conditions which existed prior to enactment of the Watershed Protection and Flood Prevention Act (Public Law 83-566). This Department needs to give further

consideration to the desirability of such an action and the possible impacts on the scale of its future land and water resource development programs, and relationship to other Federal programs. If phase I were installed, thus providing needed surface and subsurface flood-water and drainage outlets for Hidalgo and Willacy Counties, the phase II provisions could be carried out under the provisions of Public Law 83-566 as is now being done in Cameron County.

If I may I would like at this time to present a brief summary of the technical aspects of this plan.

The total area includes three counties—Cameron, Willacy, and Hidalgo. It has an area of 3,452 square miles or about 2,209,000 acres, about one-half of which is cropland. Approximately 88 percent of the area is land and 12 percent water. Ninety-eight percent of the land is privately owned. It has a modified marine, subtropical, semi-arid climate. The average annual rainfall ranges from 20 to 26 inches.

The major problems in the area are floodwater; impaired drainage, both surface and subsurface; and soil salinity caused by poor drainage.

If I may use a few slides I can show the committee the nature of the flood problem as illustrated by Hurricane Beulah.

Mr. Chairman, at this time I would like to show a few slides which would illustrate this point.

Mr. POAGE. Without objection, we will see the slides. You understand, of course, these slides will not be a part of the printed record.

Mr. BUIE. Yes.

This is the area which is concerned. Beginning at the west there are two larger towns. Extending eastward to the largest town is Harlingen. At the lower corner is Brownsville.

Up in the upper center is a small town, Raymondville. I wanted to call attention to these points because they will be identified in the slides. You will notice this is the lowest tip of Texas shown in the location map in the lower left-hand corner. The blue area is the Laguna Madre. When Hurricane Beulah struck, it covered this area. The water began to move from the west to the east. This is the most western part of the area. This slide was taken about 10 days after the hurricane, so you can notice the water has already moved off except in pothole areas. As we move further east we see the potholes begin to be connected at this time, and you can see the agricultural area that is being flooded.

As we approach Edinburg, this is the type of flooding that begins to develop. It is more continuous, and much more area is involved.

This is a picture of Edinburg itself. You will notice the amount of water that is concentrated around this area. There is no natural drainage to move this water off except overland. As the water moves further to the east, irrigation canals, of which this is one, begin to block the water movement. You will notice how it is impounding on the west side. We are looking south along the irrigation canal. It is becoming a regular lake in the areas to the west of the canal itself.

The north floodway is a part of the Rio Grande River flood control system. This is operated by the International Boundary and Water Commission. This is the floodway. It has specific significance to this plan, because the plan proposed to use this as a potential outlet under nonflood conditions. None of the water in this area, incidentally,

came from the river. The flooding from Hurricane Beulah was all as a result of the hurricane itself.

Here again you see the north floodway making a short bend back to the left, and in the middle there is a bright area. Right at this point you can see a little triangle area which I want to show you a little more closely because this is one of the focal points for the water. There are 411 square miles of area out of central and southern Hidalgo County draining into this area. You can see on the north bank two or three little bright spots. Those are gates which under non-river flooding conditions are open, and can help relieve the situation here. Under these flooding conditions the gates were closed and the water had to seek its way on to the east from other courses.

This again is the irrigation canal that formed a part of that triangle. You can see in the left center right against the canal a small white building. At this point there are four, 54-inch culverts that come under the canal which provide normal drainage. These culverts, incidentally, will carry only about 1,200 cubic feet per second together with the gates and the needed discharge at this point is 9,000 cubic feet per second. The water on the west side of the canal at this time was 5 to 8 feet deep.

The water from this point, since it can't get through, has to seek its way north along the canal. You see in the upper left Delta Lake, which is one of the natural lakes of the area. The water has to go under the canal this side of Delta Lake. There is also some relief around the west side of the lake. The water moves through these reliefs very slowly, as this picture illustrates.

This is the town of Raymondville. This town was heavily flooded. You see water to the east of Raymondville which is impounded. This gives a little bit better picture of the area on which water was impounded. This water stayed for several months, as I recall about 6 months. Finally OEP gave the corps some money and they opened a temporary ditch to drain this water out. This ditch as I recall was along road rights-of-way and was later filled up.

This is a dry land area south and east of Raymondville. This area, I think it is some 60,000 acres was damaged in this flood. Last year there was another hurricane which covered this land again, and it was necessary to go in again with a temporary channel, which OEP financed, and drain this area.

This is another picture to show how much this dry land area, which has no natural drainage system at all, is affected by storms of this type.

Institutional arrangements is one of the problems in this area. This gives you an idea of the location of 18 irrigation districts in Hidalgo County, one in Willacy County and 17 in Cameron County. Since Cameron County is covered by three Public Law 566 projects, which I mentioned earlier, it would not be affected by the arrangements we are talking about here. These 19 irrigation districts, as you notice, run essentially north and south while the water movement runs east and west. In addition there are, I believe, four or five drainage districts along with the irrigation districts, as well as the two counties and the soil conservation districts which are all involved in this area.

These pictures are to illustrate the problems which the local people encounter. This is a man trying to get to his mailbox down the county road. High water stayed in this condition for many weeks. This shows farmhouses completely surrounded with water. This is an orange

grove under water. And this picture gives a view of flooded orange groves. Many, many trees drowned out because of the prolonged flooding. The proposed plan would remove this water off in 24 to 36 hours for the 5-year frequency type storm.

This is another house which is under water and access is only by boat, as is illustrated in this picture.

Mr. Chairman, this concludes the slides. I will return to my statement.

Mr. POAGE. We thank you very much.

Mr. BUIE. As shown by the slides, the major problem is the lack of natural drainage channels to remove excess surface waters. This is a very flat area and Willacy County is reputed to be the only county in Texas which does not have a single natural stream channel. The development of roads, railroads, and irrigation ditches has further interfered with the poor movement of surface waters. Natural depressions together with these manmade obstructions to dispersed overland flow have aggravated the flooding, drainage, and salinity problems in Hidalgo and Willacy Counties.

The plan which H.R. 645 proposes to implement would provide for installation of structural measures in only Hidalgo and Willacy Counties, since Cameron County is covered by authorized watershed projects. It consists of three phases of implementation which will be discussed in the sequential order in which they must be installed to function properly.

Phase I

This phase consists of 164 miles of single-purpose floodwater channels. These are the Willacy-Hidalgo Floodwater Bypass, the Laguna Madre Floodwater Channel and the North Floodway. This is the Willacy-Hidalgo Floodwater Bypass here. It starts here (McAllen) and runs north and back east to Laguna Madre. The Laguna Madre Floodwater Channel starts at Edinburg and moves in a general eastern direction. I pointed out the North Floodway earlier. The proposal is that under nonflood conditions, when this channel is not occupied by river floodwater, runoff water would be diverted in at this point and there would be a pilot channel constructed that would come through here that would carry some of the floodwater from Hidalgo and Willacy Counties.

Mr. POAGE. Those first two that you showed us are not in existence now; are they?

Mr. BUIE. There are no streams of any type in this area. These are not in existence; no, sir. These would be completely new channels.

Mr. POAGE. But that third one is in existence.

Mr. BUIE. Yes, sir. The floodway here is operated by the IBWC. It would be cut here and there would be a pilot channel constructed in the bottom of this floodway so as to not impose on the capacity allotted for regular flood flows.

The report proposed that phase I be installed within a 3-year period. Its cost is estimated to be \$24,891,000 of which \$16,795,000 would be Federal funds. These or similar floodway channels must be constructed before any effective program can be implemented to alleviate the floodwater and drainage problems of Hidalgo and Willacy Counties.

Phase II

This phase consists of the project-type measures needed to collect and deliver surface and subsurface waters to the main floodways. It includes 1,394 miles of multiple-purpose channels for flood prevention and agricultural water management. It would be carried out in cooperation with local units of government in small subwatershed projects in Willacy and Hidalgo Counties. These subwatershed projects would be initiated in accordance with the report by local sponsors and carried out under provisions similar to those of Public Law 566 projects. It is expected that at least 10 years would be required to plan and install these project measures. Their estimated cost is \$50,970,000 of which \$20,695,000 would be Federal funds.

Phase III

This phase consists of the on-farm land treatment measures, primarily for water management, needed for the individual farmers to realize the benefits which would accrue as a result of phases I and II. This phase could be carried out under going USDA programs if phases I and II were completed. Its estimated cost is \$96,839,000 of which \$47,315,000 would be the maximum Federal share under going programs.

Land, the basic resource of this area, is being seriously damaged by lack of water control and management. Floods and poor drainage of excess surface waters cause serious damage to crops. Estimated average annual crop and pasture damages from floodwaters in Hidalgo and Willacy Counties are \$5,953,000. During the past 50 years approximately 160,000 acres have developed salinity levels which seriously affect their productivity or make them unsuitable for crop production. This condition is due to poor subsurface drainage and the rate of loss is expected to accelerate unless relief is provided. In addition to crop and pasture damages there are \$50,000 average annual damages to urban areas, roads, and bridges in these two counties.

Total estimated flood damage reduction benefits in Willacy and Hidalgo Counties are \$5,872,000 and benefits expected to accrue from improved drainage are \$5,402,000.

Total estimated average annual benefits from phases I and II are \$12,676,000 and average annual costs are \$4,584,000, giving a benefit cost ratio of 2.8 to 1.

