

## PREFACE

The Federal Reclamation program authorized by the Reclamation Act of 1902 was initially designed to reclaim the desert lands of the western United States by conserving and supplying irrigation water to make them productive.

Over nearly three-quarters of a century, Congress has enlarged the Bureau of Reclamation's mission to include multi-purpose water development to meet the diverse water needs of a maturing economy and an expanding population.

This publication contains a comprehensive legal history of that program evolution. It provides an invaluable reference to what has transpired in the past, as well as a vital foundation for what is yet to come.

ROGERS C. B. MORTON,  
*Secretary of the Interior.*

## FOREWORD

These volumes replace the familiar "green books" heretofore published by the Bureau of Reclamation entitled "Federal Reclamation Laws" which consist of Volume I, annotated (laws through 1946), Volume II (laws 1947-1958), and the 1965 supplement. The annotations in Volume I, however, have been relied upon as the basic source for interpretative material prior to 1947.

This publication has been designed as a convenient reference work for administrators, lawyers, and others interested in the Federal reclamation laws and related statutes. Although it deals primarily with matters affecting the program responsibilities of the Bureau of Reclamation, it also includes a broad selection of materials involving other Federal water and power programs.

The basic order of appearance is chronological. Acts of Congress are shown by date of enactment, interstate compacts by the date of the Act giving Congressional consent thereto, and Treaties by the date of signing. The Appendix, however, sets forth certain administrative statutes of general application as they appear in the United States Code. All citations to the United States Code are to the 1964 edition.

All amendments have been incorporated into statutes under the date of original enactment except in a few instances where convenience or popular usage have indicated other treatment. For example, the Act of September 19, 1890, relating to structures on navigable waters, was superseded by the Act of March 3, 1899, and is noted under the latter; although Title I of the Federal Power Act appears under the date of June 10, 1920, the remaining titles are shown under the Act of August 26, 1935; the Fish and Wildlife Coordination Act appears under the date of August 14, 1946, rather than the Act of March 10, 1934; extracts from the Federal Tort Claims Act appear as codified by the Act of June 25, 1948, rather than as originally enacted in 1946; and the Federal Water Pollution Control Act is shown under the date of July 9, 1956, rather than under the original Act of June 30, 1948.

Amending acts are also reproduced for those statutes dealing primarily with activities of the Bureau of Reclamation, but not for secondarily related laws. Provisions which are repeated in annual appropriation acts are shown under the date of first appearance.

The Index appears in Volume III.

In order to hold down the size of this work within manageable limits, it has been necessary to exclude a number of categories of statutes (except to the extent included in the Appendix) and interpretative material, such as those dealing

## FOREWORD

with personnel, contracting authority and the interpretation of individual contracts, budgeting and accounting, appropriations, Congressional investigations, and State law. References to administrative actions and policy determinations, as distinguished from the strictly legal construction of Federal law, have been omitted except in isolated cases. Annotations of decisions and opinions have been included only to the extent deemed relevant to activities of the Bureau of Reclamation.

For access to some of the omitted material the reader is referred to the following sources published by the Bureau of Reclamation: "Reclamation Project Feasibilities and Authorizations" (1957), "Supplement" (1968); "Bureau of Reclamation Appropriations Acts and Allotments" (1960), "Statistical Supplement" (1966); "Reclamation Project Data" (1961), "Supplement" (1966); and "Reclamation Repayments and Payout Schedules" (1965).

In a work of this magnitude errors and omissions are unavoidable. Suggestions for corrections and additions are invited and should be submitted to the Solicitor, Department of the Interior, Washington, D.C. 20240.

Copies of unpublished material that is annotated may be obtained for a nominal charge in most cases by writing the Solicitor at the above address.

The cut-off date for the statutory and interpretative material included in the main text is December 31, 1966; for the Appendix, it is the end of the 90th Congress in 1968. The issuance of regular supplements is planned which, together with the initial three volumes, will provide a complete up-to-date reference work.

RICHARD K. PELZ,  
*Editor.*

Washington, D.C.  
July 1971.

## Secretaries of the Interior Since 1902

<i>Name</i>	<i>Year Appointed</i>	<i>Name</i>	<i>Year Appointed</i>
Ethan A. Hitchcock-----	1898	Ray Lyman Wilbur-----	1929
James R. Garfield-----	1907	Harold L. Ickes-----	1933
Richard A. Ballinger-----	1909	Julius A. Krug-----	1946
Walter L. Fisher-----	1911	Oscar L. Chapman-----	1949
Franklin K. Lane-----	1913	Douglas McKay-----	1953
John B. Payne-----	1920	Fred A. Seaton-----	1956
Albert B. Fall-----	1921	Stewart L. Udall-----	1961
Hubert Work-----	1923	Walter J. Hickel-----	1969
Roy O. West-----	1928	Rogers C. B. Morton-----	1971

## Solicitors, Department of the Interior, Since 1902<sup>1</sup>

<i>Name</i>	<i>Year Appointed</i>	<i>Name</i>	<i>Year Appointed</i>
Willis Van Devanter-----	1897	Nathan R. Margold-----	1933
Frank L. Campbell-----	1903	Warner W. Gardner-----	1942
George W. Woodruff-----	1907	Fowler H. Harper----- <sup>2</sup>	1943
Oscar Lawler-----	1909	Mastin G. White-----	1946
Charles W. Cobb-----	1911	Clarence A. Davis-----	1953
Preston C. West-----	1913	J. Reuel Armstrong-----	1955
Alexander T. Vogelsang-----	1916	Elmer F. Bennett-----	1957
Charles D. Mahaffie-----	1916	George W. Abbott-----	1958
Edwin S. Booth-----	1921	Theodore F. Stevens-----	1960
John N. Edwards-----	1923	Frank J. Barry-----	1961
Ernest O. Patterson-----	1926	Edward Weinberg-----	1968
Edward C. Finney-----	1929	Mitchell Melich-----	1969

## Commissioners of Reclamation<sup>3</sup>

<i>Name</i>	<i>Year Appointed</i>	<i>Name</i>	<i>Year Appointed</i>
Frederick H. Newell-----	1902	Harry W. Bashore-----	1943
Arthur P. Davis-----	1914	Michael W. Straus-----	1945
David W. Davis-----	1923	Wilbur A. Dexheimer-----	1953
Elwood Mead-----	1924	Floyd E. Dominy-----	1959
John C. Page-----	1937	Ellis L. Armstrong-----	1969

<sup>1</sup> Title of the Solicitor prior to 1914 was Assistant Attorney General.

<sup>2</sup> Mr. Fowler H. Harper was Solicitor during the military service of Mr. Warner W. Gardner.

<sup>3</sup> The Reclamation Service was established within the Geological Survey of the Department of the Interior in July, 1902, headed by a Chief Engineer. In March, 1907, the Service was given bureau status under a Director. The name of the Reclamation Service was changed to Bureau of Reclamation on June 20, 1923, and the position of Commissioner of Reclamation was established.

