

106TH CONGRESS
1ST SESSION

S. 630

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

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1999

Mr. BURNS (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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 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 IRRIGATION PROJECT, MONTANA.**

6 (a) PURPOSE.—The purpose of this Act is to preserve
7 and protect the viability and sustainability of the family
8 farms and ranches of the Jocko Valley, Camas Valley, and

1 Mission Valley, Montana, through the transfer of responsi-
 2 bility for operation and maintenance of the Irrigation Di-
 3 vision of the Flathead Irrigation Project, Montana, with-
 4 out having any effect on the negotiation or adjudication
 5 of water rights, including those of the tribe.

6 (b) DEFINITIONS.—In this Act:

7 (1) CONTRACT.—The term “contract” means
 8 the contract under subsection (c).

9 (2) IRRIGATION DISTRICT.—The term “irriga-
 10 tion district” means 1 or more irrigation districts or-
 11 ganized in accordance with the paragraph relating to
 12 the irrigation systems on the Flathead Indian Res-
 13 ervation, Montana, under the subheading “IRRIGA-
 14 TION AND DRAINAGE” under the heading “BU-
 15 REAU OF INDIAN AFFAIRS” in the Act of May
 16 10, 1926 (44 Stat. 464, chapter 277).

17 (3) PROJECT.—The term “project” means the
 18 Irrigation Division of the Flathead Irrigation Project
 19 constructed under section 14 of the Act of April 23,
 20 1904 (33 Stat. 305, chapter 1495), and section 14
 21 of the Act of May 29, 1908 (35 Stat. 450, chapter
 22 216).

23 (4) SECRETARY.—The term “Secretary” means
 24 the Secretary of the Interior.

1 (5) TRIBE.—The term “Tribe” means the Con-
2 federated Salish and Kootenai Tribes of the Flat-
3 head Nation, a federally recognized tribe organized
4 under section 16 of the Act of June 18, 1934 (25
5 U.S.C. 476).

6 (c) CONTRACT.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary
9 shall offer to enter into a contract with the irriga-
10 tion district under which the irrigation district will
11 operate and manage the project, including all rights
12 and powers exercised by the Secretary in the oper-
13 ation of the project, including the right to use per-
14 manent easements purchased under the Act of May
15 25, 1948 (62 Stat. 269, chapter 340).

16 (2) CONTRACT PROVISIONS.—The contract shall
17 contain provisions that—

18 (A)(i) identify the trust responsibilities of
19 the United States to the Tribe that are affected
20 by the operation and maintenance of the Irriga-
21 tion Division; and

22 (ii) ensure that the United States will be
23 able to fulfill those responsibilities;

24 (B) ensure that in operating and maintain-
25 ing the project, the irrigation district will main-

1 tain the interim instream flows established by
2 the Bureau of Indian Affairs to preserve fish-
3 eries pending adjudication of water rights and,
4 thereafter, as required by any rulings made in
5 connection with the adjudication or related ne-
6 gotiation;

7 (C) ensure that obligations in existence on
8 the date of enactment of this Act governing the
9 repayment of the construction costs of the
10 project are continued unaffected by this Act
11 and the contract, if the irrigation district makes
12 an accelerated payment of \$1,000,000 on the
13 repayment contract between the irrigation dis-
14 trict and the United States not later than De-
15 cember 31, 2001;

16 (D) amend the repayment contracts in ef-
17 fect on the date of enactment of this Act be-
18 tween the irrigation district and the United
19 States to provide that net revenues from the op-
20 eration of the Power Division of the project will
21 not be used to pay operation and maintenance
22 costs of the Irrigation Division; and

23 (E) provide for revocation of the contract
24 and of the right of the irrigation district to op-
25 erate and maintain the project if a court of the

1 United States finds that the irrigation district
2 has operated and persists in operating the
3 project in a manner that willingly and know-
4 ingly damages tribal trust assets.

5 (3) PROTECTION OF TRIBAL TRUST ASSETS.—

6 For the purpose of paragraph (2)(E)—

7 (A) operation of the project as the project
8 was operated by the Bureau of Indian Affairs
9 plan of operations in effect on October 31,
10 1997, shall be presumed to provide adequate
11 protection of tribal trust assets and shall not be
12 considered to damage those assets; and

13 (B) any changes in operation required as a
14 result of new information, changes in adminis-
15 trative policies or decisions, judicial decisions,
16 or negotiations shall not be a ground for rev-
17 ocation of the contract unless the irrigation dis-
18 trict refuses to conform the operation and
19 maintenance of the project to the requirements
20 of the new information, administrative policies
21 and decisions, judicial decisions, or negotia-
22 tions.

23 (d) TIMING.—The Secretary shall commence negotia-
24 tions with the irrigation district as soon as practicable to
25 enable the Secretary and the irrigation district to enter

1 into a contract not later than 1 year after the date of en-
 2 actment of this Act.

3 (e) PROPERTY RIGHTS.—

4 (1) IN GENERAL.—Under the contract, the Sec-
 5 retary shall transfer to the irrigation district owner-
 6 ship of all equipment, machinery, office supplies,
 7 and other supplies and equipment paid for with op-
 8 eration and maintenance funds related to the
 9 project.

10 (2) INVENTORY LIST.—The Secretary shall pro-
 11 vide the irrigation district an inventory list of all
 12 supplies and equipment at the project as of the date
 13 of enactment of this Act that were purchased with
 14 operation and maintenance funds.

15 (3) REAL PROPERTY.—Under the contract, the
 16 Secretary shall not transfer to the irrigation district
 17 ownership of—

18 (A) any real property right to land or an
 19 interest in land; or

20 (B) any water right.

21 (f) WATER RIGHTS.—This Act does not affect the ne-
 22 gotiation of water rights between the State of Montana,
 23 the United States, and the Tribe.

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