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SENATE

REPORT
No. 1867

PROVIDING FOR THE EXCHANGE OF LANDS BETWEEN THE UNITED STATES AND THE NAVAJO TRIBE, AND FOR OTHER PURPOSES

July 22, 1958.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, submitted the following:

REPORT

(To accompany S. 3754)

The Committee on Interior and Insular Affairs to whom was referred the bill (S. 3754) to provide for the exchange of lands between the United States and the Navajo Tribe, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 5, line 12, after "Utah," insert the following:

- *** outside the exterior boundaries of the Navajo Indian Reservation as the same are described in:
 - (1) The Act of March 1, 1933 (c. 160, 47 Stat. 1418)
 - (2) Executive Order 324 A of May 15, 1905
 - (3) Executive Order May 17, 1884;

On page 5, line 14, after the period, insert the following new sentence:

Subject to the provision of section 2 of this Act, and subject to valid existing rights, all public lands of the United States within said exterior boundaries of said reservation are hereby declared to be held in trust for the benefit of the Navajo Tribe of Indians. The term "public lands" as used herein shall be deemed to include but in no way to be limited to lands and the mineral deposits which originally may have been excluded from said reservation by reason of settlement or occupancy or other valid rights then existing, but since relinquished, extinguished, or otherwise terminated.

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On page 6, add the following new subsection (g):

(g) The Secretary of the Interior shall compensate persons whose grazing permits, licenses or leases covering lands transferred to the Navajo tribe pursuant to this section are cancelled because of such transfer. Such compensation shall be determined in accordance with the standards prescribed by the Act of July 9, 1942, as amended (43 U. S. C. 315q). Such compensation shall be paid from appropriations available for the construction of the Glen Canyon unit, Colorado River storage project.

On page 10, after line 15, add the following new section 3:

SEC. 3. (a) The State of Utah may convey to the United States title to any State-owned lands within the area described in subsection (b) of this section or subsection (c) of section 1 of this Act as base lands for indemnity selections under sections 2275 and 2276 of the Revised Statutes (43 U. S. C., secs. 851, 852). The Secretary of the Interior shall give priority to indemnity selection applications made pursuant to this subsection by the State of Utah. However, all conveyances made pursuant to this subsection, whether by the United States or by the State of Utah, shall contain a reservation of the minerals to the grantor. Lands conveyed to the United States under this section shall be subject to selection by the Secretary of the Interior, and transfer to, the Navajo Tribe in the same manner as, and under the same conditions as, lands described in subsection (c) of section 1 of this Act. Notwithstanding a conveyance to the United States of State-owned lands in accordance with the provisions of this subsection, such conveyance shall not prevent the Navajo Tribe from asserting, in any manner that would have been available to the tribe if the conveyance had not been made, a claim of title, if any, to the lands conveyed by the State that the tribe asserts is superior to the title asserted by the State of Utah. If a claim of title so asserted by the Navajo Tribe is determined to be superior to the title asserted by the State of Utah, and if the Navajo Tribe has selected such lands as a part of the transfer authorized by section 1 of this Act, the Navajo Tribe shall be permitted to select other lands described in subsection (c) of section 1 in lieu thereof.

(b) The lands referred to in subsection (a) of this section and not described in subsection (c) of section 1 of this Act are described as follows:

SALT LAKE MERIDIAN

Township 38 south, range 23 east: section 36.
 Township 38 south, range 24 east: section 32.
 Township 39 south, range 22 east: section 36.
 Township 39 south, range 23 east: sections 2, 16, 32 and 36.
 Township 39 south, range 24 east: sections 2, 16 and 32.
 Township 40 south, range 22 east: section 2.
 Township 40 south, range 23 east: sections 2, 16 and 36.

(c) The right of the State of Utah to make indemnity selections under the terms of this section shall expire five years after the date of approval of this Act.

PURPOSE OF THE BILL

The purpose of S. 3754, as amended, is to provide for the acquisition by the United States of all the right, title, and interest, except mineral rights, to 53,000 acres of land within the Navajo Indian Reservation in northern Arizona and southern Utah, needed for the Glen Canyon Dam Reservoir, powerplant, and the construction and operating townsite. In exchange for these lands, the Secretary of the Interior will transfer to the Navajo Tribe, to be held in trust and to become a part of the Navajo Reservation, an area of equal acreage to be selected from a block of public lands in the McCracken Mesa area in San Juan County, Utah, which abut the reservation. Mineral rights to the public lands are retained by the United States. Thus minerals are excluded from the exchange.