## TABLE OF CONTENTS

<i>Acts of 76th Congress</i>		<i>Page</i>
<i>1940</i>		
Oct. 17...	Pub. L. 868..... Amend Central Valley Project Authorization (Extract).	711
Nov. 29...	Pub. L. 883..... Excess Lands, Truckee Storage and Humboldt Projects.	712
<i>Acts of 77th Congress</i>		
<i>1941</i>		
May 29...	Pub. L. 86..... Completion of Boca Dam.....	713
June 25...	Pub. L. 131..... Reconveyance of Lands for Eden Project.	714
June 28...	Pub. L. 136..... Interior Department Appropriation Act, 1942 (Extract).	715
July 30...	Pub. L. 198..... Acquisition of Indian Lands for Central Valley Project.	719
Dec. 19...	Pub. L. 356..... Delegation of Authority.....	721
<i>1942</i>		
June 5....	Pub. L. 584..... Investigation of Claims, Owyhee Project.	722
June 5....	Pub. L. 588..... Quitclaim Lands of Goose Lake.....	723
July 2....	Pub. L. 645..... Interior Department Appropriation Act, 1943 (Extract).	724
July 8....	Pub. L. 659..... Use of Millerton Rancheria.....	725
Aug. 1....	Pub. L. 692..... Relief of Bridgeport Irrigation District..	726
Oct. 28...	Pub. L. 764..... Acquisition of Indian Lands for Parker Dam Power Project.	727
<b>VOLUME II</b>		
<i>Acts of 78th Congress</i>		
<i>1943</i>		
Mar. 10...	Pub. L. 8..... Columbia Basin Project Act.....	728
May 26...	Pub. L. 60..... Republican River Compact.....	740
July 12...	Pub. L. 133..... Interior Department Appropriation Act, 1944 (Extract).	748
<i>1944</i>		
Feb. 3....	Treaty..... Mexican Water Treaty and Protocol...	750
Feb. 26...	Pub. L. 236..... Belle Fourche River Compact.....	777
Apr. 1....	Pub. L. 279..... First Deficiency Appropriation Act, 1944 (Extract).	785
June 5....	Pub. L. 329..... Hungry Horse Dam.....	786
June 17...	Pub. L. 342..... Amended Contract and Adjustment of Lands and Revenues, Klamath Project.	788

## TABLE OF CONTENTS

xxi

<i>Acts of 78th Congress</i>		<i>Page</i>
<i>1944</i>		
June 28...	Pub. L. 369..... Interior Department Appropriation Act, 1945 (Extract).	790
Dec. 15...	Pub. L. 487..... Conveyance of Lands to University of Wyoming.	793
Dec. 16...	Pub. L. 497..... Amend Acquisition of Indian Lands for Grand Coulee Dam and Reser- voir Act.	794
Dec. 20...	Pub. L. 517..... Alva B. Adams Tunnel .....	795
Dec. 22...	Pub. L. 534..... Flood Control Act of 1944 (Extract)....	796
Dec. 23...	Pub. L. 546..... Amend Consulting Engineers and Economists on Important Reclama- tion Work Act.	812
<i>Acts of 79th Congress</i>		
<i>1945</i>		
Mar. 2....	Pub. L. 14..... River and Harbor Act of 1945 (Extract)..	813
Apr. 19...	Pub. L. 34..... Consent to Negotiate Arkansas River Compact [States of Colorado and Kansas].	815
Apr. 19...	Pub. L. 35..... Amend Fact Finders' Act.....	816
Apr. 24...	Pub. L. 39..... Amend Reclamation Project Act of 1939.	817
June 29...	Pub. L. 90..... Conveyance of Lands to University of Arizona.	819
July 14...	Pub. L. 143..... Amended Contract with Truckee-Carson Irrigation District.	820
<i>1946</i>		
Mar. 6....	Pub. L. 318..... Amend Boulder Canyon Project Act....	821
Apr. 23...	Pub. L. 353..... Acquisition of Indian Lands for Fort Peck Project.	822
May 2....	Pub. L. 374..... Civil Functions Appropriations Act, 1947 (Extract).	823
June 25...	Pub. L. 439..... Boulder City Cemetery Act.....	825
June 26...	Pub. L. 450..... Purchase of Improvements on Public Lands, Anderson Ranch Reservoir.	827
June 28...	Pub. L. 469..... Amend Colorado River Front Work and Levee System Act.	828
July 1....	Pub. L. 478..... Interior Department Appropriation Act, 1947 (Extract).	830
July 24...	Pub. L. 526..... Flood Control Act of 1946 (Extract)....	832
July 24...	Pub. L. 537..... Consent to Negotiate Bear River Compact.	835
July 31...	Pub. L. 569..... Lewiston Orchards Project.....	836
Aug. 7....	Pub. L. 615..... Discontinue Reports Required by Law (Extract).	837

## TABLE OF CONTENTS

<i>Acts of 79th Congress</i>		<i>Page</i>
<i>1946</i>		
Aug. 7....	Pub. L. 633..... Administration of Areas by National Park Service (Extract).	838
Aug. 14....	Pub. L. 732..... Fish and Wildlife Conservation (Fish and Wildlife Coordination Act).	839
<i>Acts of 80th Congress</i>		
<i>1947</i>		
Apr. 30....	Pub. L. 43..... Naming of Hoover Dam.....	848
May 16....	Pub. L. 69..... W. C. Austin Project.....	849
May 19....	Pub. L. 73..... Amended Contract with Farmers' Irrigation District.	850
May 27....	Pub. L. 77..... Amend Mineral Leasing Act.....	851
June 25....	Pub. L. 109..... Amend Contract with Mancos Water Conservancy District.	852
June 25....	Pub. L. 117..... Paonia Project.....	853
June 26....	Pub. L. 121..... Flood Control Costs, Coachella Valley Distribution System.	854
July 23....	Pub. L. 217..... Addition of Land to Angostura Unit, Missouri River Basin Project.	855
July 25....	Pub. L. 247..... Interior Department Appropriation Act, 1948 (Extract).	856
July 30....	Pub. L. 272..... Gila Project.....	858
<i>1948</i>		
Feb. 5....	Pub. L. 407..... Rights-of-Way on Indian Lands.....	862
Feb. 27....	Pub. L. 420..... Indian Power Facilities, Fort Peck Project.	864
Mar. 19....	Pub. L. 449..... Extension of Shasta National Forest....	865
Mar. 29....	Pub. L. 462..... Deer Creek and Aqueduct Divisions, Provo River Project.	866
Apr. 15....	Pub. L. 482..... San Diego Aqueduct.....	867
May 14....	Pub. L. 528..... Payment to Boulder City School District.	868
May 25....	Pub. L. 553..... Sale of Boulder City Houses.....	869
May 25....	Pub. L. 555..... Amended Contract with Northport Irrigation District.	871
June 1....	Pub. L. 570..... Amend Boulder Canyon Project Adjustment Act.	873
June 3....	Pub. L. 580..... Consent to Negotiate Snake River Compact.	875
June 3....	Pub. L. 586..... Assistance to School Districts, Fort Peck Project.	876
June 4....	Pub. L. 602..... Amended Contracts, Lower Yellowstone Irrigation Districts.	877