Additional benefits would be derived from the reduction of emergency expenditures in the three-county area which are caused by flooding. We have learned that during the period from Hurricane Beulah, September 1967 through May 1972, a total of over \$33 million of emergency public funds have been expended. Over \$26,800,000 of these were Federal funds, \$17 million of which were supplied through the Department of Agriculture. It is not possible to determine the exact amount of reduction in these expenditures which would result from installation of phases I and II. However, it is reasonable to expect the reduction would be well in excess of 50 percent.

This plan could provide the water management opportunities which are needed to keep the Lower Rio Grande Basin a viable agricultural area.

I appreciate the opportunity to make this brief presentation to the committee.

Mr. POAGE. Thank you very much. If there are no questions, we will proceed with the next witness.

Mr. DE LA GARZA. Mr. Chairman, I would have some questions of Mr. Buie, but if the chairman has no objection, we will hear the other witness and then come back to him.

Mr. POAGE. Yes.

Mr. DE LA GARZA. The witness list shows Brig. Gen. Kenneth B. Cooper as the next witness.

Mr. POAGE. General Cooper, we are glad to have you with us. We will be glad to hear from you.

STATEMENT OF BRIG. GEN. KENNETH B. COOPER, DEPUTY DIRECTOR OF CIVIL WORKS, CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

General COOPER. I am very pleased to be with you, Mr. Chairman. In the interest of saving time, I will limit my comments with your permission, particularly after the eloquent presentation by Mr. Buie, to the significant parts. The Department of the Army defers to the Department of Agriculture regarding the desirability of the enactment of H.R. 645. That concludes my statement, sir.

(A prepared statement follows:)

STATEMENT OF BRIGADIER GENERAL KENNETH B. COOPER, DEPUTY DIRECTOR OF CIVIL WORKS, CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

Mr. Chairman and Members of the Committee:

I am Brigadier General Kenneth B. Cooper, Deputy Director of Civil Works, Office of the Chief of Engineers, Department of the Army. It is a pleasure to appear before the Committee to discuss H.R. 645, 92d Congress, which would authorize the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Rio Grande Basin, Texas.

The bill would authorize the Secretary of Agriculture to carry out the plan for flood prevention, and the conservation, development, utilization and disposal of water substantially in accordance with the recommendations contained in the Comprehensive Study and Plan of Development, Lower Rio Grande Basin, Texas, dated July 1969. Section 3 of the bill would authorize the Secretary of Agriculture to provide financial and other assistance and to cooperate with landowners in the installation of soil and water conservation practices. Such assistance is to be comparable with that provided under the Watershed Protection and Flood Prevention Act (Public Law 566, 83d Congress).

The Department of the Army defers to the Department of Agriculture regarding the desirability of enactment of H.R. 645.

Mr. Chairman, that concludes my statement.

Mr. POAGE. May I just ask if this is not a project in which under the general law you are authorized to at least develop and propose if so authorized by Congress.

General COOPER. Yes, sir. Under our general review of this particular area in connection with the laws under which we operate, we did not pursue the project because of local cooperation projects. In this case we defer to the Department of Agriculture because we believe it is consistent with their laws, with the obvious exception of the total amount of area concerned—the reason for this special legislation. There is no conflict between the Corps and SCS as far as we are concerned.

Mr. POAGE. What is there about this project that would keep it from being eligible for your consideration as it stands?

General COOPER. As it stands now, only the fact that we have agreed to defer to the Department of Agriculture.

Mr. POAGE. Are there any other questions? If there are no further questions, we are much obliged to you, General.

General COOPER. Thank you, sir.

Mr. DE LA GARZA. Mr. Chairman, the county judge of Willacy County, which is one of the affected counties, is here with us. He does not come with a prepared statement, but only to make some personal observations and to answer any questions that the committee might have. This is a very distinguished former colleague of mine from the Texas Legislature and now the county judge of Willacy County, the Honorable Bill Rapp.

Mr. POAGE. Judge Rapp, we are delighted to have you with us.

STATEMENT OF JUDGE BILL RAPP, COUNTY JUDGE, WILLACY COUNTY, RAYMONDVILLE, TEX.

Judge RAPP. Mr. Chairman, it is a great honor that I should appear before you and the gentlemen of your committee. The last time I had the pleasure of being with you, Mr. Chairman, was at Texas A. & M. at an agricultural conference there.

Mr. Chairman and gentlemen of the committee, as the Congressman from my district told you, I do not have a prepared statement. I come with an open heart and an open mind. We come with our hat in our hand as we have done many times before. I think Mr. Buie has very adequately shown you pictures and given you the story of our problems. We have, as you well know, gentlemen, one of the finest agricultural areas of this country there in the lower Rio Grande Valley of Texas, but we are besieged in our two and three county area there, particularly right at the present time, Hidalgo and Willacy Counties with the fact that Hidalgo County's water must drain through Willacy County, a natural drainage area. We have no drainage, as Mr. Buie pointed out. We have no creeks, no natural drainage. The Federal Government through the Office of Emergency Preparedness has dug us our second emergency drainage ditch and we have assured the Government, and we have gotten right-of-way, that we would not cover this ditch up, as we did before, but we do not have the money in our counties, gentlemen, to go further. We are a small county. We have one of the lowest economic indexes in the United States. The Department of Agriculture thinks so and has gone on record by giving us a commodities program at no cost to the county or to the State of Texas, because we just don't have the money to fund it. Businesses are vitally affected in our county, when we have these torrential rains, which we have about twice a year, and with no drainage the towns are flooded, the businesses suffer, our people are out of work both at the businesses and agricultural-wise.

Gentlemen, we need your help. We come here. We will do what we can and the best we can. We can get you the right-of-way but we need your help and we need it desperately.

We have studied the many programs that are available to us. It is the considered opinion of the people of Hidalgo, Cameron, and Willacy Counties that the soil conservation program for drainage of our area is the most logical and would be the best way to proceed.

Gentlemen, I realize you have other commitments. I will be glad to try to answer any questions that you may have.

Mr. TEAGUE. I have one, Mr. Chairman.

I have a completely open mind on this, Mr. de la Garza. You spoke, I believe, about torrential rains which occur practically every year twice a year.

Judge RAPP. This is correct, Mr. Teague.

Mr. TEAGUE. This leads me to wonder why your ancestors and the pioneers settled in this area and built towns there and planted orange groves. This is a condition that doesn't happen once every 50 or 100 years, but happens every year.

Judge RAPP. Why did they?

Mr. TEAGUE. Yes. Is this an area which is really suitable for farm development?

Judge RAPP. Yes, sir; this is an area that is suitable for farming, Mr. Teague, definitely so. We haven't always had the rains that we have had. We haven't had the man made problems that we have, such as railroads, roads and irrigation ditches, which held up these waters, but it is a wonderful area for farming and for orange groves, et cetera.

Mr. TEAGUE. What you are saying is that the development of railroads, highways and the towns themselves have accentuated the problem.

Judge RAPP. Yes, sir.

Mr. TEAGUE. Made it much worse than it was when the area was originally settled.

Judge RAPP. Yes, sir. I can remember as a very small boy back in the thirties, sir, we didn't have all these problems. From time to time we did. We had a hurricane in 1933 that caused a problem, but we didn't have all the land developed that we have now. We didn't have all these fine farm-to-market roads which I am very much in favor of, by the way. We have many manmade obstacles at this time, Mr. Teague.

Mr. POAGE. May I suggest this. I think you have got some kind of misunderstanding here. Mr. Teague asked you, in view of your testimony, about these rains twice a year. As a matter of fact you do not have a hurricane down there twice a year.

Judge RAPP. No, sir.

Mr. TEAGUE. No, I didn't have any idea they did. He spoke about torrential rains.

Mr. POAGE. I know. I think you have given a misleading picture there unintentionally, of course.

Judge RAPP. Excuse me, Mr. Chairman, I certainly wouldn't do that, sir.

Mr. POAGE. You may go 10 years, I guess in some cases you have gone 20 years without a hurricane, isn't that right?

Judge RAPP. Without a hurricane, yes, sir. This is correct.

Mr. POAGE. Then you may have two within 3 years time, but you do go long periods of time in between hurricanes.

Judge RAPP. In between hurricanes, yes, sir, this is correct, Mr. Chairman.

Mr. POAGE. And it is the hurricane that laid the basis for this problem that you are talking about. Of course I do know that you do have heavy rains. I full well recall the story about an old boy going down there with W. E. Stewart. He didn't believe all he heard so he asked an old gentleman who had been there for some time, "Do you know exactly how much it rains here." He said, "Yes, sir; I know exactly how much it rains here". It rained last year." He said, "How

much did it rain last year?" He said, "18 and $\frac{3}{100}$ inches." He said, "How can you be exact about that?" He said, "I was here the night it fell."

I know your rain may come that way. What I want to make clear is you do not have a hurricane every year.

Judge RAPP. This is correct, yes, sir. I didn't mean to give that impression.

Mr. TEAGUE. I didn't have that impression, Judge.

Mr. POAGE. Thank you very much, Judge. We are glad to have you with us.

Judge RAPP. Thank you very much, gentlemen.

Mr. DE LA GARZA. I might add the judge was the chairman of the Committee on Agriculture in the Texas Legislature during his service there.

