

105TH CONGRESS  
1ST SESSION

# S. 1425

To provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Mr. BURNS introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TRANSFER OF RESPONSIBILITY FOR OPER-**  
4 **ATION AND MAINTENANCE OF THE FLAT-**  
5 **HEAD INDIAN IRRIGATION PROJECT, MON-**  
6 **TANA.**

7 (a) PURPOSE.—The purpose of this Act is to preserve  
8 and protect the viability and sustainability of the family

1 farms and ranches of the Jocko Valley, Camas Valley, and  
2 Mission Valley, Montana, through the transfer of respon-  
3 sibility for operation and maintenance of the Flathead In-  
4 dian Irrigation Project in Montana.

5 (b) DEFINITIONS.—In this Act:

6 (1) IRRIGATION DISTRICT.—The term “irriga-  
7 tion district” means 1 or more irrigation districts or-  
8 ganized in accordance with the paragraph relating to  
9 the irrigation systems on the Flathead Indian Res-  
10 ervation, Montana, under the subheading “IRRIGA-  
11 TION AND DRAINAGE” under the heading “BU-  
12 REAU OF INDIAN AFFAIRS” in the Act of May  
13 10, 1926 (44 Stat. 464; chapter 277).

14 (2) PROJECT.—The term “Project” means the  
15 Flathead Indian Irrigation Project constructed  
16 under section 14 of the Act of April 23, 1904 (33  
17 Stat. 305, chapter 1495) and section 14 of the Act  
18 of May 29, 1908 (35 Stat. 450, chapter 216).

19 (c) CONTRACT.—Not later than 1 year after the date  
20 of enactment of this Act, the Secretary of the Interior (in  
21 this Act referred to as the “Secretary”) shall offer to enter  
22 into a contract with the irrigation district under which the  
23 irrigation district will operate and manage the Project, in-  
24 cluding all rights and powers exercised by the Secretary  
25 in the operation of the works, which include the right to

1 use permanent easements purchased under the Act of May  
2 25, 1948 (62 Stat. 269, chapter 340).

3 (d) TIMING.—The Secretary shall commence negotia-  
4 tions with the irrigation district as soon as practicable to  
5 enable the Secretary and the irrigation district to enter  
6 into the contract not later than 1 year after the date of  
7 enactment of this Act.

8 (e) PROPERTY RIGHTS.—

9 (1) IN GENERAL.—Under the contract, the Sec-  
10 retary shall transfer to the irrigation district owner-  
11 ship of all equipment, machinery, office supplies,  
12 and other supplies and equipment paid for with op-  
13 eration and maintenance funds related to the  
14 project.

15 (2) INVENTORY LIST.—The Secretary shall pro-  
16 vide an inventory list of all supplies and equipment  
17 at the Project as of October 31, 1997, that were  
18 purchased with operation and maintenance funds.

19 (f) INTERIOR INSTREAM FLOWS.—Under the con-  
20 tract, the irrigation district shall maintain interim  
21 instream flows necessary to preserve fisheries pending ad-  
22 judication of water rights and, after the adjudication has  
23 become final, as required by adjudication.

24 (g) REPAYMENT OBLIGATIONS.—The contract shall  
25 have no effect on obligations governing the repayment of

1 the construction costs of the Project as of the date of en-  
2 actment of this Act.

3 (h) WATER RIGHTS.—This Act does not affect the  
4 negotiation of water rights between the State of Montana,  
5 the United States, and the Confederated Salish and  
6 Kootenai Tribes.

7 (i) TERMINATION.—

8 (1) IN GENERAL.—The contract shall be subject  
9 to termination if a court of the United States finds  
10 that the irrigation district have operated, and persist  
11 in operating, the Project in such a manner as the ir-  
12 rigation district know is likely to damage tribal trust  
13 assets.

14 (2) PRESUMPTION.—For the purposes of para-  
15 graph (1), continued operation of the Project as it  
16 was operated on October 31, 1997, shall be pre-  
17 sumed to provide adequate protection of tribal trust  
18 assets, and any changes in operation required as a  
19 result of new information or a judicial decision shall  
20 not be a ground for termination of the contract.

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