## TABLE OF CONTENTS

xxiii

*Acts of 80th Congress*

<i>1948</i>	<i>Page</i>
June 9.... Pvt. L. 341..... Transfer of Lands to V.F.W. Post, Town of Powell.	880
June 12... Pub. L. 629..... Kennewick Division, Yakima Project...	881
June 15... Pub. L. 644..... Preston Bench Project.....	883
June 25... Pub. L. 773..... Federal Tort Claims Act (Extract).....	884
June 25... Pub. L. 785..... Second Deficiency Appropriation Act, 1948 (Extract).	890
June 26... Pub. L. 790..... Emergency Fund.....	891
June 29... Pub. L. 814..... O'Sullivan Dam.....	892
June 29... Pub. L. 835..... Assistance to School Districts.....	893
June 29... Pub. L. 841..... Interior Department Appropriation Act, 1949 (Extract).	894
June 30... Pub. L. 858..... Flood Control Act of 1948 (Extract)....	901
June 30.... Pvt. L. 441..... Claim of James & Phelps Construction Co.	905
July 2.... Pvt. L. 456..... Claim of Luther Brothers Construction Co.	906
July 3.... Pvt. L. 457..... Claims of Silas Mason, Walsh, and Atkinson-Kier Companies.	907

*Acts of 81st Congress*

<i>1949</i>	
Apr. 6.... Pub. L. 37..... Upper Colorado River Basin Compact..	909
Apr. 25... Pub. L. 54..... Conveyance of Lands to Churntown Elementary School District.	924
May 6.... Pub. L. 56..... Amended Contracts, Miscellaneous Projects.	926
May 12... Pub. L. 61..... Trenton Dam and Swanson Lake.....	930
May 31... Pub. L. 82..... Arkansas River Compact [States of Colorado and Kansas].	931
June 2.... Pub. L. 83..... Consent to Negotiate Yellowstone River Compact.	940
June 7.... Pub. L. 86..... Relief of City of El Paso.....	941
June 9.... Pub. L. 91..... Pecos River Compact.....	942
June 13... Pub. L. 102..... Sever Lands from Yuma Auxiliary Project.	950
June 28... Pub. L. 132..... Completion of Eden Project.....	954
June 30... Pub. L. 152..... Federal Property and Administrative Services Act of 1949 (Extract).	956
July 29... Pub. L. 192..... Fort Sumner Project.....	963
Aug. 29... Pub. L. 273..... Weber Basin Project.....	965
Oct. 5.... Pub. L. 312..... Hydroelectric Power at Falcon Dam...	968
Oct. 7.... Pub. L. 335..... Rehabilitation and Betterment Act.....	969
Oct. 10... Pub. L. 336..... Buffalo Rapids Project.....	972
Oct. 10... Pub. L. 337..... Complete Land Development, Angostura Unit.	973

## TABLE OF CONTENTS

<i>Acts of 81st Congress</i>		<i>Page</i>
<i>1949</i>		
Oct. 12...	Pub. L. 350..... Interior Department Appropriation Act, 1950 (Extract).	974
Oct. 14...	Pub. L. 356..... American River Basin Development....	978
Oct. 19...	Pub. L. 361..... Farm Tenant Act Loans to Entrymen...	981
Oct. 25...	Pub. L. 383..... Reduction of Construction Charges, Yuma Project.	983
Oct. 27...	Pub. L. 419..... Amended Contracts, Miscellaneous Projects.	984
<i>1950</i>		
Mar. 3....	Pub. L. 451..... Amend Rehabilitation and Betterment Act.	988
Mar. 16...	Pvt. L. 401..... Claim of J. N. Jones and Others.....	989
Mar. 21...	Pub. L. 464..... Snake River Compact.....	990
Mar. 31...	Pub. L. 469..... Disposal of Small Tracts.....	998
Apr. 29...	Pvt. L. 443..... Claim of Fisher Contracting Company..	1000
Apr. 29...	Pub. L. 491..... Consent to Negotiate Canadian River Compact.	1001
May 17...	Pub. L. 516..... Flood Control Act of 1950 (Extract)....	1002
May 24...	Reorg. Plan..... Reorganization Plan No. 3 of 1950.....	1005
June 14...	Pub. L. 538..... Lake Mohave.....	1006
June 19...	Pvt. L. 546..... Relief of L. M. Abernathy.....	1007
June 21...	Pvt. L. 567..... Claim of Stebbins Construction Company.	1008
June 30...	Pvt. L. 637..... Relief of Horner Construction Company.	1009
July 31...	Pub. L. 628..... Eklutna Project.....	1010
Aug. 4....	Pvt. L. 700..... Relief of Parish Brothers.....	1013
Aug. 5....	Pub. L. 666..... Amended Contract with Ogden River Water Users' Association.	1014
Aug. 5....	Pub. L. 667..... Amended Contract with South Cache Water Users' Association.	1015
Aug. 7....	Pvt. L. 728..... Relief of John W. Wagner.....	1016
Aug. 18...	Pub. L. 713..... Permanent Easements on Reclamation Projects.	1017
Sept. 2....	Pub. L. 750..... Credits for Costs, Colorado River Front Work and Levee System.	1018
Sept. 6....	Pub. L. 759..... General Appropriation Act, 1951 (In- terior Department Appropriation Act, 1951) (Extract).	1020
Sept. 13...	Pub. L. 786..... American-Mexican Treaty Act of 1950 (Extract).	1028
Sept. 25...	Pub. L. 832..... Transfer Sewerage System to Town of Mills.	1031
Sept. 26...	Pub. L. 839..... Sacramento Valley Canals.....	1032