STATEMENT

The Glen Canyon unit is a principal feature of the Colorado River storage project authorized by the act of April 11, 1956 (70 Stat. 105). The dam is under construction in Arizona, 8 miles south of the Utah State boundary. The reservoir will extend up the Colorado River approximately 185 miles and up the San Juan River some 72 miles. The lands within the exterior boundaries of the Navajo Reservation, required comprise two parcels. One parcel, referred to in section 2 (b) of the proposed legislation as parcel A, is made up of an area surrounding the dam site on the east or left bank of the Colorado River, which is the site of the left abutment both of the dam itself and of the highway bridge now being constructed in connection with Glen Canyon. This parcel will, in addition, constitute the construction and operating townsite area. The other parcel, referred to as parcel B, required for reservoir purposes, consists of a strip of land along the northerly boundary of the reservation below elevation 3720 paralleling the Colorado River to its confluence with the San Juan and thence paralleling the later stream to the upper limit of the reservoir, some 72 miles above the confluence of the San Juan with the Colorado River. The greater portion of the area required is in the State of Utah.

With the approval of the Navajo Tribe, in the interests of expeditious construction, the use and occupancy of the lands within the Navajo Reservation required for the Glen Canyon unit was granted to the Bureau of Reclamation by order of the Secretary of the Interior dated March 22, 1957. This action was taken under authority of the Right-of-Way Act of February 5, 1948 (62 Stat. 17, 25 U. S. C., sec. 323). For the permanent administration of the project and in order to remove a major impediment to the transition of the townsite area to the status of a self-governing community under local law, a more complete acquisition of the tribe's title, as is provided for in section 2 of the proposed legislation, is desirable.

By agreement with the Navajo Tribal Council, determination of just compensation by the Secretary, as provided for under the 1948 Right-of-Way Act, is being held in abeyance pending enactment of ex-

change legislation. Such legislation will obviate the necessity for further proceedings under the 1948 act.

As compensation for such lands, the tribe is willing to accept the transfer to it, in exchange, of surface rights to an equal acreage of lands in the McCracken Mesa area of Utah, as provided in S. 3754.

The lands to be transferred to the tribe have been included within a grazing district (Utah No. 6) established under the Taylor Grazing Act. These lands have been the subject of a long and bitter controversy between the grazing permittees and a number of Navajo Indians who regard the grazers as usurpers of their lands. The exchange of lands proposed in S. 3754, by adding the 53,000 acres to the Navajo Reservation with provision for the establishment of residence and occupancy rights therein by Indians asserting such rights to public lands in San Juan County, Utah, appears to provide an overall solution to the entire problem of Indian occupancy rights in the county. Further, the exchange would minimize land acquisition expense to the United States in connection with the Glen Canyon unit.

SECTIONAL ANALYSIS

Section 1 (a) provides for the transfer of approximately 53,000 acres of lands from the United States to the Navajo tribe. Provision is also made for compensation, out of Glen Canyon appropriations, to affected grazers for range improvements constructed on the transferred land with the consent of the United States.

Subsection (b) of section 1 provides the conditions on the exercise of mineral rights to protect surface use by the tribe.

Subsection (c) of section 1 describes the public lands in San Juan County, Utah, from which the transfer is to be made.

Subsection (d) of section 1 deals with the resettlement in the transferred area of Indians claiming use and occupancy rights to public lands in San Juan County outside the present reservation boundaries and provides for the extinguishment of such claims. This subsection also declares that all public lands of the United States within the exterior boundaries of the reservation are declared to be held in trust for the Navajos subject to existing rights.

Subsection (e) of section 1 would assure the Indians a means of moving their livestock between the transferred area and the principal highway to the west thereof. Reciprocally, subsection (f) is designed to avoid undue interference with the pattern of livestock movement across the transferred lands.

