May 28, 1963

MEMORANDUM

TO: Members, Colorado Water Conservation Board.

FROM: F. L. Sparks, Director, Department of Natural Resources.

SUBJECT: Florida Project.

The attached copy of letter to Congressman Wayne N. Aspinall is being sent to you for your information and files.

FLS: lk
Enclosure
Hon. Wayne N. Aspinall
Chairman
Interior and Insular Affairs Committee
House Office Building
Washington 25, D.C.

Dear Mr. Chairman:

In accordance with your request we have made an investigation into the merits of various complaints made to you arising from the construction of the Florida project. As is normal in such cases, there are honest divergent opinions on the merits of the complaints. The complainants for the most part have spent most of their adult lives in cultivating and improving their presently owned farms. Their lands to them have a deep sentimental value which cannot be measured by ordinary economic standards. This fact accounts in large part for the bitter tone of the complaints, even though the amount of lands involved and the true dollar values attached thereto are relatively small.

Separate investigations of the complaints were conducted by the Bureau of Reclamation and by the Colorado Water Conservation Board. The results of these investigations were forwarded to this office, and this report to you is essentially a compilation of those two reports.

A recurrent theme in the complaints concern the enlargement and relocation of the Florida Farmers Ditch and the Florida Canal. This portion of the project construction was described by the Bureau of Reclamation as follows:

"As part of the plan of development for Florida Project the Bureau contracted for replacing the former Florida Farmers Diversion Dam, and enlarging the 4.9 mile-long Florida Farmers Ditch and a 1.8 mile segment of the Florida Canal. The plan provided for enlarging Florida Farmers Ditch from about 95 to 185 cubic feet per second and Florida Canal from about 85 to 150 cubic feet per second. The original canals followed meandering sinuous courses contouring around each rise and depression. During the course of selecting the alignment of the enlarged canals it was found that by cutting through low ridges, filling across swales, and siphoning over ravines we could eliminate objectionable sharp curves and effect a considerable reduction in total length and cost. This has resulted in shortening Florida Farmers Ditch from 4.9 to about 4 miles in length and shortening the enlarged segment of Florida Canal from 1.8 to about 1.7 miles. The new canal alignment has
been superimposed on or closely parallels the former alignment wherever it is feasible to do so. The abandoned sections of the former ditch and canal have been or will be obliterated and the lands occupied by them restored to a usable condition."

Solely from an engineering viewpoint, the reconstruction of the canals is completely sound. The reconstruction, however, left narrow strips of land between the old and new locations which is a considerable nuisance to irrigate. It is possible that in some instances the relocation work caused damage to the individual farmers in excess of any savings that were accomplished by shortening the length of the canals. The original Florida Farmers Ditch followed a ridge for a considerable distance and the farmers were able to irrigate both ways from it. Practically all of this ditch was relocated and the length was shortened by about 4200 feet. However, most of this savings was accomplished in six relatively short sections. We feel that much of the canal could have more closely followed the original alignment.

The definite plan report of the Bureau stated that the Florida Farmers Ditch and the Florida Canal would be enlarged, but no mention was made of changes in alignment. Since considerable changes in alignment did occur, some of the land owners feel that they were misled by the report. Several meetings were held prior to construction between Bureau personnel and members of the Florida Conservancy District for the purpose of explaining the project plans. While we feel that there was certainly no attempt to mislead anyone, it is obvious that there was not a clear understanding as to the nature of the canal and ditch realignment. It now appears that the definite plan report should have stated that the canals would be both enlarged and relocated.

More specifically in answer to the complaints, we offer the following information:

COMPLAINT OF GEORGE AND HAZEL BROWN:

As a part of the project plan it was necessary to construct a dike along the Florida River for the protection of both the Brown lands and the project canals. A strip of land was purchased from the Browns by the Bureau for this purpose. It was the construction of this dike that apparently ignited the controversy and led to a chain reaction of complaints on other phases of the project.