## TABLE OF CONTENTS

xxv

<i>Acts of 81st Congress</i>		<i>Page</i>
<i>1950</i>		
Sept. 26...	Pub. L. 840..... Amend Recordable Contract Provisions, Columbia Basin Project Act.	1034
Sept. 27...	Pub. L. 848..... Vermejo Project.....	1036
Sept. 27...	Pub. L. 851..... Recordable Contracts on State Lands, Columbia Basin Project Act.	1038
Sept. 30...	Pub. L. 864..... Palisades Dam and Reservoir Project; North Side Pumping Division, Minidoka Project; Contracts for Reserved Capacity, American Falls Reservoir.	1039
Sept. 30...	Pub. L. 875..... Disaster Relief Act of 1950.....	1043
Dec. 29...	Pub. L. 898..... Canadian River Project.....	1048
<i>Acts of 82nd Congress</i>		
<i>1951</i>		
Aug. 2....	Pub. L. 103..... Conveyance to City of Klamath Falls...	1050
Aug. 16...	Pvt. L. 207..... Relief of Walter M. Smith.....	1052
Aug. 31...	Pub. L. 136..... Interior Department Appropriation Act, 1952 (Extract).	1053
Oct. 11...	Pub. L. 171..... Second Barrel, San Diego Aqueduct....	1057
Oct. 20...	Pvt. L. 339..... Relief of Charles Cooper.....	1060
Oct. 30...	Pub. L. 231..... Yellowstone River Compact.....	1061
Nov. 1....	Pub. L. 252..... Consent to Negotiate Sabine River Compact.	1071
<i>1952</i>		
Mar. 5....	Pub. L. 269..... Amend Vermejo Project Act.....	1072
Mar. 6....	Pub. L. 273..... Extend Time for Amendatory Repayment Contracts.	1073
May 8....	Pub. L. 331..... Limitation on Sewerage Service, Town of Mills.	1074
May 17....	Pub. L. 345..... Canadian River Compact.....	1075
June 23...	Pub. L. 402..... Amended Contracts, Miscellaneous Projects.	1080
June 27....	Pub. L. 415..... Excess Lands, San Luis Valley Project..	1083
July 3....	Pub. L. 445..... Collbran Project.....	1084
July 3....	Pvt. L. 778..... Claim of Stamey Construction Company.	1086
July 3....	Pub. L. 448..... Saline Water Research.....	1087
July 9....	Pub. L. 469..... Rufus Woods Lake.....	1091
July 9....	Pub. L. 470..... Interior Department Appropriation Act, 1953 (Extract).	1092
July 9....	Pub. L. 474..... Harry Strunk Lake.....	1095
July 10...	Pub. L. 495..... State, Justice, Commerce and The Judiciary Appropriation Act, 1953 (Extract).	1096
July 10...	Pub. L. 500..... Dry Falls Dam.....	1099

## TABLE OF CONTENTS

<i>Acts of 82nd Congress</i>		<i>Page</i>
<i>1952</i>		
July 14...	Pub. L. 529..... Halogeton Glomeratus Control Act.....	1100
July 15...	Pvt. L. 877..... Relief of Henly Construction Company.	1102
July 16...	Pub. L. 572..... Consent to Negotiate Columbia River Compact.	1103
July 17...	Pub. L. 577..... Study of Irrigation Assistance, Chief Joseph Dam.	1104
July 17...	Pub. L. 578..... Amended Contracts, North Platte Project.	1106
July 18...	Pub. L. 591..... Indian Lands, Boysen Unit, Missouri River Basin Project.	1109
<i>Acts of 83rd Congress</i>		
<i>1953</i>		
May 13...	Pub. L. 25..... Conveyance of Lands for Fairgrounds, Klamath Project.	1110
July 28...	Pub. L. 155..... Conveyance of Land to City of Rupert.	1111
July 31...	Pub. L. 165..... Adjust Charges, Greenfields Irrigation District.	1112
July 31...	Pub. L. 168..... Amended Contract with Arch Hurley Conservancy District.	1113
July 31...	Pub. L. 172..... Interior Department Appropriation Act, 1954 (Extract).	1114
Aug. 5....	Pub. L. 191..... Consent to Negotiate Niobrara River, Ponca Creek, and Ground Water Compacts.	1117
Aug. 13...	Pub. L. 258..... Farm Unit Exchange Act.....	1118
Aug. 13...	Pub. L. 260..... Amend Eklutna Project Act.....	1123
Aug. 15...	Pub. L. 284..... Compensate Indians for Land on Riverton Project (Extract).	1125
<i>1954</i>		
Jan. 30...	Pub. L. 289..... Credits to Certain Irrigation Districts...	1129
Mar. 17...	Pvt. L. 305..... Relief of Stebbins Construction Company.	1130
Apr. 17...	Pub. L. 337..... Waiver of Mineral Reservations, North Platte Project.	1131
May 6....	Pvt. L. 350..... Relief of Daryl L. Roberts, et al. ....	1132
May 17...	Pub. L. 362..... Remove Restriction on Conveyance to University of Wyoming.	1133
May 21...	Pvt. L. 370..... Claims of Columbia Basin Orchard, et al.	1134
May 28...	Pub. L. 373..... Consolidate Parker Dam Power Project and Davis Dam Project.	1135
May 28...	Pub. L. 377..... Exchange of Lands, Eden Project.....	1136
June 18...	Pub. L. 404..... Amended Contracts, Umatilla Project..	1138
June 18...	Pub. L. 406..... Marketing of Power from Falcon Dam..	1139

## TABLE OF CONTENTS

xxvii

*Acts of 83rd Congress*

<i>1954</i>	<i>Page</i>
June 30... Pub. L. 462..... Amended Contract with Roza Irrigation District.	1141
July 1.... Pub. L. 465..... Interior Department Appropriation Act, 1955 (Extract).	1142
July 14... Pub. L. 488..... Claims for Shasta Dam Damage, Central Valley Project.	1144
July 14... Pub. L. 489..... Power Revenue Credits for Shoshone Irrigation District.	1145
July 16... Pub. L. 503..... Glendo Unit, Missouri River Basin Project.	1148
July 27... Pub. L. 533..... Amended Contract with Pine River Irrigation District.	1150
July 27... Pub. L. 540..... Foster Creek Division, Chief Joseph Dam Project.	1151
July 27... Pub. L. 542..... Amend Vermejo Project Act.	1153
July 27... Pub. L. 544..... Licensing of Priest Rapids Dam.	1154
July 27... Pvt. L. 561..... Payment for Improvements on Public Lands, Palisades Project.	1157
July 28... Pub. L. 547..... Santa Margarita Project.	1158
July 29... Pub. L. 551..... Transfer Title to Movable Property to Irrigation Districts.	1162
Aug. 4.... Pub. L. 566..... Watershed Protection and Flood Prevention Act.	1164
Aug. 10... Pub. L. 573..... Amended Contract and Haystack Dam, Deschutes Project.	1173
Aug. 10... Pub. L. 578..... Sabine River Compact.	1174
Aug. 20... Pub. L. 606..... Talent Division and Rehabilitation Works, Rogue River Basin Project.	1184
Aug. 21... Pub. L. 612..... Ainsworth, Lavaca Flats, Mirage Flats Extension, and O'Neill Units, Missouri River Basin Project.	1186
Aug. 21... Pub. L. 616..... Amended Contract with American Falls Reservoir District No. 2.	1187
Aug. 23... Pub. L. 634..... Hawaiian Investigations.	1188
Aug. 24... Pub. L. 660..... Amended Contract with Black Canyon Irrigation District.	1189
Aug. 27... Pub. L. 674..... Waterfowl Management, Central Valley Project.	1191
Aug. 27... Pvt. L. 854..... Grant of Public Lands to Basic Management, Inc.	1193
Aug. 27... Pvt. L. 858..... Claim of Mary K. Reynolds (Colonial Realty Co.).	1196
Aug. 28... Pub. L. 683..... Excess Lands, Owl Creek Unit, Missouri River Basin Project.	1197
Aug. 28... Pub. L. 687..... Cancel Charges, Milk River Project....	1198