Subsection (g) provides that the Secretary of the Interior shall compensate those whose grazing permits, licenses, or leases covering lands transferred to the tribe are canceled. Compensation shall be determined in accordance with the standards prescribed in the act of July 9, 1942, as amended (43 U. S. C. 3159), and shall be paid from appropriations available for construction of the Glen Canyon unit.

Section 2 deals with the transfer of reservation lands to the United States. Provision is made for restrictions on the exercise of tribally retained mineral rights to avoid interference with the purposes of the Glen Canyon unit. A limitation is also included prohibiting use of parcel B lands transferred thereunder for public recreational facilities without further agreement with the Navajo Tribal Council. Use of land under easements or permits from the tribe is provided for in the vicinity of Rainbow Bridge National Monument, to the extent that

may be required in connection with such plan as may be necessary for its protection.

In addition, provision is made in section 2 for the disposition by the Secretary at fair market value of lots in townsites established on the transferred lands; for the dedication of portions of such lands to public purposes and for the transfer of dedicated lands to appropriate public or nonprofit bodies; and for the making of cooperative agreements with State and local public bodies and nonprofit corporations relative to the performance of services of a municipal, governmental, or public or quasi-public nature as will in the Secretary's judgment contribute substantially to the efficiency or economy of the Department's operations in connection with the Glen Canyon unit. These provisions are intended to facilitate orderly transition of the town of Page from the status of an exclusively federally owned and operated facility to that of a self-governing community of individual freeholders under Arizona law to the maximum degree consistent with the Government's continuing responsibility for the Glen Canyon unit.

Section 3 (a) permits the State of Utah to exchange the surface rights to State "school sections" within the area to be added to the Navajo Reservation for surface rights to Federal lands in the public domain in Utah on an acre-for-acre basis. The State would retain its mineral rights in the school sections just as the Federal Government will do in the lands to be transferred to the Navajos. It is intended that this exchange shall be speedily handled.

Section 3 (a) also provides that State school sections in the withdrawal area shall be available to the Secretary of the Interior in selecting a "compact area" for the Navajos as required by section 1 of the bill. Thus the school sections would not be bypassed in making the selection, and there would be no little islands of State lands within the Navajo Reservation. This subsection also preserves the right of the Navajos to contest the title of the State of Utah to the school sections involved. If the Navajos prove better title to any or all of the school sections, and if these lands have been selected as part of the area transferred by S. 3754, then the Navajo Tribe can select additional lands within the original withdrawal area on an acre-for-acre basis in the same manner as the original selection was made.

Section 3 (b) describes the State school sections.

Section 3 (c) provides that the State of Utah shall have the right to make indemnity selections under the terms of this section for a period of 5 years after the date of the approval of S. 3754.

It is the committee's understanding that S. 3754, as amended, is concurred in by all of the parties affected by the legislation, and it therefore recommends enactment of the bill, as reported.

The favorable comments of the Department of the Interior, and the Bureau of the Budget contained in their letters of May 5 and May 21, respectively, are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 15, 1958.

HON. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

DEAR SENATOR MURRAY: Your committee has requested a report on S. 3754, a bill to provide for the exchange of lands between the United States and the Navajo Tribe and for other purposes. We recommend that the bill be enacted.

The Glen Canyon unit is a principal feature of the Colorado River storage project which was authorized by the act of April 11, 1956 (70 Stat. 105). For purposes of the Glen Canyon Dam, reservoir, powerplant, and the construction and operating townsite, it is necessary to utilize approximately 53,000 acres of land within the present exterior boundaries of the Navajo Indian Reservation in northern Arizona and southern Utah. The proposed legislation provides for the acquisition from the tribe of all of its right, title, and interest, save for mineral rights, to the area required. In exchange there would be transferred to the tribe, to become a part of the Navajo Reservation, an area of equal acreage to be selected from a block of public lands in the McCracken Mesa area in San Juan County, Utah, which block of public lands lies to the north and west of the portion of the present Navajo Reservation in San Juan County, Utah, and abuts the reservation's boundaries within that county. Mineral rights to this area would, however, be retained by the United States. Thus, minerals would be excluded from the exchange. Attached hereto is a map showing the location of the selection area in relation to portions of the present Navajo Reservation.

