

## AMENDMENTS

1995—Pub. L. 104-42 inserted before period at end “: *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section”.

1982—Pub. L. 97-375, §208(a)(1), substituted “That the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made” for “That a report shall be made to Congress annually, on the first Monday in December, showing adjustments so made during the preceding fiscal year” in second proviso.

Pub. L. 97-375, §208(a)(2), substituted “ninety calendar days” for “sixty legislative days” wherever appearing.

**§ 387. Omitted**

## CODIFICATION

Section, which related to basis of apportionment of costs of irrigation projects was from the Interior Department Appropriation Act, 1946, July 3, 1945, ch. 262, 59 Stat. 328, and was not repeated in the Interior Department Appropriation Act of 1947, act July 1, 1946, ch. 529, 60 Stat. 348. Similar provisions were contained in the following prior appropriation acts:

June 28, 1944, ch. 298, 58 Stat. 474.  
 July 12, 1943, ch. 219, 57 Stat. 461.  
 July 2, 1942, ch. 473, 56 Stat. 518.  
 June 28, 1941, ch. 259, 55 Stat. 317.  
 June 18, 1940, ch. 395, 54 Stat. 419.  
 May 10, 1939, ch. 119, 53 Stat. 700.  
 May 9, 1938, ch. 187, 52 Stat. 304.  
 Aug. 9, 1937, ch. 570, 50 Stat. 577.  
 June 22, 1936, ch. 691, 49 Stat. 1769.  
 May 9, 1935, ch. 101, 49 Stat. 186.  
 Mar. 2, 1934, ch. 38, 48 Stat. 370.  
 Feb. 17, 1933, ch. 98, 47 Stat. 829.  
 Apr. 22, 1932, ch. 125, 47 Stat. 100.  
 Feb. 14, 1931, ch. 187, 46 Stat. 1126.  
 May 14, 1930, ch. 273, 46 Stat. 290.  
 Mar. 4, 1929, ch. 705, 45 Stat. 1573.  
 Mar. 7, 1928, ch. 137, 45 Stat. 210.

**§ 388. Claims for damages; settlement by agreement**

The Secretary of the Interior is authorized to pay out of funds available for the Indian irrigation projects for damages caused to owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation works of such projects and which may be compromised by agreement between the claimant and the Secretary of the Interior or such officers as he may designate: *Provided*, That the total of any such claims authorized to be settled as herein contemplated shall not exceed 5 per centum of the funds available for the project under which such claims arise during any one fiscal year.

(Feb. 20, 1929, ch. 279, 45 Stat. 1252.)

**§ 389. Investigation and adjustment of irrigation charges on lands within projects on Indian reservations**

The Secretary of the Interior is authorized and directed to cause an investigation to be made to determine whether the owners of non-Indian

lands under Indian irrigation projects and under projects where the United States has purchased water rights for Indians are unable to pay irrigation charges, including construction, maintenance, and operating charges, because of inability to operate such lands profitably by reason of lack of fertility of the soil, inadequacy of water supply, defects of irrigation works, or for any other causes. Where the Secretary finds that said landowners are unable to make payment due to the existence of such causes, he may adjust, defer, or cancel such charges, in whole or in part, as the facts and conditions warrant. In adjusting or deferring any such charges the Secretary may enter into contracts with said landowners for the payment of past due charges, but such contracts shall not extend the payment of such charges over a period in excess of ten years.

(June 22, 1936, ch. 692, §1, 49 Stat. 1803.)

## FLATHEAD INDIAN IRRIGATION PROJECT

Act July 26, 1947, ch. 340, 61 Stat. 494, provided that notwithstanding any provisions of sections 389 to 389e of this title, the Secretary of the Interior could defer the collection of irrigation construction charges on the Flathead Indian Irrigation Project until January 1, 1949.

## FORT PECK INDIAN IRRIGATION PROJECT

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior canceling delinquent irrigation operation and maintenance charges of \$461.40 and accrued interest thereon for certain lands adjacent to but outside the Fort Peck Indian irrigation project, \$206,902.21 against lands within the Fort Peck project, and \$118,266.64 of unassessed construction costs allocable against both Indian and non-Indian owned lands in the Fraiser-Wolf Point unit of the Fort Peck project, was approved by Pub. L. 90-143, Nov. 16, 1967, 81 Stat. 465.

## KLAMATH INDIAN IRRIGATION PROJECT

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior canceling \$401,440.55 of reimbursable irrigation costs and any accrued interest thereon chargeable to lands in the Klamath Indian irrigation project, was approved by Pub. L. 88-456, Aug. 20, 1964, 78 Stat. 554.

## OROVILLE-TONASKET IRRIGATION DISTRICT

Action of the Secretary of the Interior taken on May 19, 1942, pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the Oroville-Tonasket Irrigation District was confirmed by Congress in act Dec. 24, 1942, ch. 816, 56 Stat. 1082.

## UINTAH INDIAN IRRIGATION PROJECT

Pub. L. 91-403, §§1-5, Sept. 18, 1970, 84 Stat. 843, 844, authorized the Secretary of the Interior to reimburse the Ute Tribe of the Uintah and Ouray Reservation for tribal funds that were used to construct, operate, and maintain the Uintah Indian irrigation project, Utah.

Action of Secretary of the Interior taken pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the Uintah Indian Irrigation Project was confirmed by Congress in act May 28, 1941, ch. 142, 55 Stat. 209.