## TABLE OF CONTENTS

<i>Acts of 83rd Congress</i>		
<i>1954</i>		<i>Page</i>
Aug. 28...	Pvt. L. 883..... Conveyance of Land to T. M. Pratt....	1199
Aug. 30...	Pub. L. 706..... Discontinue Certain Reports (Extract)...	1200
Aug. 30...	Pub. L. 708..... Quitclaim of U.S. Land Interests, Maricopa County.	1201
Aug. 30...	Pub. L. 717..... Transfer of Lands in Klamath County to State of Oregon.	1203
Aug. 31...	Pub. L. 741..... Michaud Flats Project.....	1205
Aug. 31...	Pub. L. 750..... Extend Authority for Amendatory Contracts.	1209
Aug. 31...	Pub. L. 752..... Palo Verde Diversion Dam.....	1210
Aug. 31...	Pvt. L. 956..... Conveyance of Public Lands to Occupants, Weber Basin Project.	1213
Sept. 3....	Pub. L. 771..... Lease of Public Land for Public Works..	1214
Sept. 3....	Pub. L. 774..... Santa Maria Project.....	1215
Sept. 3....	Pub. L. 780..... Flood Control Act of 1954 (Extract)....	1216
<i>Acts of 84th Congress</i>		
<i>1955</i>		
June 28...	Pub. L. 97..... Consent to Negotiate Arkansas River Compact [States of Arkansas and Oklahoma].	1217
July 4....	Pub. L. 130..... Distribution System Loans.....	1218
Aug. 1....	Pvt. L. 243..... Quitclaim Lands in Washington State..	1221
Aug. 9....	Pub. L. 270..... Application of Farm Tenant Act to Angostura Project.	1223
Aug. 9....	Pub. L. 277..... Repeal of Incremental Value Provision, Arch Hurley Conservancy District.	1224
Aug. 9....	Pub. L. 283..... Sewerage System, Town of Glendo.....	1226
Aug. 9....	Pub. L. 316..... Consent to Negotiate Klamath River Compact.	1228
Aug. 9....	Pub. L. 322..... Alaskan Investigations.....	1229
Aug. 11...	Pub. L. 340..... Consent to Negotiate Arkansas River Compact [States of Kansas and Oklahoma].	1230
Aug. 11...	Pub. L. 346..... Consent to Negotiate Red River Com- pact.	1231
Aug. 11...	Pub. L. 353..... Consent to Negotiate Compact for Truckee, Carson, and Walker Rivers and Lake Tahoe.	1232
Aug. 12...	Pub. L. 374..... Contract with Toston Irrigation Dis- trict.	1233
Aug. 12...	Pub. L. 386..... Trinity River Division, Central Valley Project.	1235

## TABLE OF CONTENTS

xxix

<i>Acts of 84th Congress</i>		<i>Page</i>
<i>1956</i>		
Jan. 28...	Pub. L. 394..... Repayment Contract, Yuma Mesa District.	1239
Feb. 15...	Pub. L. 409..... Change Boundaries, Yuma Auxiliary Project.	1241
Feb. 25...	Pub. L. 419..... Washita Basin Project.....	1242
Mar. 1....	Pub. L. 423..... Ventura River Project.....	1245
Apr. 2....	Pvt. L. 578..... Relief of Isabelle S. Gorrell, et al.....	1247
Apr. 11....	Pub. L. 485..... Colorado River Storage Project.....	1248
Apr. 27....	Pub. L. 494..... Lake Berryessa.....	1260
May 2....	Pub. L. 505..... Transfer of Administration, Red Willow Dam and Wilson Dam, Missouri River Basin Project.	1261
May 10...	Pvt. L. 623..... Relief of Winston Bros. Company, et al.	1263
May 14...	Pub. L. 520..... Amend Distribution System Loans Act..	1264
May 14...	Pub. L. 522..... Conveyance of Lands to City of Henderson.	1266
May 18...	Pub. L. 531..... Approval of Report, Ainsworth Unit, Missouri River Basin Project.	1267
June 4....	Pub. L. 559..... Juniper Division, Wapinitia Project....	1268
June 13...	Pub. L. 575..... Drainage and Minor Construction.....	1269
June 29...	Pub. L. 633..... Amended Contract with Yuma County Water Users' Association.	1270
July 2....	Pub. L. 641..... Public Works Appropriation Act, 1957 (Extract).	1273
July 2....	Pub. L. 643..... Administration of Contracts Under Section 9, Reclamation Project Act of 1939.	1275
July 9....	Pub. L. 660..... Federal Water Pollution Control Act...	1278
July 11...	Pub. L. 690..... Involuntary Acquisition of Excess Land.	1307
July 14...	Pvt. L. 767..... Claims for Damages, Elephant Butte Dam.	1308
July 14...	Pvt. L. 777..... Sale of Purdy Lands, Folsom Dam.....	1310
July 14...	Pvt. L. 778..... Sale of Briggs Lands, Folsom Dam.....	1311
July 19...	Pvt. L. 787..... Payment for Improvements on Public Lands, Rapid Valley Unit.	1312
July 24...	Pub. L. 762..... Conveyance of Land to Carlsbad Irrigation District.	1314
July 24...	Pvt. L. 797..... Relief of Cabrillo Land Company.....	1315
July 30...	Pub. L. 849..... Amended Contract, Riverside Irrigation District.	1316
July 31...	Pub. L. 855..... Second Supplemental Appropriation Act, 1957 (Extract).	1317
Aug. 1....	Pub. L. 858..... Washoe Project.....	1318

## TABLE OF CONTENTS

<i>Acts of 84th Congress</i>		<i>Page</i>	
<i>1956</i>			
Aug. 1....	Pub. L. 877....	Amended Contract with Tule Lake Irrigation District.	1322
Aug. 2....	Pub. L. 924....	Acquire Movable Property for Transfer to Irrigation Districts.	1325
Aug. 3....	Pub. L. 952....	Farwell Unit, Missouri River Basin Project.	1326
Aug. 3....	Pub. L. 960....	Conveyance of Indian Lands, Owl Creek Unit.	1328
Aug. 3....	Pub. L. 964....	Amend Water Supply Contracts with Rapid City.	1330
Aug. 6....	Pub. L. 984....	Small Reclamation Projects Act of 1956.	1331
Aug. 6....	Pub. L. 992....	Crooked River Project.....	1340
Aug. 6....	Pub. L. 993....	Little Wood River Project.....	1343
Aug. 8....	Pub. L. 1025....	Consent to Negotiate Arizona and California Boundary Compact.	1345
<i>Acts of 85th Congress</i>			
<i>1957</i>			
May 16...	Pub. L. 85-33...	Deliver Water, Heart Mountain Divi- sion, Shoshone Project.	1346
May 31...	Pub. L. 85-38...	Transfer Jurisdiction, San Diego Aque- duct.	1347
June 5....	Pub. L. 85-47...	Amend Small Reclamation Projects Act.	1348
June 21...	Pub. L. 85-58...	Third Supplemental Appropriation Act, 1957 (Extract).	1349
July 24...	Pub. L. 85-112...	Excess Lands, East Bench Unit.....	1351
Aug. 13...	Pub. L. 85-123...	Amended Contract with Northport Irrigation District.	1352
Aug. 16...	Pub. L. 85-152...	San Angelo Project.....	1354
Aug. 16...	Pvt. L. 85-169...	Relief of Philip J. Denton.....	1357
Aug. 21...	Pub. L. 85-156...	Extend Authority for Amendatory Con- tracts.	1358
Aug. 21...	Pub. L. 85-160...	Amended Contract with Mirage Flats Irrigation District.	1359
Aug. 26...	Pub. L. 85-167...	Public Works Appropriation Act, 1958 (Extract).	1360
Aug. 28...	Pub. L. 85-184...	Consent to Negotiate Little Missouri River Compact.	1362
Aug. 28...	Pub. L. 85-214...	Relief of the Village of Wauneta.....	1364
Aug. 30...	Pub. L. 85-222...	Klamath River Basin Compact.....	1365
Aug. 30...	Pub. L. 85-240...	Coulee Dam Community Act of 1957...	1379
Sept. 2....	Pub. L. 85-264...	Amend Columbia Basin Project Act....	1388