The next witness, Mr. Chairman, is Mr. Charles L. Melden, an engineer from Edinburg, Tex. He does have a prepared text some of which may duplicate the testimony presented by Mr. Buie, so if Mr. Melden is agreeable, I would ask unanimous consent to insert his statement in the record and then have him give us the benefit of his views in a briefer form than in the statement.

Mr. POAGE. Without objection. Thank you, Mr. Melden, we are glad to have you with us.

STATEMENT OF CHARLES L. MELDEN, EDINBURG, TEX.

Mr. MELDEN. As Congressman de la Garza said, a lot of my statement does repeat what Mr. Buie said.

I would like to point out a few things that weren't covered and might substantiate what Mr. Rapp said.

We do suffer flooding from heavy rainfall. In the years 1954, 1957, 1958, 1961 we had Hurricane Carla, 1965, 1967 we had Hurricane Buelah, and in 1971, Hurricane Fern. We also suffered heavy flooding in 1972.

I can't really answer the question that was posed to Mr. Rapp regarding what our forefathers did in developing and settling in the area.

Mr. DE LA GARZA. Will the gentleman defer for just one moment. I will explain to Mr. Teague off the record why my forefathers came there.

Mr. MELDEN. Hidalgo County is wholeheartedly in support of this plan as developed by the Soil Conservation Service. We would certainly like to see it implemented as soon as possible. I will be glad to answer any questions and leave my statement as a matter of record.

Mr. POAGE. I take it this is the most practical and economical plan that engineers have developed for taking care of this floodwater.

Mr. MELDEN. Yes, sir; and I would like to insert the word "comprehensive." It does the whole job as far as we can see it. Phase I gives us our outfall channels which we are sorely in need of. Water flows overland to the east. There is no natural channel to carry it, and of course as shown in the slides, it blocks—

Mr. POAGE. What does this do for that country down around Weslaco and Mercedes.

Mr. MELDEN. The east channel or floodway channel would be improved, the pilot channel, to take that water that now I think you are talking about backs up against the floodways and also in the

Macдона area. We as engineers have recommended to Hidalgo County to overcome the fact when the gates are closed that pumping plants be installed at the sponsor's cost in this, so they can pump water into the floodways when it is being used.

Mr. POAGE. Will it have any effect down in Harlingen, that far down?

Mr. MELDEN. I will have to be honest with you, Mr. Chairman. I am not familiar with that program in the Harlingen area.

Mr. POAGE. All I am trying to get at is this: I can understand that this is going to protect the northern part of Hidalgo County and all of Willacy County pretty well. I say protect it, at least give it a way to get water out. I'm thinking of your local resources, your local taxing bases down there along the main stem and not up there in that area that is being flooded. What I am trying to ask is are you going to give enough benefits down there—you know what I am talking about—we used to call it the main stem, is it going to give you something down there that will create a tax base?

Mr. MELDEN. I am sure it is, because you take the town of McAllen now. It is growing to the north and it is growing rapidly. They have now extended their storm sewer system that flows to the south as far as they can extend it. They are looking for an outlet to the north. What is happening now is they are putting some of their storm waters to the north, and they are creating part of the problem in Edinburg. By the same token Edinburg waters are creating problems in the north end of Macдона district, and have extended their storm sewer system as far to the north as they can, using their present outlet to the south. The same thing is true with everyone of those towns. I think they realize, I know they support this plan because they need an outlet to the north. They can carry just so much water south across the ridge down to the floodway. They finally run out of grade and they are going to have to seek an outlet to the north.

Mr. POAGE. After you have gotten to that second lift in your old irrigation system, anything there would have to go north, wouldn't it?

Mr. MELDEN. That is correct, and the towns are going to the north. There is very little development in any of them to the south. It is all to the north. The expressways to the north, old 83, that tends to create growth to the north.

Mr. DE LA GARZA. Mr. Chairman, let me add this. The local financing will be done through the counties in both Hidalgo and Willacy County through resolution of the commissioners court. They have agreed to the financing. The Harlingen question, Cameron County is not participating in the financing of this project, although benefits to Harlingen will come twofold. One, the last flooding in Harlingen during Hurricane Beulah came from two sources, one from the Arroyo Colorado which stems off from the floodway. We had a dike. As that broke that came down the Arroyo and flooded Harlingen. Then the flooding north of Harlingen, which is caused by the levee south of the floodway, would be alleviated if these waters that would be drained for the most part not into the floodway would allow more drainage from the south side of the floodway into the floodway not exactly under this plan, but this plan would fit into the floodway rehabilitation work that is being done now by another agency, the International Boundary and Water Commission, which has jurisdiction of the floodway.

Mr. POAGE. If there are no further questions, Mr. Melden, we are very much obliged to you. Thank you.
(The statement follows:)

STATEMENT OF CHARLES L. MELDEN, EDINBURG, TEX.

We appear, representing Hidalgo County, to give facts and technical background that show the need for the flood prevention program as set forth in Congressman de la Garza's bill, H.R. 645, being considered here today.

The Lower Rio Grande Basin is located in the southern tip of Texas and encompasses all of Cameron, Willacy, and Hidalgo Counties. Hidalgo County comprises 45 per cent of the total basin area. For all practical purposes, the land is privately owned. Hidalgo County has a population of 181,500 people, which is divided into 30 per cent rural and 70 per cent urban. There are within Hidalgo County 18 irrigation districts, 2 drainage districts, 2 conservation districts, 13 incorporated cities and 16 unincorporated towns and numerous colonias or rural communities.

The economy of Hidalgo County is largely agriculture oriented. Hidalgo County rates among the top farming counties in Texas with an agricultural income of \$100,000,000 per year which is divided into cotton 33 per cent, vegetables 33 per cent, citrus 14 per cent, and livestock 20 per cent. Other primary sources of income in Hidalgo County are oil, gas, and building material production. Tourism also makes a sizable contribution to the economy. There is 21 per cent of the total work force of Hidalgo County employed directly in agriculture, with an additional 10 per cent of the work force employed in processing, packing, and sales of farm products. This does not include the employment in transportation and sales of farm products, nor the employment in farm supplies, equipment and machinery sales and service.

Topographically, Hidalgo County may be divided into three subdivisions—the Hebronville Plain, the Sand Belt, and the Rio Grande Delta. The Hebronville Plain occupies about two-thirds of the area north of U.S. Highway 83 in Hidalgo County and a small part of western Willacy County. The Sand Belt occupies most of the area north of Linn. The Rio Grande Delta lies between U.S. Highway 83 and the Rio Grande in Hidalgo County.

A significant topographic feature of the area is the Mission Ridge, which is a low-lying ridge extending from Mission through McAllen, San Juan, Pharr, Donna, and west of Raymondville in Willacy County. This ridge reflects the southern and eastern limits of the Hebronville Plain. In the Rio Grande Delta the most prominent topographic features are the resacs and the Arroyo Colorado. In the Sand Belt area and the western part of the Hebronville Plain, a distinctive feature is the pot-holes.

The only natural drains are the Arroyo Colorado and La Joya Creek. These two natural drains serve less than ten per cent of the total area of Hidalgo County; further, the Arroyo Colorado is being utilized in the flood way system for overflow flood waters from the Rio Grande. This precludes its use as a drainage channel for that portion of the time when it is conveying river flood waters. Generally, the area has gentle slopes to the northeast away from the Rio Grande toward Laguna Madre.

Hidalgo County has a subtropical and semi-arid climate. The climate is characterized by long, hot summers and short, mild winters which occasionally are punctuated by severe cold spells. The average rainfall is approximately 20.5 inches. The heaviest rainfall generally occurs in the fall months with September having the highest average monthly rainfall and March the lowest. The maximum 24 hour rainfall—five year frequency varies from 6.25 inches in eastern Hidalgo County to 6 inches in western Hidalgo County.

Hurricanes, which strike the area occasionally, are accompanied by heavy rains. Flood-producing storms can occur at any time of the year; however, they occur most frequently during the spring and fall months. Some floods occur in some part of the Valley each year. These usually are caused by local storms of high intensity. Widespread flooding is associated with storms covering a large area and with heavy rainstorms that accompany hurricanes. Some of the most recent major floods occurred in 1954, 1957, 1958, 1961 (Hurricane Carla), 1965, 1967 (Hurricane Beulah), 1971 (Hurricane Fern), and 1972.

Control and disposal of surface runoff is one of the most serious water problems faced by urban and rural areas. Floodwaters interrupt transportation and drown crops, get into houses and stores, back up sewage, and contaminate everything they touch creating a health hazard.

The ultimate disposal of excess storm waters from the area is either by evaporation from ponded areas or flowing overland to the Laguna Madre. With development came irrigation canals, railroads, roads, and highways which have crisscrossed the area in all directions, and tend to aggravate a poor situation at its best, and result in inundation of large areas of cultivated lands. In addition, inadequate drainage results in high water tables and salt intrusion. While not as dramatic as flooding, the build up of salt in the soil because of poor drainage is an equally serious problem. More acreage every year is being taken out of production because of high salinity. Many vegetables are quite sensitive to salt and it is not economically feasible to plant them on marginal land. While many farmers would like to install subsurface drainage, they cannot do so because of lack of adequate drains and outfall channels. Adequate drainage would not only prevent further losses of agricultural lands because of high salinity, but would allow marginal lands to be reclaimed.

