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APPENDIX F

The Leavitt Act

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(Excerpt from Federal Reclamation and Related Laws Annotated, Vol. I, United States Department of the Interior, Washington, 1972, p. 504-505.)

LEAVITT ACT

An act to authorize the Secretary of the Interior to adjust reimbursable debts of Indians and tribes of Indians. (Act of July 1, 1932, ch. 39, 47 Stat. 564)

[Indians—Adjustment of reimbursable debts—Deferment of irrigation construction charges—Report to Congress—Approval of Congress.]—The Secretary of the Interior is hereby authorized and directed to adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made: *Provided*, That the collection of all construction costs against any Indian owned lands within any Government irrigation project is hereby deferred, and no assessments shall be made on behalf of such charges against such lands until the Indian title thereto shall have been extinguished, and construction assessments heretofore levied against such lands in accordance with the provisions of the Act of February 14, 1920 (41 Stat. L. 409), and uncollected, are hereby canceled: *Provided further*, That a report shall be made to Congress annually on the first Monday in December, showing adjustments so made during the preceding fiscal year: *Provided further*, That any proceedings hereunder shall not be effective until approved by Congress unless Congress shall have failed to act favorably or unfavorably thereon by concurrent resolution within sixty legislative days after the filing of said report, in which case they shall become effective at the termination of the said sixty legislative days (47 Stat. 564; 25 U.S.C. § 386a)

EXPLANATORY NOTES

Reference in the Text. The Act of February 14, 1920 (41 Stat. L. 409), referred to in the text, is the Bureau of Indian Affairs Appropriation Act for the fiscal year ending June 30, 1921. It included appropriations for irrigation projects on Indian reservations, which appropriations were to be reimbursed to the Government.

Cross Reference, Phipps Act. The Act of May 9, 1924, 43 Stat. 116, popularly known as the Phipps Act, is an act for the relief of Indian water users. The Act appears herein in chronological order.

Legislative history. H.R. 10884, Public Law 240 in the 72nd Congress. H.R. Rept. No. 951. S. Rept. No. 752. H.R. Rept. No. 1725 (conference report).

NOTES OF OPINIONS

1. Application

The reference in the first proviso to any "Government irrigation project" should be construed as applying only to a Government *Indian* irrigation project, and does not include reclamation projects. Solicitor Finney Opinion, 54 I.D. 90 (1932)

The provision in subsection 9(c) of the Flood Control Act of 194 that "irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to

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Indians lands," extends the Leavitt Act to all such Indian lands irrigated under the Missouri River Basin project. Memorandum of Associate Solicitor Hogan, June 26, 1964, in re definite plan report for Tower, Greenwood, and Yankton units.

Section 4(d) of the Colorado River Storage Project Act extends the Leavitt Act to all participating projects. The Leavitt Act therefore applies to Pueblo Indian lands in the Middle Rio Grande Conservancy District served by the San Juan-Chama project; and the fact that section 2 of the Act of June 13, 1962, 76 Stat. 96, specifically states that section 4(d) of the 1956 Act applies to the Navajo Indian Irrigation project does not preclude application of section 4(d) to the San Juan-Chama project. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.