## TABLE OF CONTENTS

xxxii

*Acts of 85th Congress*

<i>1957</i>	<i>Page</i>
Sept. 4.... Pub. L. 85-283.. Amended Contract and Excess Lands, Kendrick Project.	1389
Sept. 4.... Pvt. L. 85-306.. Relief of Martin Wunderlich Com- pany.	1390
 <i>1958</i>	
Feb. 20.... Pub. L. 85-333.. McMillan Delta Project, Pecos River Basin.	1391
Mar. 6.... Pub. L. 85-339.. Conveyance of Certain Public Lands to Nevada.	1394
Mar. 17.... Pub. L. 85-348.. Bear River Compact .....	1398
Mar. 28.... Pvt. L. 85-380.. Relief of the C-L Electric Company .....	1411
Apr. 7.... Pub. L. 85-370.. Mercedes Division, Lower Rio Grande Project.	1412
May 1.... Pub. L. 85-389.. Amend Colorado River Front Work and Levee System Act.	1414
May 5.... Pub. L. 85-393.. Greater Wenatchee Division, Chief Joseph Dam Project.	1415
May 29.... Pub. L. 85-428.. Amend Hungry Horse Dam Act .....	1417
May 29.... Pub. L. 85-433.. Reimburse Landowners for Moving Expenses.	1418
May 29.... Pub. L. 85-437.. Credits for Federal Building Site in Phoenix.	1420
July 2.... Pub. L. 85-481.. Lake Solano .....	1421
July 2.... Pub. L. 85-485.. Monticello Dam .....	1422
July 3.... Pub. L. 85-500.. River and Harbor, Flood Control, and Water Supply Acts of 1958 (Extract).	1423
July 15.... Pub. L. 85-523.. Compensate Crow Tribe for Lands, Yellowtail Dam.	1429
July 28.... Pub. L. 85-562.. Lake Tschida .....	1431
Aug. 8.... Pub. L. 85-611.. Variable Repayment Plan .....	1432
Aug. 12.... Pub. L. 85-624.. Name and Amend Fish and Wildlife Coordination Act.	1434
Aug. 14.... Pub. L. 85-628.. Compensate Crow Tribe for Lands, Huntley Project.	1440
Aug. 14.... Pub. L. 85-651.. Extension of Caribou and Targhee National Forests.	1442
Aug. 14.... Pub. L. 85-663.. Amended Contract with Arch Hurley Conservancy District.	1444
Aug. 20.... Pub. L. 85-695.. Gray Reef Dam and Reservoir, Glendo Unit.	1445
Aug. 21.... Pub. L. 85-706.. Amend Washoe Project Act .....	1446
Aug. 27.... Pvt. L. 85-712.. Relief of Joseph H. Lym .....	1447
Aug. 27.... Pub. L. 85-767.. Bridges on Federal Dams (Extract) .....	1448
Aug. 27.... Pub. L. 85-780.. Minerals on Wind River Indian Reservation.	1451

## TABLE OF CONTENTS

<i>Acts of 85th Congress</i>		
<i>1958</i>		<i>Page</i>
Aug. 27...	Pub. L. 85-783.. Approval of Report, Red Willow Dam and Reservoir.	1453
Aug. 27...	Pub. L. 85-784.. Studies to Extend Central Valley Project Service.	1454
Aug. 28...	Pub. L. 85-797.. Acquisition of Farm Lands, Seedskadee Project.	1455
Aug. 28...	Pub. L. 85-801.. Irrigation of Indian Lands, Coachella Valley Water District.	1457
Sept. 2....	Pub. L. 85-863.. Public Works Appropriation Act, 1959 (Extract.)	1460
Sept. 2....	Pub. L. 85-868.. Land Exchange, Navajo Tribe.....	1462
Sept. 2....	Pub. L. 85-883.. Saline Water Demonstration Plants.....	1467
Sept. 2....	Pub. L. 85-889.. Approve Contract with Heart Mountain Irrigation District.	1471
Sept. 2....	Pub. L. 85-900.. Boulder City Act of 1958.....	1472

## Volume III

<i>Acts of 86th Congress</i>		
<i>1959</i>		
June 23...	Pub. L. 86-52... Research Farm, Washington State.....	1484
July 17...	Pub. L. 86-92... Extension of Boise and Payette National Forests.	1485
Aug. 18...	Pub. L. 86-167.. Red River, Texas, Studies.....	1489
Aug. 25...	Pub. L. 86-185.. Patterson Lake.....	1490
Aug. 25...	Pub. L. 86-204.. Wapato Indian Water Supply Costs, Yakima Project.	1491
Sept. 9....	Pub. L. 86-248.. Bully Creek Extension, Vale Project....	1492
Sept. 9....	Pub. L. 86-249.. Public Buildings Act of 1959 (Extract)..	1494
Sept. 10...	Pub. L. 86-254.. Public Works Appropriation Act, 1960 (Extract).	1496
Sept. 14...	Pub. L. 86-261.. Conveyance of Lands, Huntley Project..	1497
Sept. 14...	Pub. L. 86-266.. Theodore Roosevelt Dam.....	1499
Sept. 14...	Pub. L. 86-271.. Extra Capacity, Crooked River Project .	1500
Sept. 16...	Pub. L. 86-276.. Spokane Valley Project.....	1501
Sept. 21...	Pub. L. 86-308.. Deferment of Construction Charges....	1503
Sept. 22...	Pub. L. 86-357.. La Feria Division, Lower Rio Grande Rehabilitation Project.	1505
Sept. 23...	Pub. L. 86-375.. Wabash Valley Compact.....	1507
<i>1960</i>		
Apr. 4....	Pub. L. 86-404.. Amended Contract with Conejos Water Conservancy District.	1514

March 10, 1943

## COLUMBIA BASIN PROJECT ACT

An act to amend the Act approved May 27, 1937 (ch. 269, 50 Stat. 208), by providing substitute and additional authority for the prevention of speculation in lands of the Columbia Basin project, and substitute and additional authority related to the settlement and development of the project, and for other purposes. (Act of March 10, 1943, ch. 14, 57 Stat. 14)