In many cases, water stands for long periods in highly developed urban areas, resulting in extensive damage to property and loss of business, inconvenience to transportation, interruption to school systems, and loss of employment to the work force. In fact just as recently as two weeks ago, a large portion of the population of the community of Lull and other colonias had to be evacuated because of accumulation of storm waters from local rainfall. The continued expansion of the urban areas and the enlargement of our highway system has increased storm water runoff and the flood problem has become more acute each year. The time has come when adequate storm water removal and drainage is imperative.

The Soil Conservation Service in the "Comprehensive Study of Lower Rio Grande Basin, Texas" reports the estimated average annual floodwater damage in Hidalgo County to be a total of \$5,426,000. The Corps of Engineers in the report, "Hurricane Beulah," estimated damage in Hidalgo County, due to flooding from stream overflow and inadequate drainage from Hurricane Beulah, to be \$20,708,000. Of this amount, \$1,575,000 was attributable to damages due to river flooding, mainly, in the area south of McAllen and Mercedes, leaving a total of \$19,133,000 of damage due to inadequate floodwater drainage from this single occurrence. In addition to these damages, a severe economic loss is suffered by the loss of employment on the farms and in agriculture related industries. This loss of employment increases unemployment compensation, the welfare rolls, and on occasions, emergency relief. Following the two most recent major storms, Hidalgo County was declared a disaster area and the Office of Emergency Preparedness has expended millions of dollars repairing roads, streets, sanitary sewer systems, storm sewer systems, and other flood caused damages.

Of the total damages, the major portion occurred in the highly developed irrigated sections and urban communities. Generally, storm water damage in the dry land farming areas and grazing areas is of limited nature. For this reason, the need for drainage is confined, primarily, to the urban and irrigated sections with the inclusion of small areas of dry land which contribute runoff into the irrigated sections. The limit of these areas is that which is included in Drainage District No. 1 and Drainage District No. 2.

Drainage conditions in Hidalgo County are fair to poor, despite the numerous drain ditches that have been constructed. Generally, the drain ditches were originally constructed to intercept seepage water from unlined irrigation canals and were later extended to remove excess rainwater. The adequacy of these ditches has failed to keep pace with the needs, and the effectiveness of the ditches has been reduced due to lack of depth and capacity, improper maintenance, inadequate and deteriorated structures, and most important, the lack of adequate outfall channels. Most of the existing ditches were constructed by various irrigation districts. Each district designed and built its system to serve only the area within its boundaries; little or no consideration was given to including the necessary capacity to remove flood waters or to what happened to water after leaving the district's boundaries. Several of the water districts, particularly in the western part of the county, have no drainage system and some of the other districts have been reluctant to expand or improve their drainage systems because of the lack of adequate outlets. Likewise, many of the municipalities in the area are not able to provide adequate storm sewer systems in their cities because of the lack of a suitable outlet for storm waters.

Hidalgo County Drainage District No. 1 has constructed a series of main drains. Those built in more recent years have been well designed with adequate structures; however, lack of an adequate outlet has hampered the district's drainage program.

Floodwaters, collected by the various network of drain ditches, are conveyed to the Main or North Floodways, where they are carried in the pilot channel or

the Arroyo Colorado to the Laguna Madre. Waters enter the floodway through gated structures in the floodway levees. The primary function of the Floodway System is to control flooding from overflows of the Rio Grande.

Falcon Dam has reduced the frequency of the use of the Floodway System, and the frequency has been further reduced by Amistad Dam. Even with Amistad in operation, there will still be a need for use of the floodways. Large floods on the Rio Grande will still occur, particularly from the Mexican tributaries of Alamo and San Juan Rivers below Falcon. During these flood flows in the Floodway System, the gates are closed in drainage inlet structures and local floodwaters are unable to enter into the floodway. Also, during periods of high intensity or prolonged local rainfall, contributing runoff entering the floodway exceeds the capacity of the pilot channel and causes flooding of the floor of the floodway. This in turn reduces the capacity of the inlet structures, particularly in the downstream reaches of the floodway. On occasions, it has been necessary to close the gates in the inlet structures to prevent water from backing out of the floodway.

Whenever either of these two conditions exist, vast areas are inundated adjacent to the floodways and remain so until such time as the water within the floodways drain down and the gates can be reopened. For these reasons, it is not deemed feasible to utilize the floodways as a gravity outlet for storm waters.

Hidalgo County has long recognized the need for an adequate drainage system. The first known drainage study in Hidalgo County was made by A. H. Dawson in 1908 for Hidalgo County Drainage District No. 1 soon after the District was formed. At that time, the cost of the project, as envisioned by Mr. Dawson, was beyond the financial capabilities of the developed area of Hidalgo County to support.

The next known study was made in 1914 and drainage in Hidalgo County had its meager beginning about this time. In 1928 three irrigation districts, under contractual agreements, began construction of the first joint drainage project of the area. Soon thereafter, Hidalgo County Drainage District No. 1, by certain negotiations, began using this system. The rainfall that accompanied the great hurricane of 1933 caused extensive flooding and in 1934, a study was made by the United States Corps of Engineers.

The International Boundary Commission made a study and report in 1940 on a gravity irrigation project (I.B.C. Project No. 5) where it was stated that a need for drainage was recognized.

In 1945, Hidalgo County Drainage District No. 1 began construction of new ditches in an effort to meet the growing drainage needs, but the structures were not adequate and in 1946 the United States Bureau of Reclamation began a study in connection with the 1940 IBC Gravity Irrigation Project No. 5, which included drainage. In the report, made in 1948, it was proposed that drainage outlets be constructed. The proposals were generally approved, but certain contract requirements in the Reclamation Act caused hesitancy on the part of local interests in seeking implementation of the planned project; thus, the project died.

In 1950, in accordance with a directive from Congress, the United States Corps of Engineers made a preliminary examination of drainage problems in the Valley, and in the report of 1951, it was concluded that Federal participation under the Flood Control Act of 1944 would be so limited as not to effect the desired results; and it was recommended that further studies be made so that the best solution of the problem could be determined.

Extensive flooding from local rainfall again occurred in April, 1954, and in 1955 the Hidalgo Commissioners, acting as Directors of Hidalgo County Drainage District No. One, requested that the United States Bureau of Reclamation make a jointly-financed study of the drainage problems in the District. This study was completed and reported in 1957, but since some three years had passed since the last major flood, lack of interest again caused abandonment of a drainage plan.

The following year, 1958, the area suffered another flood and in 1959, the County Commissioners retained local engineers to seek a solution to the drainage problem.

The study was reported in 1960 and assistance under Public Law 566 was sought. The Soil Conservation Districts and the Soil Conservation Service were consulted in this regard and it was concluded that since the requirements for drainage of the local watersheds were so interrelated and, therefore, too far reaching to be handled under Public Law 566, that a three county agreement for study should be pursued.

This was done in 1965 and the Study and Plan of Development was begun.

In 1967, the Hidalgo County Commissioners retained local engineers to make a study and form a plan to improve drainage within the Drainage Districts. The report presented by these engineers recommended the endorsement of the Soil Conservation Service Plan.

The Soil Conservation Service of the United States Department of Agriculture has prepared and presented a Comprehensive Study and Plan of Development, Lower Rio Grande Basin, Texas. Hidalgo County endorses this plan. The plan is an area plan and is feasible and will provide an adequate outlet for excess storm and drainage for each municipality and water district. Phase One of the plan will overcome the lack of natural water courses and the three major flood water channels will provide adequate outlets for storm and drainage water. Phase Two will allow the individual entities to construct or rehabilitate their existing systems. Phase Three will provide for the on-farm drainage improvements.

Drainage is the most vital factor affecting the Lower Rio Grande Basin and particularly, Hidalgo County. This is an area problem and will need the assistance of the Federal Government for solution.

The plan, as presented, represents in our opinion the most comprehensive drainage plan that has been developed for the area. It is hoped that the plan, as set forth in H. R. 645, will be implemented in the very near future.

Mr. POAGE. Is that all of your witnesses?

Mr. DE LA GARZA. Mr. Chairman, I would like to introduce Mr. Ike Siegler, who is here accompanying Mr. Melden.

Mr. POAGE. Yes, sir, Mr. Sigler.

Mr. DE LA GARZA. He has no testimony. I would just like to introduce him for the record.

Mr. POAGE. We are glad to have you, Mr. Siegler. Mr. Siegler is with the International Boundary and Water Commission. We are glad to have you here. We are very much obliged to all of you who have come here and presented this testimony. I would want to suggest to you whether you get your project approved or not, it is not because of the failure of your representatives to present it to us and keep the Chairman and the members of the committee, shall I say, disturbed all the time about holding a hearing and about trying to give some relief. Frankly we hope that we will be able to be helpful to you, but I know you recognize that there are a lot of limitations on the Committee on Agriculture in taking over a flooding project. It goes to a good deal more than merely the need of the work, but I can assure you that this committee will, as soon as it has the opportunity to discuss it, give it a thorough discussion. Your Congressman is a member of this subcommittee as well as of the full committee, and we are always glad to have him present his needs and his views. We are glad to have you gentlemen here from the Rio Grande Valley.

Mr. TEAGUE. And may I say, Mr. Chairman, Mr. de la Garza is a very valuable Member of Congress.

Mr. POAGE. He is indeed. Knowing the people in the Rio Grande Valley, I think they will recognize that fact and keep him there.

Judge RAPP. Mr. Chairman, before you adjourn, let me say we are very proud of our Congressman down in south Texas, and I think any place in Texas they know him they are proud of him. We certainly are. We appreciate your working with him so closely, you and the other members of the committee.