The public lands in the McCracken Mesa area are covered by oil and gas leases and the area is considered to have important oil and gas possibilities. The area affected within the reservation, on the other hand, is not considered to be mineral in nature except for the known existence of some low-grade copper. By the exclusion of mineral rights from the exchange, difficult questions of equivalent value that would otherwise be presented by an equal acreage exchange are avoided. Moreover, the retention by each party of mineral rights permits the continuation of the existing oil leases in the McCracken Mesa area and leaves unaffected the distribution, in accordance with the Mineral Leasing Act, of any revenues received by the United States from mineral leases in that area, a distribution in which the State of Utah will therefore continue to share in accordance with the revenue distribution formula of the Mineral Leasing Act.

The Glen Canyon Dam is under construction in Arizona, 8 miles south of the Utah State boundary. The reservoir will extend up the Colorado River approximately 185 miles and up the San Juan River some 72 miles. The lands within the exterior boundaries of the Navajo Reservation required comprise two parcels. One parcel, referred to in section 2 (b) of the proposed legislation as parcel A, is made up of an area surrounding the dam site on the east or left bank of the Colorado River, which is the site of the left abutment both of the dam itself and of the highway bridge now being constructed in connection with Glen Canyon. This parcel will, in addition, constitute the construction and operating townsite area. The other

parcel, referred to as parcel B, required for reservoir purposes, consists of a strip of land along the northerly boundary of the reservation below elevation 3720 paralleling the Colorado River to its confluence with the San Juan and thence paralleling the latter stream to the upper limit of the reservoir, some 72 miles above the confluence of the San Juan with the Colorado River. The greater portion of the area required is in the State of Utah.

The area within the reservation was selected as the townsite only after consideration of possible alternative sites on the opposite side of the river. By reason of conditions of soil and topography at the selected site, it was considered that costs of developing that site would be substantially less than if the construction and operating headquarters were to be located elsewhere. The townsite, which has been designated as "Page, Ariz." in memory of the late John C. Page, Commissioner of Reclamation during the period 1937-43, will, it is estimated, have a population of some 10,000 people, including construction forces, necessary supporting personnel, and their dependents, at the height of the estimated 7-year construction period. A permanent population following construction of approximately 4,000 people is forecast by the Bureau of Reclamation.

With the approval of the tribe, in the interests of expeditious construction, the use and occupancy of the lands within the Navajo Reservation required for the Glen Canyon unit was granted to the Bureau of Reclamation by order of the Secretary of the Interior dated March 22, 1957. This action was taken under authority of the Right-of-Way Act on February 5, 1948 (62 Stat. 17; U. S. C., sec. 323). For the permanent administration of the project and in order to remove a major impediment to the transition of the townsite area to the status of a self-governing community under local law, a more complete acquisition of the tribe's title, as is provided for in section 2 of the proposed legislation, is desirable.

By agreement with the Navajo Tribal Council, determination of just compensation by the Secretary, as provided for under the 1948 Right-of-Way Act, is being held in abeyance pending congressional consideration or exchange legislation. Enactment of such legislation will obviate the necessity for further proceedings under the 1948 act.

The Navajo Tribe has cooperated fully with the Department and its Bureau of Reclamation in connection with arrangements for use of tribal lands for the Glen Canyon unit. As compensation for such lands, the tribe is willing to accept the transfer to it, in exchange, of surface rights to an equal acreage of lands in the general area of McCracken Mesa, Utah, as provided for in the proposed legislation. The tribe realizes, of course, that legislation is required to consummate such transfer.

The Department has no hesitancy in recommending that the proposed exchange be authorized. It was with the understanding that appropriate legislation authorizing the exchange would be proposed, that the tribal council endorsed the March 22, 1957, grant of use and occupancy to the Bureau of Reclamation.

The McCracken Mesa area in Utah has an arid climate, suitable in the main only for grazing. It has since the coming of the white man been an area of friction between white and Indian.

On the one hand, the area sought by the tribe by way of exchange has been included within a grazing district (Utah No. 6) established

under the Taylor Grazing Act. The grazing permittees consequently regard the Indians as trespassers.