The Act of May 27, 1937 (ch. 269, 50 Stat. 208), is hereby amended to read as follows:

"Sec. 1. [Project authorized and reauthorized under the Reclamation Project Act of 1939—Project to be known as the Columbia Basin Project—Provisions of Act of August 30, 1935, Reclamation Project Act of 1939 and this Act to govern repayment, construction, and maintenance.]—In addition to the primary purposes for which the Grand Coulee Dam project (hereafter to be known as the Columbia Basin project and herein called the "project") was authorized under the provisions of the Act of August 30, 1935 (49 Stat. 1028), the project is hereby authorized and reauthorized as a project subject to the Reclamation Project Act of 1939; and the provisions of each of those two Acts together with the provisions of this Act shall govern the repayment of expenditures and the construction, operation, and maintenance of the works constructed as a part of the project." (57 Stat. 14; 16 U.S.C. § 835)

### EXPLANATORY NOTES

**Supplementary Provision: Reclamation Laws.** Section 3 of the Act of October 1, 1962, 76 Stat. 677, provides that "The Columbia Basin project shall be governed by the Federal reclamation laws, being the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplemen-

tary thereto. . . ." The Act appears herein in chronological order.

**Reference in the Text.** The Act of August 30, 1935 (49 Stat. 1028), referred to in the text, authorized construction of the Parker and Grand Coulee Dams. Extracts from the Act appear herein in chronological order.

### NOTES OF OPINIONS

Additional costs 3  
Interest component 2  
Reclamation laws 1

#### 1. Reclamation laws

Allocations of cost of the Columbia Basin (Grand Coulee) Project and the establishment of the rate schedule for the sale of power therefrom are governed by the provisions of Section 9 of the Reclamation Project Act of 1939 (53 Stat. 1193), notwithstanding the broad power vested in the President "to make and enter into any and all necessary contracts" in connection with the project, by section 2 of the Act of August 30, 1935 (49 Stat. 1039), since section 1 of the Columbia Basin Project Act, approved March 10, 1943 (57 Stat.

14), "authorized and reauthorized" the project as one "subject to the Reclamation Project Act of 1939". Solicitor Harper Opinion, M-33473 (September 29, 1944).

A proposed agreement whereby the Washington Public Power Supply System would furnish to the Bonneville Power Administration the total electric power generated from steam to be purchased from the Atomic Energy Commission's New Production Reactor at Hanford, Washington, and would receive in exchange therefor firm power from BPA, is clearly a contract for the exchange of power and comes within the general authority granted by section 5(b) of the Bonneville Project Act and section 14 of the Reclamation Project Act of 1939, which governs the operation of the

March 10, 1943

COLUMBIA BASIN PROJECT ACT—SEC. 2

729

Columbia Basin project as provided by section 1 of the Columbia Basin Project Act. (Dec. Comp. Gen. B-149016, B-149083, Letter of Assistant Comptroller General Weitzel to Chairman Holifield, Joint Committee on Atomic Energy, July 16, 1962.)

The Columbia Basin project was a project under construction but for which no repayment contract had been made at the time of enactment of the Reclamation Project Act of 1939, and therefore it was a project for which, pursuant to section 7(b) of that act, the Secretary was authorized to allocate costs pursuant to section 9(a) and to negotiate repayments contracts pursuant to section 9(d) or 9(e). Solicitor Barry Opinion, 68 I.D. 305, 306 (1961), in re Columbia Basin repayment problems.

2. Interest component

The estimated accumulated revenues representing the interest component on the sale of power from the Columbia Basin

project are not available to reduce the average amount per acre of construction cost contracted to be repaid by the project water users. Solicitor Barry Opinion, 68 I.D. 305, 306-09 (1961).

3. Additional costs

Where a repayment contract is entered into with the water users, based on estimates of costs at that time, and provides for a determination by the Secretary as to continuation of work when increased costs reach a ceiling fixed in the contract, the Secretary may require an additional obligation to be assumed by water users as a condition to continuation of construction when that ceiling is reached. In reaching a decision the Secretary must consider the ability of water users to bear increased costs as well as the ability of purchasers of power to absorb them. Solicitor Barry Opinion, 68 I.D. 305 (1961), in re Columbia Basin repayment problems.

Sec. 2. [Farm units—Excess lands—Anti-speculation.]—*Repealed.*

EXPLANATORY NOTES

**Section Repealed.** The Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, repealed section 2 of this Act. The text of section 2 as amended read as follows:

"SEC. 2. (a) No part of the funds heretofore or hereafter appropriated or allotted for project construction or for the reclamation of land within the project shall be expended in the construction of any irrigation features of the project, exclusive of Grand Coulee Dam and appurtenant works now under construction and of the pumping plant and equalizing reservoir and dams, until the requirements of the following subdivisions (i) and (ii) of this subsection (a) have been met:

"(i) All lands within the project shall have been impartially appraised by the Secretary of the Interior (hereinafter called the 'Secretary') and evaluated at the date of appraisal without reference to or increment on account of the construction of the project. Reappraisals may be made at any time by the Secretary, and will be made upon the request of the landowner concerned accompanied by an advance to the United States of \$15 for each quarter section or fraction thereof involved, on account of expense thereof. In such reappraisals the Secretary shall take into account, in addition to the value found in the first appraisal, improvements made after said appraisal, such irrigation construction charges on the land as have been paid, and other items of value that are proper, other than increments on account of the construction of the project. The term 'appraised value' as used in this Act shall mean appraised values determined as provided in this subsection.

"(ii) Contracts shall have been made with irrigation, reclamation, or conservancy districts organized under State law embracing the lands within the project providing for payment thereby of that part of the cost of construction of the project determined by the Secretary to be the part thereof to be repaid by irrigation. Each such contract shall conform to the requirements of this Act, shall require repayment within the maximum period permitted under the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto (hereinafter called the Federal reclamation laws), and provide that payments shall be enforceable by all means and remedies provided in said laws.

"(b) (i) The lands within the project shall be developed in irrigation blocks, as that term is defined in the Reclamation Project Act of 1939. The Secretary shall segregate the lands in each irrigation block into farm units of sufficient acreage for the support of an average-sized family at a suitable living level, having in mind the character of soil, topography, location with respect to the irrigation system, and such other relevant factors as, in his judgment, enter into the determination of the area and boundaries thereof; and shall establish the units as hereafter provided. No farm unit shall contain more than

March 10, 1943

one hundred and sixty or less than ten acres of irrigable land, except that any nominal quarter section comprising more than one hundred and sixty acres of irrigable land may be included in one farm unit, and except that lands owned by the United States may be established into units of lesser size for part-time farming purposes.