Mr. POAGE. We are glad to have your Congressman as a member of this committee.

Mr. DE LA GARZA. Mr. Chairman, I had a couple of questions to ask of Mr. Buie.

Mr. POAGE. Certainly.

Mr. DE LA GARZA. Mr. Buie, the statement which you presented is the official statement of this administration.

Mr. BUIE. Yes, sir; it is the statement of the Secretary of Agriculture. It was appropriately cleared with the Office of Management and Budget.

Mr. DE LA GARZA. Which represents the stand of the administration. Mr. Buie, the chairman, I and other members of this committee have expressed some interest in pursuing further the question of the Public Law 566. I know that this is a very comprehensive and extensive study that was made, but is there a possibility that Public Law 566 could be utilized to, in effect, do some of the work as recommended by this study?

Mr. BUIE. Mr. de la Garza, the legislative constraints included in the law itself poses some problems in trying to handle this. The Willacy-Hidalgo Floodwater Bypass has a total drainage area of 422 square miles. The maximum drainage area that can be included in a Public Law 566 project is about 390 square miles.

The Laguna Madre floodwater channel has a drainage area of 304 square miles which would be within that limit, and the drainage area that is to be diverted into the north floodway is 216 square miles.

These two, area-wise, could be covered by Public Law 566. You will remember the map that I showed that gave the irrigation districts. Then we have imposed on those the drainage districts which map I did not show. There is no defined topographic boundary between any of these areas. These would be manmade ditches, if they are constructed as proposed. There is no defined boundary, so the difficulty would come in establishing boundaries for Public Law 566 projects.

There is a chance that if this committee wanted to give consideration to a multiple concurrent authorization of some four or five Public Law 566 projects, the boundaries of which would be very difficult to determine, these could be handled as one unit just like the plan is now one unit. This arrangement might have some possibilities under Public Law 566. It has not been explored because of its complexity. I am not sure it could be worked out or, if it were, that the committee or the Department would go in this way, but this would be a bare possibility. It has not been explored at this time because of the complexity of dividing all the institutions that are involved between different watershed projects. If the committee wishes it to be done we could give it consideration and see where we come out. I don't know just what the conclusion might be.

Mr. DE LA GARZA. Mr. Buie, also in the statement of the administration, what was it, that phase I and phase II be deferred?

Mr. BUIE. Yes, sir.

Mr. DE LA GARZA. Do you recommend any time of deferral? Is there any specific time attached?

Mr. BUIE. There is no time attached but it was agreed that we would proceed. In fact, I have been asked to set up a meeting next week to explore further the environmental issues which are under consideration. And the other factors I am sure will be considered in the near future. This was a point of consideration in the preparation of this statement which was done the latter part of last week and the first of this week.

Mr. DE LA GARZA. Do you know of your own knowledge, of course, the stage of the environmental impact study?

Mr. BUIE. We have a preliminary draft which was circulated with the plan that went out for interagency review. The statement has not been presented to CEQ. There have been no comments received on it yet. We have made some attempt to develop an environmental impact statement.

Mr. DE LA GARZA. I probably should have asked the General this question, but from the inception of this proposal the Corps has deferred to Agriculture, is this right, General?

General COOPER. We did a preliminary study back in 1950. During that preliminary study we determined there was a major drainage problem. Then we had some problems with developing local cooperation, and we have not done a further detailed study. We have deferred to the SCS to do that detailed study.

Mr. BUIE. Mr. de la Garza, if I might inject this comment, in the preparation of this study that we have been talking about, the Corps people in the area were very cooperative and made their data available. We have consulted with them, so there has been good coordination and cooperation on that phase of it.

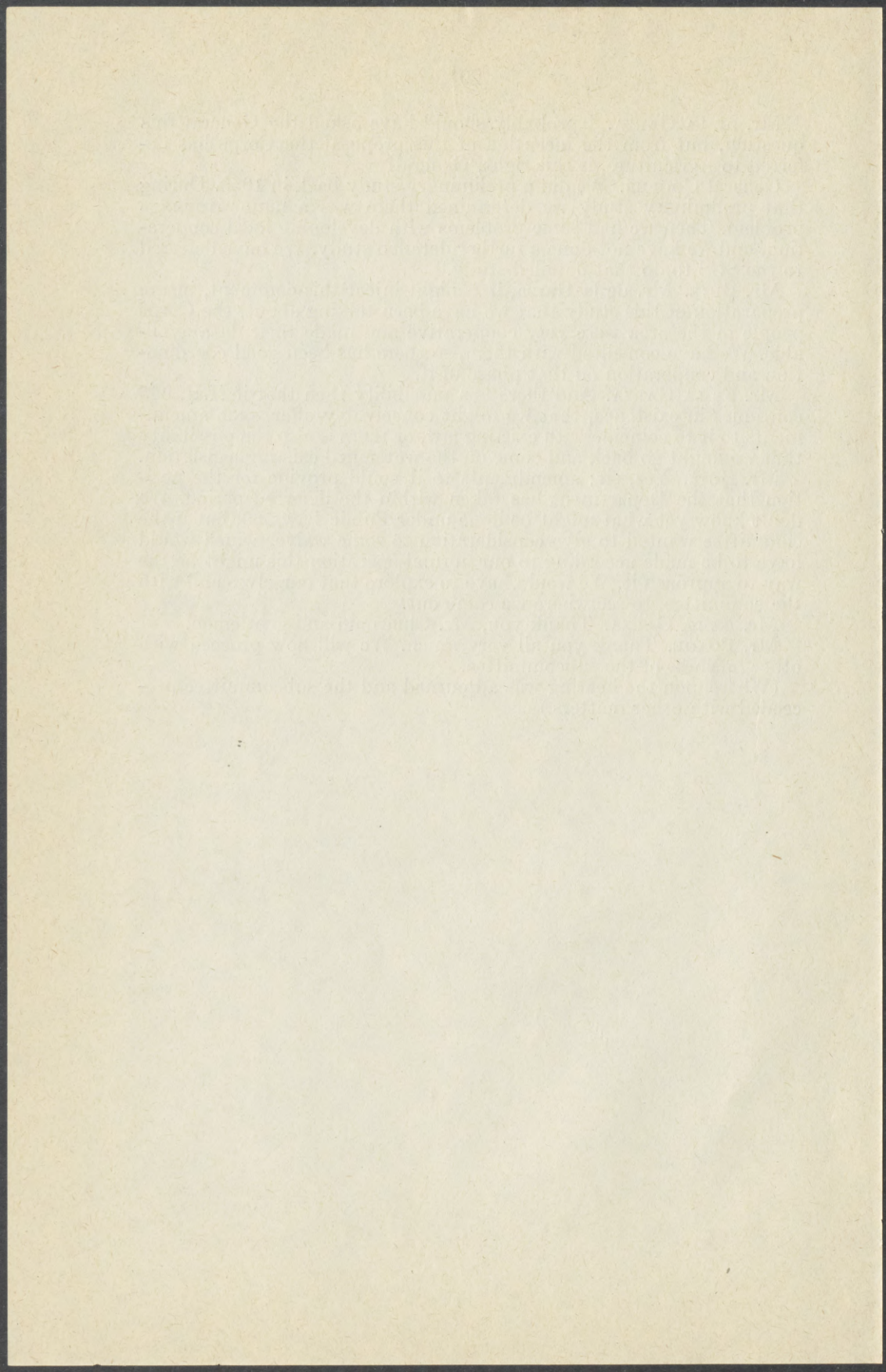
Mr. DE LA GARZA. And there is a possibility then that if H.R. 645 continues in existence, that we might conceivably offer some amendments to it to coincide with existing law, or there is also the possibility that we might go back and come on the watershed existing legislation.

Mr. BUIE. Yes, sir; amendments to it could provide for the position that the Department has taken within the deferred period. We don't know yet what might be done under Public Law 566, but if the committee wanted to give consideration to some waiver which would have to be made according to our normal operation this might be the way to approach it. We would have to explore that ourselves and with the committee, to see where we come out.

Mr. DE LA GARZA. Thank you, Mr. Chairman and gentlemen.

Mr. POAGE. Thank you all very much. We will now proceed with other business of the subcommittee.

(Whereupon the hearing was adjourned and the subcommittee proceeded with other matters.)



FOR THE RELIEF OF JOHN P. WOODSON IN CONNECTION WITH LAND IN EL DORADO COUNTY, CALIF.

WEDNESDAY, JULY 26, 1972

HOUSE OF REPRESENTATIVES,
FORESTS SUBCOMMITTEE OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. Joseph P. Vigorito presiding.

Present: Representatives Vigorito, Dow, Burlison, and Teague.

Also present: Lacy C. Sharp, general counsel, and Mrs. Christine Gallagher, chief clerk.

Mr. VIGORITO. The Forests Subcommittee of the House Committee on Agriculture is now in session for the consideration of H.R. 10638 introduced by Mr. Johnson of California.

(H.R. 10638, introduced by Mr. Johnson of California, and the Department's report follow:)

[H.R. 10638, 92d Cong., first sess.]