On the other hand, a number of individual Navajo Indians assert rights to the area, based on claimed long-continued use and occupancy of the area. The Indians, therefore, regard the grazers as usurpers of their ancestral lands and homes. There have been some indications that these individual Indians might perhaps also constitute a separate identifiable band or group of Navajos, although this is by no means clearly established.

The frictions and animosities between the two contending groups, white and Indian, have a long and unhappy history, one of the more recent episodes of which is chronicled in *Hatahley et al. v. United States* (351 U. S. 173 (1956)). In that case, involving an action brought under the Tort Claims Act for the destruction by Federal employees of horses owned by the Indians, the Court in awarding them damages observed of the Indian claimants that, "Petitioners * * * have lived from time immemorial in stone and timber hogans on public land in San Juan County, Utah." Ibid, p. 174. For reported decisions on other litigated aspects of this controversy see *United States v. Hosteen Tse-Kesi* (93 F. Supp. 745 (1950) revsd., 191 F. 2d 518 (1951)) and *Young v. Felornia* (121 Utah 646, 244 P. 2d 862 (1952)).

The claims of the individual Indians, which have not been determined, are based, among other premises, upon the doctrine of *Cramer v. United States* (261 U. S. 219 (1923)), which recognized individual rights based upon long-continued occupancy. A petition seeking recognition by the Department of the superiority of the individual rights of occupancy thus asserted as against the Taylor Grazing Act permittees and licensees is now pending.

The exchange of lands as proposed in the draft legislation, by adding the 53,000 acres to the Navajo Reservation with provision for the establishment of residence and occupancy rights therein by Indians asserting such rights to public lands in San Juan, Utah, appears to provide an overall solution to the entire problem of Indian occupancy rights in the county. For its part, the tribe is desirous of assisting the individual Indians, who are members of the tribe, and is willing to forego other compensation by reason of the taking of tribal lands for the Glen Canyon unit, if the longstanding dispute regarding the McCracken Mesa area can be brought to a close by the exchange. It might perhaps be observed in this connection that in the event exchange legislation is not enacted, the Navajo Tribe's right to just compensation for the taking of tribal lands for Glen Canyon will remain to be satisfied regardless of the outcome of any proceedings to determine the relative rights of the individual Indians and the non-Indian grazers to the occupancy of the McCracken Mesa area.

The proposal for an exchange commends itself to this Department because it would minimize land acquisition expense to the United States in connection with the Glen Canyon unit and for the opportunity it affords to make a definite division of the lands so long in controversy in what is regarded, all things considered, as a fair and equitable manner.

It should be noted that we do not regard the act of March 1, 1933 (47 Stat. 1418), as precluding congressional action to authorize the exchange. This act, which restored to the Navajo Reservation the Paiute strip, south of the San Juan River and added the Aneth extension to the north, also contains a prohibition against the establish-

ment of further allotments or Indian homesteads on public land in San Juan County, Utah. However, the prohibition in the act deals in terms not with claims of individual occupancy but with the further exercise of statutory authority to create allotments or homesteads, a quite different matter. It does not even purport to restrict the authority of the Congress itself subsequently to legislate as it sees fit with regard to the public lands, and even if it could be construed as an implied commitment not to legislate further respecting additions to the reservation, it is, of course, elementary that one Congress cannot bind another in the exercise of its constitutional authority over the public domain.

In any event, much clearer language than is contained in the act would in our view be required to evidence a congressional intention to extinguish any valid rights of occupancy to the public lands possessed by individual Indians in the face of what the highest court has described as "Unquestionably * * * the policy of the Federal Government from the beginning to respect the Indian right of occupancy, which could only be interfered with or determined by the United States" (*Cramer v. United States*, *supra*, p. 227). "But, an extinguishment [by legislation of the right of occupancy]" said the Supreme Court in *United States v. Santa Fe Pacific R. Co.* (314 U. S. 339, 354 (1941)) "cannot be lightly implied in view of the avowed solicitude of the Federal Government for the welfare of its Indian wards * * * the rule of construction recognized without exception for over a century has been that 'doubtful expressions, instead of being resolved in favor of the United States, are to be resolved in favor of a weak and defenseless people, who are wards of the Nation, and dependent wholly upon its protection and good faith.'"

