

# Union Calendar No. 456

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3056

[Report No. 105-812]

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 HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. HILL (for himself, Mr. SMITH of Oregon, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Resources

OCTOBER 12, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on November 13, 1997]

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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,*

1 **SECTION 1. TRANSFER OF RESPONSIBILITY FOR OPER-**  
2 **ATION AND MAINTENANCE OF THE FLATHEAD**  
3 **INDIAN IRRIGATION PROJECT, MONTANA.**

4 (a) *PURPOSE.*—*The purpose of this Act is to preserve*  
5 *and protect the viability and sustainability of the family*  
6 *farms and ranches of the Jocko Valley, Camas Valley, and*  
7 *Mission Valley, Montana, through the transfer of respon-*  
8 *sibility for operation and maintenance of the Irrigation Di-*  
9 *vision of the Flathead Indian Irrigation Project in Mon-*  
10 *tana. This Act does not affect and is not intended to affect*  
11 *in any way the negotiation or adjudication of water rights,*  
12 *including those of the Confederated Salish and Kootenai*  
13 *Tribes of the Flathead Nation.*

14 (b) *DEFINITIONS.*—*In this Act:*

15 (1) *IRRIGATION DISTRICT.*—*The term “irrigation*  
16 *district” means 1 or more irrigation districts orga-*  
17 *nized in accordance with the paragraph relating to*  
18 *the irrigation systems on the Flathead Indian Res-*  
19 *ervation, Montana, under the subheading “IRRIGA-*  
20 *TION AND DRAINAGE” under the heading “BUREAU*  
21 *OF INDIAN AFFAIRS” in the Act of May 10, 1926*  
22 *(44 Stat. 464; chapter 277).*

23 (2) *PROJECT.*—*The term “Project” means Irri-*  
24 *gation Division of the Flathead Indian Irrigation*  
25 *Project constructed under section 14 of the Act of*  
26 *April 23, 1904 (33 Stat. 305, chapter 1495) and sec-*

1        *tion 14 of the Act of May 29, 1908 (35 Stat. 450,*  
2        *chapter 216).*

3            (3) *TRIBE.*—*The term “Tribe” refers to the Con-*  
4        *federated Salish and Kootenai Tribes of the Flathead*  
5        *Nation, a federally recognized tribe organized pursu-*  
6        *ant to the Indian Reorganization Act of 1934.*

7            (c) *CONTRACT.*—*Not later than 1 year after the date*  
8        *of enactment of this Act, the Secretary of the Interior (in*  
9        *this Act referred to as the “Secretary”) shall offer to enter*  
10       *into a contract with the irrigation district under which the*  
11       *irrigation district will operate and manage the Project, in-*  
12       *cluding all rights and powers exercised by the Secretary in*  
13       *the operation of the works, which include the right to use*  
14       *permanent easements purchased under the Act of May 25,*  
15       *1948 (62 Stat. 269, chapter 340). Such contract shall con-*  
16       *tain each of the following provisions:*

17            (1) *Provisions identifying the trust responsibil-*  
18        *ities of the United States to the Tribe that are affected*  
19        *by the operation and maintenance of the Irrigation*  
20        *Division and ensuring that the United States is able*  
21        *to fulfill such responsibilities.*

22            (2) *Provisions ensuring that in its operation and*  
23        *maintenance of the Irrigation Division the irrigation*  
24        *district maintains the interim instream flows estab-*  
25        *lished by the Bureau of Indian Affairs to preserve*

1 *fisheries pending adjudication of water rights and,*  
2 *thereafter, as required by the rulings of said adjudica-*  
3 *tion or negotiation.*

4 *(3) Provisions ensuring that existing obligations*  
5 *governing the repayment of the construction costs of*  
6 *the Project are continued unaffected by this enactment*  
7 *and the contract; except that providing the irrigation*  
8 *districts shall make a payment of \$1,000,000 to the*  
9 *United States Treasury on the unmatured install-*  
10 *ments of construction debt by December 31, 2001.*

11 *(4) Provisions amending the existing repayment*  
12 *contracts between the irrigation district and the*  
13 *United States to provide that net revenues from the*  
14 *operation of the Power Division shall not be used to*  
15 *pay operation and maintenance costs of the Irriga-*  
16 *tion Division.*

17 *(5) Provisions providing for revocation of the*  
18 *contract and the irrigation district's right to operate*  
19 *and maintain the Project if a court of the United*  
20 *States finds that the irrigation district has operated*  
21 *and persists in operating the Project in a manner*  
22 *willingly and knowingly damaging tribal trust assets,*  
23 *but operation of the Project as it was operated by the*  
24 *Bureau of Indian Affairs Plan of Operations in effect*  
25 *on October 31, 1997, shall be presumed to provide*

1       adequate protection of such assets, and any changes  
2       in operation required as a result of new information  
3       and administrative policies and decisions adopted  
4       pursuant to title 5, United States Code, judicial deci-  
5       sions, or negotiations shall not be a ground for rev-  
6       ocation of the contract unless the irrigation district  
7       refuses to adapt its operation and maintenance of the  
8       Project to the requirements of such new information,  
9       judicial decisions, or negotiations.

10       (d) *TIMING.*—The Secretary shall commence negotia-  
11       tions with the irrigation district as soon as practicable to  
12       enable the Secretary and the irrigation district to enter into  
13       the contract not later than 1 year after the date of enact-  
14       ment of this Act.

15       (e) *PROPERTY RIGHTS.*—

16               (1) *IN GENERAL.*—Under the contract, the Sec-  
17       retary shall transfer to the irrigation district owner-  
18       ship of all equipment, machinery, office supplies, and  
19       other supplies and equipment paid for with operation  
20       and maintenance funds related to the project.

21               (2) *INVENTORY LIST.*—The Secretary shall pro-  
22       vide an inventory list of all supplies and equipment  
23       at the Project as of the date of enactment of this Act,  
24       that were purchased with operation and maintenance  
25       funds.

1           (3) *REAL PROPERTY.*—*Under the contract, the*  
2           *Secretary shall not transfer to the irrigation district*  
3           *ownership of any real property right, whether to land,*  
4           *or an easement therein, nor shall the Secretary trans-*  
5           *fer to the irrigation district the ownership of any*  
6           *water right.*

7           (f) *WATER RIGHTS.*—*This Act does not affect the nego-*  
8           *tiation of water rights between the State of Montana, the*  
9           *United States, and the Confederated Salish and Kootenai*  
10          *Tribes.*



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