A Bill For relief of John P. Woodson, his heirs, successors in interest or assigns

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by a quitclaim deed, without consideration, to John P. Woodson, his heirs, successors in interest or assigns all right, title, and interest of the United States in and to certain real property, more particularly described as follows:

The southeast quarter of the southwest quarter, south half of the southeast quarter, section 1, township 11 north, range 17 east; and the southwest quarter of the southwest quarter, section 6, township 11 north, range 18 east, Mount Diablo meridian, California.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 7, 1972.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 10638, a bill "For relief of John P. Woodson, his heirs, successors in interest or assigns."

This Department recommends that H.R. 10638 be enacted.

H.R. 10638 would direct the Secretary of Agriculture to convey by quit-claim deed, without consideration, to John P. Woodson, his heirs, successors in interest or assigns, all right, title and interest of the United States in and to certain real property, Mount Diablo meridian, California.

The land to be conveyed was patented pursuant to a homestead entry from the public domain on September 9, 1881, by Mr. Charles Hogan. In September 1902, the land was conveyed to Mr. John P. Woodson. Subsequently, the 160-acre tract was subdivided and sold as 71 separate parcels.

On April 13, 1899, the townships in which the tract lies were withdrawn to create a forest reserve. The Act of June 4, 1897 (30 Stat. 11) authorized the owner of patented land within a public forest reservation to relinquish the tract to the United States and select in lieu an equal acreage of vacant public land open to settlement. Mr. Woodson, by deed recorded March 4, 1903, conveyed the tract to the United States as a first step in applying for a lieu selection. He did not

complete the lieu selection. On May 2, 1921, the General Land Office, subsequent to a request, sent a disclaimer letter to Mr. Woodson stating that "the United States is not asserting any claim or right in or to said tract by virtue of the deed . . ." (to the United States). However, this letter was without legal authority.

The Act of July 6, 1960 (74 Stat. 334) confirmed in the United States title to those lands which had been conveyed or relinquished to it as a basis for lieu selection under the Act of June 4, 1897, and for which the grantor had not received a lieu selection or reconveyance as provided by law. The various owners within the tract in 1960 did not exercise their right to payment (\$1.25 per acre and interest) before such right expired.

Thus the title to this tract is clearly in the United States. However, the United States has treated this tract as private land. It has been held and transferred as private land by the successive owners. It has been carried on local tax rolls, taxes have been paid, and the succession of claim of title is clear from March 4, 1903. In managing the surrounding Eldorado National Forest, the Forest Service has recognized and respected a private interest in the tract and has made no attempt to administer it. No improvements have been made to the tract by the United States, either before or after the enactment of the Act of July 6, 1960.

Thus the situation in regard to this tract can be distinguished from those to which the Act of July 6, 1960, generally applies. In those cases, any private status of most of the lands involved had become obscured by 1960. Most of the lands were shown on local county records in the name of the United States, thus they were not on local or State tax rolls during the nearly 55 to 60 years after the recording of the deed to the United States. In most cases, they were long-protected and administered by the United States in the same manner as surrounding Federal lands. The grantors generally were no longer exercising or performing the usual rights and duties of ownership.

In view of the above, we believe that the equitable relief that would be afforded by the enactment of H.R. 10638 would merely conform the legal status of this tract with its actual treatment and would not be inconsistent with the basic purpose of the Act of July 6, 1960 (see attachment). The circumstances of this case are exceptional and would not set a precedent that would weaken the administration or effect of that Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Acting Secretary.

USDA COMMENTS ON H.R. 10638

The principal purposes of the Act of June 6, 1960 (74 Stat. 334) as expressed in the reports of the Senate and House Committees on Interior and Insular Affairs on the legislation (S. Rep. No. 1639 and H. Rep. No. 1431, 86th Cong.; 2nd Session), were: (1) to provide compensation for land conveyed or relinquished to the United States during the years 1897-1905 under the Act of June 4, 1897 (30 Stat. 11, 36), in cases in which the lieu lands or other rights which the owners were entitled to receive under this 1897 Act and supplementary legislation have not already been given them; (2) to make inapplicable to the owners, their heirs and assigns a later provision of law directing the Secretary of the Interior, upon request, to return the original lands; and (3) thus to correct defects in the law under which such parties are now laying claim to valuable lands within the National Forests and Parks and taking them out of Federal ownership.

Thus, the major purpose of the Act of July 6, 1960, was to settle finally a confused and complex situation relating to the status of lands conveyed or relinquished under the forest lieu selection provisions of the Act of June 4, 1897, as it was amended and supplemented. Under this Act, numerous forest lieu selections were made and completed. However, in some cases lieu selections were either not filed or not carried through to completion. In these cases, deeds conveying the privately owned lands within the National Forests were executed and placed of record in the county where the lands were located. For various reasons, the grantors failed to follow through and obtain lieu lands and exercise privileges or rights to reconveyance granted by certain Acts amending or supplementing the Act of June 4, 1897. As a result, tracts of land with unusual status were scattered among National Forests and National Parks in several Western States.

Record title to these tracts was in the United States, but the United States had not accepted title or conveyed the lieu lands or other consideration. In most cases the tracts were treated and administered by the United States in the same manner as surrounding Federal lands.

Mr. DE LA GARZA. The first witness is the Honorable Harold T. Johnson, the Congressman from California.

Mr. JOHNSON. Thank you, Mr. Chairman. I would ask permission to have with me at the witness table Mr. Jeffery Carter and Mr. Rodney Smith, the young men who did the factfinding on this and have prepared the case for presentation to the committee this morning. They are young interns in the office, are from California, and are working here. Would the chairman allow them to sit here at the witness table?

Mr. VIGORITO. Without objection, permission is granted.

STATEMENT OF HON. HAROLD T. JOHNSON, A REPRESENTATIVE IN THE CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Mr. Chairman and members of the committee, I want to thank you for setting this hearing so that we can present our side of the case in support of the legislation.

Mr. Chairman, on September 13, 1971, I introduced H.R. 10638, which would direct the Secretary of Agriculture to convey by quitclaim deed, without consideration, to John P. Woodson, his heirs and successors in interest, all right, title, and interest the United States may have to certain real property, in El Dorado County, Calif.

The land in question was patented by the United States to Charles Hogan on September 9, 1881. It has been in private ownership since that date.

In April of 1899, a forest reserve was created which would have included the land in question, except that the land was considered and treated as private land by both the Forest Service and the owners of the land. The act of June 4, 1897, authorized an owner of patented land within a public reserve to relinquish the tract to the United States and make an in lieu selection of comparable acreage of vacant public land.

On March 4, 1903, in accordance with the act of 1897, Mr. Woodson, who now owned the land, deeded the land to the United States. This was to be the first step in applying for an in lieu selection. The in lieu selection was not completed. Shifts in policy and actions by the Federal Government prevented alternative acreage from being made available for an in lieu selection by John P. Woodson.

On May 2, 1921, the U.S. Bureau of Land Management wrote Mr. Woodson stating that "the United States is not asserting any claim or right in or to said tract by virtue of deed. * * *" This disclaimer was considered final. It was not until 39 years later that the act of July 6, 1970, in effect, claimed that the land in question belonged to the United States. This was because the various owners within the land area had not exercised their right to payment for the land before the right expired. This was due to the failure whereby the owners were not informed as to their obligation. It was also due to the confusion of title surrounding this particular tract of land.

Ten years later, in 1970, the BLM purported to "recapture" the title to the entire 160 acre tract of land. From the time the land was

first patented in 1881 until 1970 the tract had been treated as private land. It has been held and transferred as private land. Taxes have continually been paid on the land. From March 4, 1903, until 1970, the succession of claim of title to the land is perfectly clear. The Forest Service has recognized and respected the private interest in the land. Furthermore, the Forest Service has not made any improvements on the land.

This case does not set a precedent relative to the act of July 6, 1960, because it does not come under the act's jurisdiction as it has generally been applied. The belief held for 90 years that this land was private along with the confused communications between the Government, through the Forest Service, the BLM and those private citizens involved, has obscured this question to the point that the only equitable settlement presently available would be legislation, such as that I have proposed.

I urge you to take heed of the favorable report of the Department of Agriculture and the testimony I have given relative to this issue and, in so doing, add your highly valuable support to this bill.

Thank you. I want to say that this has been a quite lengthy investigation that was made on the part of those who made it from my office. It pretty much concurs all the way through with the actions that were taken and agreed upon by the Forest Service.

At the present time the 160 acres of land that have been subdivided are now in 71 separate parcels. The Forest Service has approved the bill. The Secretary of Agriculture has so stated in his report to the committee, and the Office of Management and Budget has no objection.

Therefore, I know of no opposition to the bill whatsoever. Seemingly, the only way we can give relief to this particular problem is through a private bill or a bill relating to the disclaimer on the property.

I would be happy to try and answer any questions which may come from the committee, Mr. Chairman. The Forest Service is here to testify. They know much more about the details in the contents of their statements and reports and investigations. However, we are prepared to answer any general questions.

Mr. VIGORITO. Thank you, Mr. Johnson, for a well-prepared statement.

Mr. Teague, do you have any questions?

Mr. TEAGUE. Just one. It seems to me, Mr. Johnson, that we had a bill very similar to this some years ago before this subcommittee. We acted favorably upon it. I have forgotten whether that came from your district or not. My point is I think this is not a precedent, should we act favorably on the bill.

Do you have any recollection of that? Perhaps it was from some other part of the Congress.

Mr. JOHNSON. I couldn't say. I have had numerous cases. At one time practically 62 percent or 65 percent of the area I represent was Federal lands under the various Federal agencies. Throughout the history of California we have had all sorts of claims made by individuals as to their right to property. We have had bills under the Secretary of Interior and under the Secretary of Agriculture both. So I couldn't say as to that.