The Browns contended that the protective dike should have been constructed to follow the contours of the Florida River. Such a dike would have been more costly to both construct and maintain than the one actually planned by the Bureau. The divergent viewpoints were based entirely on aesthetic values. Since such values are largely a matter of personal desires, we feel that the Bureau was justified in refusing to change the project plans to conform with the Browns' wishes. A special meeting of the board of directors of the Florida Conservancy District was called to hear the Browns' objections on the proposed dike. The board, after hearing both sides of the question, did not request any change in the project plans. Mr. Brown thereupon resigned from the board. It is reported that some ill-advised threats were conveyed by Mrs. Brown to Bureau personnel concerning this dike.
In connection with the realignment and enlargement of the Florida Farmers Ditch, the Bureau acquired an easement through the Brown property. In order to fill in a low area adjacent to the ditch right-of-way, Mr. Brown made arrangements with the project contractor to have the low area filled in with top soil from the ditch excavation. Because of other duties, Mr. Brown was not present to supervise the placement of the requested fill. As a result, the contractor's dragline operator not only dumped the usable topsoil in the fill, but also included large boulders and gravel as well. This unfortunate mistake rendered the fill area unsuitable for cultivation. The arrangement between Mr. Brown and the contractor was strictly a private one and was not the responsibility of the Bureau of Reclamation. We have no information as to whether or not the Bureau personnel were aware of the damage being done to Mr. Brown's land. If they were aware of the damage being done, they should have stopped the fill from being made, regardless of any legal obligation. Since the Browns obviously were damaged by this act, we feel that both the contractor and the Bureau should make reasonable attempts to remedy the situation, if it can now be done. We have some doubt, however, that project funds can be expended for this purpose.

A further complaint of the Browns is that the Bureau installed a headgate which will not irrigate the desired lands. This headgate was not included in the project plans and was added at Mr. Brown's request and installed at the place he indicated. Apparently the headgate will not serve the desired purpose. Even though it may have been Mr. Brown's mistake, we feel that the headgate should be properly relocated.

The Browns' complaint also went to the matter of the realignment of the project canals. As already pointed out at the beginning of this report, we feel that there is some merit to these contentions. During the course of construction, Mr. Brown made other requests for modification of the projects plans. One such request involved the relocation of a bridge, which was accomplished. The record is clear that Bureau personnel were generally cooperative with the Brown requests. It appears, however, that the heated controversy over the design of the protective dike clouded the judgment of all involved.

COMPLAINT OF IOLA JANE BROWN

Iola Jane Brown is a sister-in-law of George Brown. When the Florida Farmers Ditch was relocated, some of the surface drain ditches around her house were carelessly filled in by the contractor. Since the house is located in a somewhat swampy area, the blocking of these drain ditches caused her yard area to be flooded when the snow melted in the spring. The septic tank would not work and the flooring in the house was warped and buckled in spots.

When the damage was occurring the Bureau was not notified. Mrs. Brown is of the opinion that the results of plugging her drain ditches should have been self-evident. Although the contractor is primarily at fault, the condition could have been perceived by supervisory personnel of the Bureau. In any event, Mrs. Brown has been unnecessarily damaged by the project construction and should be compensated for such damage.
COMPLAINT OF JOHN J. and FRANK G. BUKOVEC

The primary complaint of the Bukovecs concerned the change in the alignment of the Florida Canal. The relocated canal forces the Bukovecs to install a special head ditch along the ridge to irrigate a strip of land approximately one-half mile long and varying in width from fifty to three hundred feet. There is some disagreement as to where the Bukovecs actually wanted the ditch to go, but it appears that the canal could have followed the original ridge alignment in most part with very little additional construction cost.

Another complaint of the Bukovecs was that they had been promised an 18-inch flume to carry their irrigation water across the new canal. The Bureau actually installed a 12-inch flume. The Bureau contends that their engineering computations show that the 12-inch flume is entirely adequate. Since the difference in cost between the two flumes is very minor, we feel it would have been better to have installed an 18-inch flume. However, it is probable that in actual operation the 12-inch flume will prove to be adequate.