Nor can it be successfully contended, in our view, that exchange legislation is foreclosed by the agreement entered into on July 15, 1932, between the so-called Committee of Nine representing the white grazers using the McCracken Mesa area and the then Commissioner of Indian Affairs which preceded enactment of the 1933 legislation. That agreement, like the act itself, contained among other things, a provision that "no more fourth section Indian allotments or Indian homesteads under the 1884 act should be made in San Juan County." Here again, in terms the language deals not with individual occupancy rights but with the creation of formal allotments or homesteads.

Fifteen years ago this Department refused to go beyond the express terms of this agreement to consider whether or not there might have been some oral agreement or promise not to act upon applications for allotments that had been pending when the 1933 act was passed, for the reason that no representative of the Department could have had any authority to make any disposition of these lands in any manner which would defeat the rights of the Indians (*Rights of Indians to Allotments in San Juan County, Utah*, 57 I. D. 547 (1942)).

In reaching this conclusion the Department relied heavily on the disposition by the Supreme Court of a similar contention in the *Cramer* case that the Government was estopped from protecting Indians' occupancy rights otherwise valid by reason of acts or declarations of its agents. The Court there stated:

"Neither is the Government estopped from maintaining this suit by reason of any act or declaration of its officers or agents. Since

On the other hand, while the displacement is, relatively speaking, small, nevertheless, the Congress may wish to consider the possibility of extending to the stockmen directly affected the principle of compensation now embodied in the provisions of title 43, United States Code, section 315q. While, as is well known, a grazing permit confers no right, title, interest, or estate in the public lands (43 U. S. C., sec. 315b), special equities justifying compensation might be thought to exist where, as here, the parties affected had no reason to anticipate they were establishing their activities in an area that would be affected by a reservoir project. Such action would place the burden of cost upon the reservoir project which will benefit from the exchange rather than upon the individuals now operating in the McCracken Meas area. The following additional comments are offered on the specific provisions of the proposed legislation.

Provision is included in subsection (a) of section 1 for the selection by the tribe of other available and proximate public lands in the event that sufficient acreage for the exchange is not available entirely in the McCracken Mesa area. Conditions on the exercise of mineral rights to protect surface use by the tribe are also provided for as subsection (b) of this section.

Subsection (d) of section 1 deals with the resettlement in the transferred area of Indians claiming use and occupancy rights to public lands in San Juan County outside the present reservation boundaries and provides for the extinguishment of such claims.

Subsection (e) of section 1 would assure the Indians a means of moving their livestock between the transferred area and the principal highway to the west thereof. Reciprocally, subsection (e) is designed to avoid undue interference with the pattern of livestock movement across the transferred lands.

Section 2 of the proposed legislation deals with the transfer of reservation lands to the United States. Provision is made for restrictions on the exercise of tribally retained mineral rights to avoid interference with the purposes of the Glen Canyon unit. A limitation is also included prohibiting use of parcel B lands transferred thereunder for public recreational facilities without further agreement with the Navaho Tribal Council. Use of land under easements or permits from the tribe is provided for in the vicinity of Rainbow Bridge National Monument, to the extent that may be required in connection with such plan as may be necessary for its protection.

In addition, provision is made in section 2 for the disposition by the Secretary at fair market value of lots in townsites established on the transferred lands; for the dedication of portions of such lands to public purposes and for the transfer of dedicated lands to appropriate public or nonprofit bodies; and for the making of cooperative agreements with State and local public bodies and nonprofit corporations relative to the performance of services of a municipal, governmental, or public or quasi-public nature as will in the Secretary's judgment contribute substantially to the efficiency or economy of the Department's operations in connection with the Glen Canyon unit.

The provisions referred to in the foregoing paragraph are intended to facilitate orderly transition of the town of Page from the status of an exclusively federally owned and operated facility to that of a self-governing community of individual freeholders under Arizona law to the maximum degree consistent with the Government's con-

these Indians with the implied consent of the Government had acquired such rights of occupancy as entitled them to retain possession as against the defendants, no officer or agent of the Government had authority to deal with the land upon any other theory. The acceptance of leases for the land from the defendant company by agents of the Government was, under the circumstances, unauthorized and could not bind the Government; much less could it deprive the Indians of their rights" (p. 234).