This, I think, is a very clear case. From all of the records, I think the position taken by the claimant is well justified because there was a

patent issued. When the Forest Service created their reserve, this property was set aside and considered private land.

Then with the Forest Service perfecting the reserve, it offered the right of selection of lands outside which were public lands, to eliminate the in-holdings within the reserve. This was never perfected.

The lands were considered from the outset as private lands. It has been held by Mr. Woodson and his successors since that time and taxes have been paid on it.

The only way we can clear title to this land if title insurance can be granted is by an act of Congress.

We did have two bills that I recall. One related to properties on the Foresthill side where it was somewhat similar to this and one in La Porte, Calif., on the forest lands. That was about the same, where title was finally perfected and title insurance issued on the lands.

Mr. TEAGUE. If we get a favorable report from the Forest Service, as far as I am concerned I shouldn't think we would have any great trouble with approving this bill.

Thank you, Mr. Chairman.

Mr. VIGORITO. Mr. Dow?

Mr. Dow. I think Mr. Johnson is doing a good job for his constituent. I had only one question, Mr. Johnson. That is in the fourth paragraph of the first page.

In speaking of deeding the land to the United States in 1903, it says, "This was to be the first step in applying for an in lieu selection."

Is there anything in the papers or in the deed or in the evidence at that point that indicates the intention that this was to be the first step in applying for an in lieu selection?

Mr. JOHNSON. On March 4, 1903, in accordance with the act of 1897, what did the transcript or the record show there, Mr. Smith? Could you advise me?

Mr. SMITH. The way I understand it—and this might be altered somewhat by the gentlemen from the Forest Service—it is that that is the first step. There were complications that occurred afterward. This is the procedure and that was the first step in the procedure.

But in lieu selection did not develop. On March 3, 1905, the act of June 4, 1897 was repealed. After that, it was just a case of complications, I think. There again, the gentlemen from the Forest Service may desire to contend with that. But that is the way it appears to me.

Mr. JOHNSON. That is the way it would appear to me, the way this is written. Then, later, as of 1905, the 1897 act was repealed. During that period of time there was a shift in policy and the in lieu procedures had never been followed and perfected.

Mr. TEAGUE. Would you yield, Mr. Dow?

Mr. Dow. Yes, surely.

Mr. TEAGUE. I see the gentlemen from the Forest Service conferring among themselves. I gather that perhaps they will be in a position to give us more specific and exact answers to those questions.

Mr. Dow. All right. Let's see what they have to say.

Mr. JOHNSON. I would say, Mr. Dow, that the Forest Service has the exact record. Our research was done in a general way because you know how some of the information is hard to come by.

Mr. Dow. I believe that.

Mr. JOHNSON. The Forest Service made their position clear on this in their recommendation to the Secretary of Agriculture. The Office

of Management and Budget, I am sure, went over that period of time in perfecting the position taken by them.

Mr. VIGORITO. Mr. Burlison?

Mr. BURLISON. Thank you, Mr. Chairman.

I would like to commend my friend from California for a very able presentation.

Specifically, how many acres are involved?

Mr. JOHNSON. There are 160 acres.

Mr. BURLISON. What is the reasonable market value of that 160 acres?

Mr. JOHNSON. I couldn't say what the market value is. I presume that at one time it was rather cheap. With increased values in real property in California, there is a considerable value placed on it now.

As I stated, this has now been subdivided into 71 separate parcels. It was subdivided and sold. I don't know whether those 71 parcels have been broken up or not. This was subdivided under California law and the laws relating to El Dorado County into 71 parcels. I couldn't give you now a value of similar lands. Maybe the Forest Service has it, because they own the surrounding lands there. I think they are still in Federal ownership under the jurisdiction of the Forest Service or the Bureau of Land Management.

Mr. BURLISON. Is it accurate to say that this land is legally U.S. Government property but over the years it has taken the appearance of private property and therefore we want to make legal what has been apparent?

Mr. JOHNSON. No. I wouldn't say that, Mr. Burlison. This land was patented in 1881. There is an actual patent on file. When the Forest Service moved in to create the forest reserve, they acquired the lands around this parcel and treated this parcel as private. Then under the act of 1897, an in lieu selection was made available. It could have been selected from the Federal lands outside of this particular service, but this was never perfected.

Mr. BURLISON. Was there a time limit or cutoff date for this?

Mr. JOHNSON. There may have been for the in lieu selection. But that didn't waive the ownership of the land that was patented in 1881. There was no acquisition or contemplation proceedings or taking by the Federal Government in this particular piece of property. The first instance of claiming the property was by the Bureau of Land Management in 1970.

At no time have the lands been considered Federal after the patent was issued in 1881 until the act of 1970 under recapture procedure. These people have contested it. They are now here seeking their right and ownership under a bill that will grant them that right.

With all transactions, as far as the properties are concerned, as I understand it, during the full time there was no settlement made of this land. Then when the land was subdivided and disposed of into 71 parcels, there came a cloud upon the title as far as title insurance, as I understand this.

That is why they are trying through legislation to perfect title at the present time. I wouldn't say that at any time the Federal Government had ownership of the property, because it was never acquired. When the Federal reserve was set up, it was considered private land. The patent of 1881 was the guiding instrument in excluding that from the Federal reserve.

Mr. VIGORITO. Mr. Johnson, I only have one question. Is it right to assume that the present occupants of the 71 parcels of land acquired it through payments? Did they buy it?

Mr. JOHNSON. The land in question was a deed from Mr. George E. Pierce and wife to John P. Woodson. Mr. Pierce obtained title to this property in 1902. On October 6, 1902, there was a deed from George E. Pierce and wife to John P. Woodson. In 1903, Mr. Woodson conveyed on deed the tract of land to the United States pursuant to an act of Congress of June 4, 1897. That was under the in lieu selection.

Since that time, the deed from John P. Woodson to George Pierce and Mr. Mierson conveyed the 160 acres of land known as the Pierce/Mierson tract. I presume there was an amount of money paid for that land at that time.

In 1921, George E. Pierce obtained a disclaimer. On July 6, 1960, the act invalidated in lieu selection. On December 14, 1970, the appeal purported to recapture title to this entire 160 acre tract of land.

I know that it was subdivided, and sold, I presume, but title and whether payment has been made or not is more than I can say offhand.

Mr. VIGORITO. Thank you. There being no further questions, we thank you very much, Mr. Johnson.

Mr. JOHNSON. Thank you very much, and members of the committee.

Mr. VIGORITO. The next witness will be Thomas C. Nelson, Deputy Chief of the Forest Service, U.S. Department of Agriculture. Mr. Nelson?

STATEMENT OF THOMAS C. NELSON, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. NELSON. Good morning, Mr. Chairman and members of the committee. We appreciate this opportunity to participate in this hearing. If it would please the chairman I would ask that my statement be inserted in the record and I be granted the opportunity of briefing this testimony.

Mr. VIGORITO. There being no objection, it is so ordered.

(The statement follows.)

STATEMENT OF THOMAS C. NELSON, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee: We appreciate this opportunity to participate in your consideration of H.R. 10638.

H.R. 10638 would direct the Secretary of Agriculture to convey by quitclaim deed, without consideration, to John P. Woodson, his heirs, successors in interest or assigns, all right, title and interest of the United States in and to certain real property, Mount Diablo meridian, California.

The land to be conveyed was patented pursuant to a homestead entry from the public domain on September 9, 1881, by Mr. Charles Hogan. In September 1902, the land was conveyed to Mr. John P. Woodson. Subsequently, the 160-acre tract was subdivided and sold as 71 separate parcels.

On April 13, 1899, the townships in which the tract lies were withdrawn to create a forest reserve. The Act of June 4, 1897, authorized the owner of patented land within a public forest reservation to relinquish the tract to the United States and select in lieu an equal acreage of vacant public land open to settlement. Mr. Woodson, by deed recorded March 4, 1903, conveyed the tract to the United States as a first step in applying for a lieu selection. He did not complete the lieu selection. On May 2, 1921, the General Land Office, subsequent to a request, sent a disclaimer letter to Mr. Woodson stating that "the United States is not

asserting any claim or right in or to said tract by virtue of the deed . . ." (to the United States). However, this letter was without legal authority.

The Act of July 6, 1960, confirmed in the United States title to those lands which had been conveyed or relinquished to it as a basis for lieu selection under the Act of June 4, 1897, and for which the grantor had not received a lieu selection or reconveyance as provided by law. The various owners within the tract in 1960 did not exercise their right to payment (\$1.25 per acre and interest) before such right expired.

Thus the title to this tract is clearly in the United States. However, the United States has treated this tract as private land. It has been held and transferred as private land by the successive owners. It has been carried on local tax rolls, taxes have been paid, and the succession of claim of title is clear from March 4, 1903. In managing the surrounding Eldorado National Forest, the Forest Service has recognized and respected a private interest in the tract and has made no attempt to administer it. No improvements have been made to the tract by the United States, either before or after the enactment of the Act of July 6, 1960.

We believe the situation in regard to this tract can be distinguished from those to which the Act of July 7, 1960, generally applies. In those cases, any private status of most of the lands involved had become obscured by 1960. Most of the lands were shown on local county records in the name of the United States, thus they were not on local or State tax rolls during the nearly 55 to 60 years after the recording of the deed to the United States. In most cases, they were long-protected and administered by the United States in the same manner as surrounding Federal lands. The grantors generally were no longer exercising or performing the usual rights and duties of ownership.