## WAPATO INDIAN IRRIGATION PROJECT

In accordance with sections 389 to 389e of this title, order of Secretary of the Interior dated Sept. 12, 1962, canceling \$4,494.58 of delinquent irrigation charges, providing for the deferred payment of \$10,356.03, and providing for the removal of 78.12 acres of assessable land

from the Wapato Indian irrigation project, was approved by Pub. L. 88-159, Oct. 28, 1963, 77 Stat. 278.

In accordance with sections 389 to 389e of this title, order of Secretary of the Interior canceling \$35,700.72 of delinquent irrigation charges, providing for the deferred payment of \$13,851.98, and providing for the removal of two hundred thirty-two and fifty-six one hundredths acres of assessable land from the Wapato Indian irrigation project, was approved by Pub. L. 86-281, Sept. 16, 1959, 73 Stat. 564.

Action by the Secretary of the Interior taken Sept. 9, 1942, pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the Wapato Indian irrigation project was confirmed in act Dec. 24, 1942, ch. 815, 56 Stat. 1081.

#### WIND RIVER INDIAN IRRIGATION PROJECT

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior, canceling delinquent operation and maintenance irrigation charges of \$1,134.99 and accrued interest thereon, against lands on the Wind River Indian irrigation project, and a contract for the deferred payment of delinquent charges in the amount of \$2,331.59, was approved by Pub. L. 88-116, Sept. 6, 1963, 77 Stat. 151.

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior, canceling delinquent irrigation charges of \$36,439.70 and accrued interest therein, and providing for a deferred payment of \$8,706.27, as shown in schedules A, B, and C of such order, was approved by Pub. L. 87-516, July 2, 1962, 76 Stat. 128, provided that the cancellation under schedule B not become effective until the landowners agree to pay the balance of such delinquent charges amounting to \$1,556.40.

#### § 389a. Declaring lands to be temporarily non-irrigable

Where the Secretary finds that any such lands cannot be cultivated profitably due to a present lack of water supply, proper drainage facilities, or need of additional construction work, he shall declare such lands temporarily nonirrigable for periods not to exceed five years and no charges shall be assessed against such lands during such periods.

(June 22, 1936, ch. 692, § 2, 49 Stat. 1804.)

#### § 389b. Elimination to permanently nonirrigable lands

Where the Secretary finds that any such lands are permanently nonirrigable he may, with the consent of the landowner, eliminate such lands from the project.

(June 22, 1936, ch. 692, § 3, 49 Stat. 1804.)

#### § 389c. Cancellation of charges in absence of lien or contract for payment

Where irrigation assessments against any such lands remained unpaid at the time the Indian title to such lands became extinguished and no lien existed and attached to such lands for the payment of charges so assessed and no contract for the payment of such charges was entered into, the Secretary shall cancel all such charges.

(June 22, 1936, ch. 692, § 4, 49 Stat. 1804.)

#### § 389d. Rules and regulations

The Secretary shall have power to make such rules and regulations as may be necessary to carry out the provisions of sections 389 to 389e of this title.

(June 22, 1936, ch. 692, § 5, 49 Stat. 1804.)

#### § 389e. Actions taken to be included in report to Congress

The Secretary shall include in the report to Congress required pursuant to section 389a<sup>1</sup> of this title, a description of actions taken under the provisions of sections 389 to 389e of this title during the preceding fiscal year. No proceedings under such sections shall become effective until approved by the Congress.

(June 22, 1936, ch. 692, § 6, 49 Stat. 1804; Pub. L. 96-470, title II, § 206(b), Oct. 19, 1980, 94 Stat. 2244.)

#### AMENDMENTS

1980—Pub. L. 96-470 substituted provision requiring the Secretary to include in the report to Congress required pursuant to section 389a of this title a description of the actions taken under sections 389 to 389e of this title during the preceding fiscal year for provision requiring the Secretary to make reports to Congress on the first Monday of each regular session, and from time to time thereafter, showing actions taken under sections 389 to 389e of this title during the preceding fiscal year.

#### APPROVAL OF SECRETARY'S ACTION

The action of the Secretary of the Interior in deferring the collection of certain irrigation charges against lands under the Blackfeet Indian irrigation project in Montana was approved by Joint Res. Apr. 11, 1940, ch. 78, 54 Stat. 105.

#### § 390. Concessions on reservoir sites and other lands in Indian irrigation projects; leases for agricultural, grazing, and other purposes

The Secretary of the Interior be, and he is hereby, authorized, in his discretion, to grant concessions on reservoir sites, reserves for canals or flowage areas, and other lands under his jurisdiction which have been withdrawn or otherwise acquired in connection with the San Carlos, Fort Hall, Flathead, and Duck Valley or Western Shoshone irrigation projects for the benefit in whole or in part of Indians, and to lease such lands for agricultural, grazing, or other purposes: *Provided*, That no lands so leased shall be eligible for benefit payments under the crop control program, or the soil conservation act: *Provided further*, That such concessions may be granted or lands leased by the Secretary of the Interior under such rules, regulations, and laws as govern his administration of the public domain as far as applicable, for such considerations, monetary or otherwise, and for such periods of time as he may deem proper, the term of no concession to exceed a period of ten years: *Provided further*, That the funds derived from such concessions or leases, except funds so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be available for expenditure in accordance with the existing laws in the operation and maintenance of the irrigation projects with which they are connected. Any funds derived from reserves for which the tribe has not been compensated shall be deposited to the credit of the proper tribe: *Provided*

<sup>1</sup> So in original. Probably should refer to section 386a.