It is realized, of course, that the exchange proposal will result in the displacement of some non-Indian grazing interests. However, the boundaries of the area from which the exchange lands will be selected were drawn with a view to minimizing as much as possible the impact of the proposed exchange upon the existing grazing operations. Particular efforts were made, with the cooperation of the Navajo Tribe, to keep the number of allotments affected small by making the selection area as compact as possible and to avoid problems of access to water with regard to allotments not otherwise affected. In order to avoid undue interference with the prevailing pattern of livestock movement crossing the selection area, section 1 (f) of the proposed legislation expressly provides that the transfer of lands to the tribe shall not affect the status of rights-of-way for public highways now traversing the transferred lands, which rights-of-way shall remain available for public use, including the movement of livestock. The selection area as now described in the draft of bill herewith submitted represents a compromise by the tribe in order to accomplish the foregoing objective of minimizing impact on the existing grazing and stock moving pattern.

Of two grazing allotments involving good-sized sheep operations of some 5,300 and 3,000 head respectively with a 5-month grazing season, the smaller allotment would be completely included within the selection area as would an estimated 90 percent of the grazing capacity (involving about 4,800 head) of the larger allotment. In addition 2 cattle allotments of moderate scope with a carrying capacity of 85 and 79 head, respectively, over a 7½ month grazing season would also be completely encompassed within the selection area. Six other allotments (4 sheep and 2 cattle) which are in part included in the selection area as specified in the proposed legislation would be affected to some degree, the exact impact depending upon the precise lands finally selected and possible adjustments or arrangements regarding such factors as access to water.

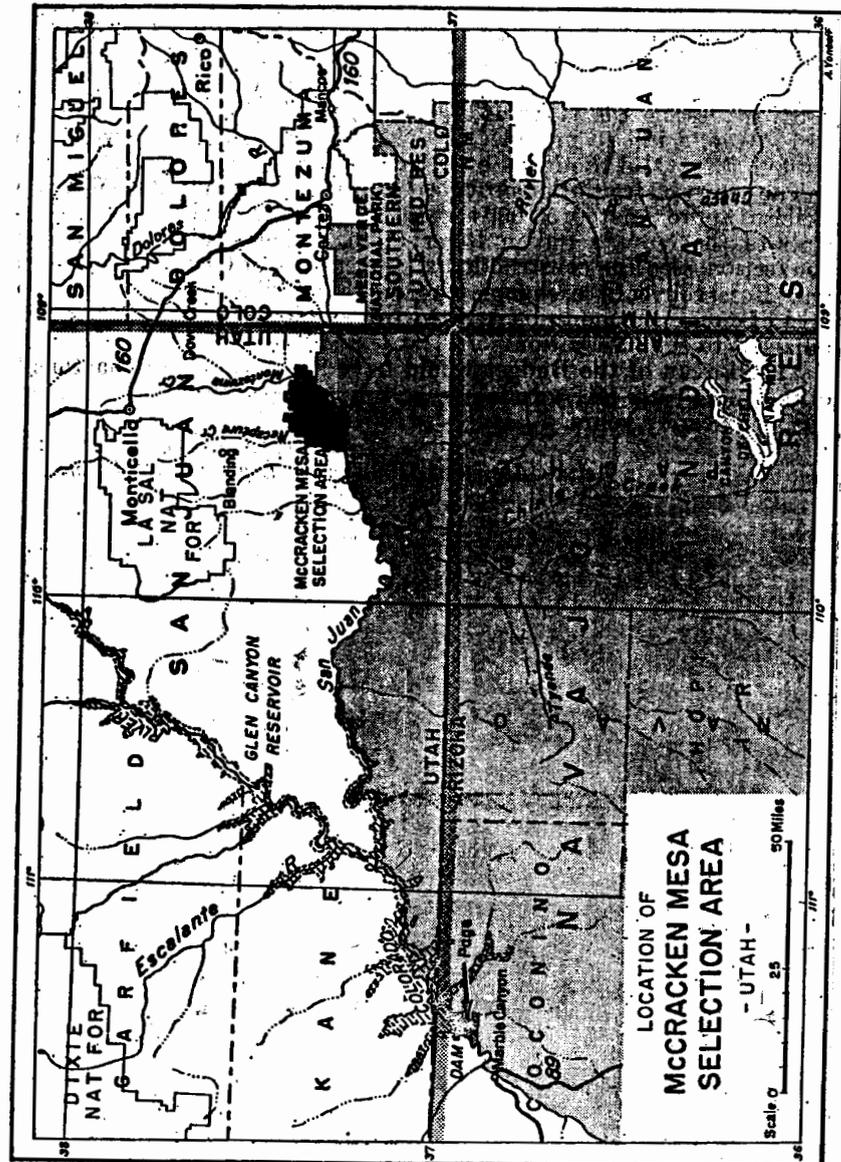
It is to be noted in considering the impact upon grazing operators that section 1 (a) of the proposed legislation makes provision for compensation, out of Glen Canyon appropriations, to the affected grazers for range improvements which have been constructed on the transferred lands with the consent of the United States. The value of such improvements is small.