In view of the above, we believe that the equitable relief that would be afforded by the enactment of H.R. 10638 would merely conform the legal status of this tract with its actual treatment and would not be inconsistent with the basic purpose of the Act of July 6, 1960. The circumstances of this case are exceptional and would not set a precedent that would weaken the administration or effect of that Act.

This Department, therefore, recommends that H.R. 10638 be enacted.

This completes my prepared statement. I will be glad to respond to any questions you may have.

Mr. NELSON. Mr. Chairman, H.R. 10683 would direct the Secretary of Agriculture to convey by quitclaim deed, without any consideration to John P. Woodson, his heirs, successors in interest, or assigns, all of the rights, title, and interest of the United States in and to this particular tract of property in the Mount Diablo meridian, California.

This land in question, 160 acres, was homesteaded by Mr. Charles Hogan in 1881 from the public domain. In 1902 he sold this land to Mr. John Woodson. Subsequently, this land was resold and divided into the 71 separate parcels that Congressman Johnson talked to.

In 1899, the townships in which this tract lies were withdrawn for a forest reserve. A provision of the Organic Act of the Forest Service, the 1897 act, authorized the owner of patented land to relinquish the tract to the United States and select in lieu acreage of vacant public land that was open for settlement.

Mr. Woodson took the first step in this action. He conveyed this particular tract to the United States in 1903. He applied at that time for an in lieu selection. But he never exercised this in lieu selection right. In 1905 the original act was amended so that the in lieu provision was canceled.

In 1921, the General Land Office did send a disclaimer letter to Mr. Woodson, stating that the United States is not asserting any claim or right to this land by virtue of the deed. I think it should be brought to the committee's attention that this particular letter was without legal authority.

In 1960, the Congress passed an act having to do with lands involved in in lieu selection. This particular act confirmed that the United

States actually does have title to the lands that had been conveyed or relinquished to it as a basis for in lieu selection under the 1897 act. So the legal title of this tract of land is in the United States.

At the time of the 1960 act, the owners could have exercised their right to payment before that right expired, but they did not see fit to so do. In our judgment, the title of this tract is clearly in the United States. But the United States has treated this piece of land as private land. It has been held and transferred as private land by the series of owners down through time. It has been carried as private land on local tax rolls. We know that taxes have been paid from 1912 to date on this land. We don't know whether they were paid from 1903 to 1912 because the courthouse burned in Eldorado County. We are unable to resurrect records of taxpayments at that time. We do know that from 1912 to 1972 taxes have been paid on this land. The succession of title is clear from the time he deeded this land to Pierce and Mierson in about 1903.

The Forest Service, in managing the Eldorado National Forest, has recognized this piece of land as being a private tract and respected it as such. We made no attempt to administer this 160 acres of land. Neither have any improvements been made by the Government, either before the 1960 act or after it.

One of the important points is the relationship of this particular bill to the act of 1960. I understand an estimate of around 100,000 acres of land were involved in the 1960 act. In most cases there was no private status of these lands at the time the act was passed. That is to say, most of the tracts of land covered by the act of 1960 were isolated mountain lands where the private owner had not exercised any right during the intervening years, nor had he made any improvements.

In addition to this, most of the lands in the 1960 act were shown on the local county records in the name of the United States and no taxes were paid on most of these lands. They had been protected and administered by the United States in the same manner as any of the surrounding Federal lands.

I am trying to bring out the differences between this particular case and the intent and purpose of the act of 1960 as it dealt with the general lands involved.

In view of these facts, Mr. Chairman, we believe that equitable relief can be afforded by the enactment of H.R. 10683 and that this would just conform the legal status of the land with its actual status and actual treatment.

We do not feel that it would be inconsistent with the basic purposes of the act of July 6, 1960.

The circumstances in this particular case are exceptional. In our judgment, there would be no precedent set here that would weaken either the administration or the effect of the act of 1960.

With this in mind, sir, the Department of Agriculture recommends that H.R. 10683 be enacted.

This completes my proposed statement. I will be happy to try to answer any questions that you gentlemen may have.

Mr. VIGORITO. Mr. Dow?

Mr. Dow. I have no questions, Mr. Chairman.

Mr. VIGORITO. Mr. Burlison?

Mr. BURLISON. Is it true that we are talking about 160 acres of land here?

Mr. NELSON. Yes, sir. We are talking about 160 acres of land that lie along the divide between the Tahoe Basin and the American River, El Dorado County, Calif.

Mr. BURLISON. What is the market value of that land?

Mr. NELSON. The value of the unimproved land in this 160 acres runs about \$1,750 per acre. This would make the value of the 160-acre tract about \$280,000 in an unimproved condition. I am sure that the Congress will realize that there are cabins on some of these 71 tracts.

Mr. BURLISON. I don't realize it. I think the record ought to show this. What are the improvements on the property?

Mr. NELSON. There are a number of cabins and other improvement upon this land. I do not have the exact number, sir, of these parcels with cabins.

Mr. BURLISON. Do you have any estimate of the value of the improvements?

Mr. NELSON. No, sir. I do not. But I could get it for the record if you so desire, sir.

Mr. BURLISON. I will request that this material be included at this point in the record.

Mr. VIGORITO. The request has been approved.

(The information follows:)

WASHINGTON, D.C., August 2, 1972.

HON. JOHN L. McMILLAN,
*Chairman, Subcommittee on Forests,
Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: During the July 26 bearing on H.R. 10638, Mr. Burlison requested an estimate of the value of the privately owned improvements on the subject tract. We estimate this value to be \$200,000.

May we help further?

Sincerely,

THOMAS C. NELSON,
Deputy Chief, Programs and Legislation.

Mr. SHARP. Mr. Nelson, are you saying that you feel that the Federal Government had title to that land?

Mr. NELSON. Yes, sir.

Mr. SHARP. There is no consideration involved there. How do you feel that the Government got control of it when they promised them something and never delivered it?

Mr. NELSON. The Government got control of it by the Organic Act of 1897. This was finally confirmed by the act of 1960.

Mr. SHARP. That wasn't a condemnation suit, was it?

Mr. NELSON. No, sir.

Mr. SHARP. Then how could the Government get title to it if they promised them something and then never gave them something in lieu of property?

Mr. NELSON. They got title to it because Mr. Woodson did, in fact, deed this property to the United States.

Mr. SHARP. With the promise he could get something in lieu thereof.

Mr. NELSON. Yes, sir.

Mr. SHARP. But they never gave him anything in lieu of the property.

Mr. NELSON. This is true.

Mr. SHARP. I don't see how you could say there was clear title to the property.

Mr. NELSON. Legally—and our counsel tells us this is the case—the property is in the title of the United States.

Mr. SHARP. Did Mr. Woodson feel the property belonged to him? He was paying taxes on it.

Mr. NELSON. The taxes on this property, sir, were not in general paid by Mr. Woodson because shortly after he deeded it to the United States he sold this property to a Mr. Pierce. The taxes, as I understand it, were paid by Mr. Pierce, Mr. Mierson, and subsequent owners of this particular tract of land.

Mr. SHARP. But they felt they had title.

Mr. NELSON. Yes, sir.

Mr. SHARP. That is all.

Mr. NELSON. There is a chain of title on this land that is valid as to the rights of private individuals among themselves.

Mr. SHARP. Thank you.

Mr. BURLISON. Mr. Chairman, if this payment is made, it will not go to Mr. Woodson or his heirs. It will go to subsequent purchasers of the land from Mr. Woodson, is that right?

Mr. NELSON. Sir, the payment you refer to is the—

Mr. BURLISON. \$300,000 or whatever.

Mr. NELSON. It would not be a payment to them. It's a quitclaim from the United States.

Mr. BURLISON. This is true. The property, which may be valued at \$300,000 and will not revert to Mr. Woodson and his heirs, will revert to those who have purchased the property from Mr. Woodson.

Mr. NELSON. Yes, sir. This land was subdivided and sold to these other parties. In order to give title to the parties who secured an interest in the tract after Mr. Woodson conveyed it to the United States, it is necessary for the United States to quitclaim the Federal interest in this property to John P. Woodson, his heirs, successors and interest, or assigns. This will clear the title of the present owners insofar as the U. S. interests through the Woodson deed to the United States is concerned.

Otherwise, it would have been necessary to quitclaim separately to all of these 71 owners. That would have required extensive title search and ownership determinations that are unnecessary since a single quitclaim deed, as is proposed in this bill, will clear the title of each of the owners.

Mr. BURLISON. Thank you, Mr. Nelson.

Mr. VIGORITO. There being no more questions, I wish to thank Mr. Nelson for his well-presented statement and comments. Thank you very much.

Mr. NELSON. Thank you, Mr. Chairman.

Mr. VIGORITO. I assume that the report from the Department of Agriculture on this subject will automatically be part of the record.

Mrs. GALLAGHER. Yes, Mr. Chairman.

Mr. VIGORITO. There being no more business, the committee stands adjourned.

(Whereupon, the committee adjourned at 10:40 a.m.)

Faint, illegible text, likely bleed-through from the reverse side of the page. The text is arranged in several paragraphs, but the characters are too light and blurry to transcribe accurately. Some words like "the", "and", "of", and "in" are barely discernible.