COMPLAINT OF MR. & MRS. HAROLD PECK

The primary complaint of the Pecks is that their neighbors received more per acre for right-of-way than they did. The Bureau answers this complaint as follows:

"Mr. and Mrs. Harold F. Peck in their letter cite payment to them of $1,695 for 8.2 acres in comparison to a payment of $2,000 to a neighbor for about 6.2 acres and a payment of $3,500 to another farmer for 8.2 acres. From an examination of our land purchase contracts it appears they refer to the Bukovec Brothers who received $2,000 for 6.3 acres and to Mr. and Mrs. George Brown who received $3,425 for a land purchase contract covering 13.5 acres and $130 for purchase of improvements on a 0.8 acre tract. Appraisals were made by qualified appraisers and sound appraisal principles and policies were followed in determining amounts due each landowner. Factors causing differences in offering prices included: Land type, severance damage, crop damage, inconvenience to farming operations, necessity to reconstruct or alter the farm irrigation system, and compensable allowances for replacing fences. Because of these factors, the straight dollar per acre analysis indicated by Mr. and Mrs. Peck does not give a true view of the consistency in the offering prices."

We are unable to find any basis for disputing the Bureau's explanation on the purchase of this acreage. The Pecks were also under the impression that a line fence between them and a neighbor had been taken out and moved by the Bureau. Actually the fence was torn down and relocated by the neighbor. The Bureau had nothing to do with the incident.

COMPLAINT OF E. M. LA LONDE

The La Londes feel that deliberate misrepresentations were made to them by the Bureau right-of-way negotiator. We are not able to ascertain that any such deliberate misrepresentations were made, but undoubtedly some misunderstanding
did occur. The Bureau's explanation of their negotiations with the LaLondes is as follows:

"Right-of-way negotiations with Mr. & Mrs. Edward La Londe were routine and conducted in a friendly atmosphere. At the time our negotiator contacted them they were preparing to attend funeral services for a near relative. Terms of the land purchase contract were reviewed with them and the negotiator offered to return at a later date for them to sign the contract. They declined his offer, stating that they were not being much affected by the right-of-way and preferred to complete the transaction immediately. They were the second landowners to sign a land purchase contract. Since they were grieved at the death of a close relative, it is possible that their minds were not fully on the transaction at hand and they may have misunderstood something said on that occasion. Bureau of Reclamation land purchase contracts specifically state that landowners shall pay all expenses required to remove title defects to lands they transfer to the United States. The law requires vendors to furnish revenue stamps on the deed. The Bureau pays recording fees for contracts and deeds and for its own title search."

Mr. La Londe also had a further complaint that he could not irrigate his land because his ditch turnout was too low. At the time our field investigator was there, the ditch from the turnout had not been completed. There was, therefore, no way to check the accuracy of Mr. La Londe's complaint. However, the headgate was checked by the Bureau personnel and they are of the firm opinion that it is at the proper location. If it subsequently turns out from actual experience that the headgate is improperly located, then it should be relocated at project expense.

The field investigations of the complaints were conducted by Mr. Laren D. Morrill, senior hydraulic engineer for the Colorado Water Conservation Board. Mr. Morrill feels that there was improper liaison between the Florida Water Conservancy District Board and the people on the project area; and, in turn improper liaison between that Board and the Bureau of Reclamation. We here fully concur with his opinion.

There was apparently some feeling by the district board that they were obligated to accept all decisions made by the Bureau of Reclamation. In this respect they were not properly advised by the state water board. It appears that most of the problems could have been satisfactorily solved at the time they originated if both the local water conservancy board and the state water board had been more active.

We are not able to offer any undue criticism of any of the parties who were drawn into the various controversies. The complaining land-owners are honest and hard-working people who feel that they have legitimate complaints. While it is never possible to reconcile all the conflicting views, it is apparent that better machinery must be established to handle such complaints as they arise.
In the construction of future projects, the state water board will establish a closer liaison with the local conservancy districts. It is obvious that project plans must be more fully explained and understood prior to the initiation of construction. In cooperation with the local conservancy districts, we will hereafter establish a grievance committee composed of personnel from both the local conservancy district and the state water board, in order to handle controversies as soon as they originate.

If there is any further information that you would desire, or further line of investigation that we should pursue, please advise.

Very truly yours,

FELIX L. SPARKS
Director

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