In any reservoir project, some displacement of activity is inevitable. Should the exchange proposed commend itself to the Congress, the resultant impact on land use will nevertheless be relatively small, considering the magnitude of the acreage involved in the taking for the Glen Canyon unit. And, it must be borne in mind that, regardless of whether the proposed legislation is enacted, there will, in any event be some displacement in that one of the two groups contending for the occupancy of the McCracken Mesa area will not prevail.

tinuing responsibility for the Glen Canyon unit. The Department intends to conduct its operations with regard to the town of Page at all times with a view to the orderly transition of the community at the earliest possible time to self-governing status. The provisions included are the minimum we believe to be required to enable the Government to proceed toward that objective considering the present state of project activities. The problems incident to the establishment of local self-government will be kept under constant review and if from time to time additional legislation appears to be required, it will be suggested. In this fashion, the Department hopes to avoid the creation of settled patterns and conditions of Government operation which have proven to be serious obstacles to releasing the Government from continued responsibility in the case of other governmentally established communities.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,
FRED G. AANDAHL,
Assistant Secretary of the Interior.



CV-6417-201

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EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 21, 1958.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of May 8, 1958, requesting the views of the Bureau of the Budget with respect to S. 3754, a bill to provide for the exchange of lands between the United States and the Navajo Tribe, and for other purposes.

The proposed legislation provides for the acquisition from the Navajo Tribe of approximately 53,000 acres of land presently within the boundaries of the Navajo Indian Reservation, which is to be utilized in connection with the construction and operation of Glen Canyon Dam and Reservoir. In exchange, the Navajo Tribe would receive an area of equal acreage to be selected from a block of public lands now adjacent to the reservation.

The Bureau of the Budget would have no objection to enactment of S. 3754.

Sincerely yours,

PHILLIP S. HUGHES,
Acting Assistant Director for Legislative Reference.

ADDING CERTAIN PUBLIC DOMAIN LANDS IN NEVADA
TO THE SUMMIT LAKE INDIAN RESERVATION

JULY 22, 1958.—Ordered to be printed

Mr. MALONE, from the Committee on Interior and Insular Affairs,

submitted the following

REPORT

[To accompany S. 3949]

The Committee on Interior and Insular Affairs to whom was referred the bill (S. 3949) to add certain public domain lands in Nevada to the Summit Lake Indian Reservation, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 3949 is to withdraw from the public domain an 80-acre tract of public domain lands situated in Humboldt County, Nev., and add the land to the Summit Lake Indian Reservation. The withdrawal would be subject to any valid rights in such lands heretofore initiated under the public land laws.

The lands affected are within the exterior boundaries of the Indian Reservation, and were originally included in a public domain Indian allotment application which was rejected many years ago.

Other public domain lands were added to the reservation by the act of March 3, 1928 (45 Stat. 160), but the 80-acre tract in question was not included in that act, although the Indians have been using the land in their livestock enterprise.

Representatives of the Department of the Interior testified that in view of the fact that this parcel of land is completely surrounded by other tribal and allotted Indian lands, and that the Indians can make the most beneficial use of the property, it should be made a part of the reservation.

The reports of the Department of the Interior and the Bureau of the Budget recommending enactment of S. 3949 are as follows:

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