"(ii) Prior to the initial delivery of water to an irrigation block, the Secretary shall prepare a plat of all the farm units in the irrigation block and shall publish a notice of the intention to establish such farm unit plat in six weekly issues of a newspaper of general circulation in the county or counties in which any part of the irrigation block is located. From the date of first publication, a copy of the plat shall be available in the county auditor's office of each of said counties for public inspection during the business hours of the office. Any interested landowner shall have the right to file written objections to the plat with the county auditor of the county in which his lands are situated before the close of the period of publication. After expiration of the period of publication the Secretary shall consider and determine all such objections, draw the plat in final form and file it for record in said county auditors' offices. With the consent of the owners of all farm units affected, the Secretary may revise the plat or any part thereof from time to time, and place the revisions of record with the original plat.

"(iii) Water shall not be delivered from, through, or by means of the project works to or for lands not conforming in area and boundaries to the farm units covering the lands involved. Water may be delivered to one or more farm units held by any one landowner (a) which, taken together, comprise not more than one hundred and sixty irrigable acres, or (b) in the case of a nominal quarter section comprising more than one hundred and sixty irrigable acres referred to in subdivision (i) of subsection (b) of this section, which comprise the acreage contained in such quarter section: *Provided*, That water may be delivered to one or more farm units comprising a total irrigable area of not more than three hundred and twenty acres held by members of a family: *Provided further*, That notwithstanding any other provision of this Act, water shall not be delivered (1) to more than one farm unit held by any one owner or family on September 1, 1957, except that, in the case of land held by one having equitable or legal title on May 27, 1937, or by the heir or devisee of such owner, delivery may be made to farm units comprising not more than one hundred and sixty irrigable acres or a nominal quarter section, or (2) to any excess lands disposed of after September 1, 1957, which are reacquired (otherwise than in the circumstances set forth in the proviso to section 2 (b) (iv) of this Act) by the present owner or a member of his family within five years from the date of their disposition, or which are reacquired by the present owner or a member of his family at any time pursuant to any contract, arrangement, or understanding (other than a bona fide security transaction) made in connection with or as an incident to their disposition, or in which the owner or any member of his family retains any interest (except a bona fide security interest) or from which he or any member of his family derives any profit or advantage after their disposition.

"(iv) Lands within the project held by any landowner in excess of the farm unit or units to which water may lawfully be delivered as provided in subdivision (iii) of this subsection shall be deemed excess land: *Provided*, That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor.

"(v) As used in this Act, the terms 'owner', 'landowner', and 'any one landowner' denote any person, corporation, joint-stock association; the term 'family' denotes a group consisting of either or both husband and wife, together with their children under eighteen years of age, or all of such children if both parents are dead; the term 'their children' includes the issue and lawfully adopted children of either or both husband and wife; and the term 'lands within the project' denotes those lands within the boundaries of the existing Columbia Basin irrigation districts, or revisions thereof approved by the Secretary, which the Secretary determines may be supplied water from, through, or by means of the project works and are required to be included to provide for sound development and operation of the project. Lands shall be deemed to be held by a family, if held as separate property of husband or wife, or constitute a part or all of their community property, or if they are the property of any or all of their children under eighteen years of age. Lands held in trust for any person shall, for the purpose of this Act, be deemed to be held both by that person and, if the trustee derives any profit or advantage from the trust other than a moderate fixed fee for the management of the same, by the trustee.

March 10, 1943

COLUMBIA BASIN PROJECT ACT—SEC. 2

731

"(c) As a condition precedent to receiving water from the project and in consideration thereof, each landowner shall be required to execute, within six months from the date of the execution of the contract between the United States and the district within which the land is located, a recordable contract covering all his lands within that district, agreeing as to such lands for and on behalf of himself, his heirs, successors, and assigns to the provisions set forth in this subsection (c): *Provided*, That any landowner, having failed to execute such a contract within this period, may be permitted to execute such contract within one year after the date of judicial confirmation of the validity of the contract between the United States and the district but only in accordance with such rules and regulations as may be prescribed under section 8 concerning this privilege.

"Nowithstanding the time limitations of the preceding paragraph but subject to such rules and regulations as may be prescribed, therefor by the Secretary, the privilege of executing recordable contracts is hereby extended as follows: (i) to any landowner as to a tract of land to which he, or his ancestor or devisors if he holds as an heir or devisee, held legal or equitable title on October 28, 1947; (ii) to any landowner as to a tract of land as to which he has held legal or equitable title for not less than ten years (including the period of holding by his ancestors or devisors where title is held as an heir or devisee), or as to which he furnishes proof in writing satisfactory to the Secretary as to the terms of the transaction and consideration paid by him (or by his ancestors or devisors where title is held as an heir or devisee) for the tract and as to which there is a finding by the Secretary that the transaction was bona fide and for a consideration not in excess of the full fair market value of the tract, valued as of the date of that transaction without reference to or increment by reason of the project. Any such recordable contract may be executed only on or before December 31, 1951, or on or before a date to be fixed by the Secretary as to each irrigation block in which the lands are situated, such date to be approximately two years before the commencement of the development period for that block.

"Each such recordable contract shall provide—

"(i) That the landowner will conform his lands by purchase, sale, or exchange at the appraisal values to the area and boundaries of the pertinent farm unit or units shown on the plats filed under subsection 2 (b) and will dispose of excess land then or thereafter owned by him at its appraised value; that the Secretary is thereby given an irrevocable power of attorney to sell in behalf of the landowner any such excess land at said appraised value; and that the United States is thereby given, without further consideration, an option to buy any such excess land at said appraised value: *Provided*, That sales under such power or such option, unless otherwise provided in writing by said owner, shall be only for cash and only such that surrender of possession by the owner of any area of excess lands then operated as a single unit for dry farming or grazing may be effected substantially at one time.

"(ii) That in the period from the date of execution thereof and to a date five years from the time water becomes available for the lands covered thereby, no conveyance of or contract to convey a freehold estate in such lands, whether excess or nonexcess lands, shall be made for a consideration exceeding its appraised value, and in connection with any conveyance of, or contract to convey, such an estate within such period the grantor or vendor or the grantee or vendee or any lien holder thereof shall, within thirty days from the date of such conveyance or contract, file in the office of the county auditor in the county or counties in which the land is located an affidavit describing the conveyance or contract and the consideration therefor.

"(iii) That in the event that within such period such a conveyance of, or contract to convey, is made without filing within said thirty days the affidavit required in (ii) of this subsection, or is made for a consideration in excess of the appraised value, the Secretary, at any time within two years of the day on which there is filed for recording in the official county records the contract or deed involved, whichever is filed earliest in the event both the contract and deed are filed in a given transaction, may cancel the right of such estate to receive water from, through, or by means of the project works by a written notice of cancellation: *Provided*, That said power to cancel as to any given parcel of land may be waived by the Secretary at any time within said two-year period by a written notice of waiver: *And provided further*, That after any such cancellation a project water right for the estate involved may be acquired only on terms and conditions satisfactory to the Secretary.

"(iv) That should any freehold estate in land covered thereby be conveyed or contracted to be conveyed within the period defined in (ii) of this subsection, the transaction, and any mortgage or other lien covering any deferred consideration thereunder, shall be subject to all the provisions of subsection 3(b) hereof.

March 10, 1943

"Any or all of the provisions of this subsection (c) required to be included in the recordable contracts may be made covenants running with the land when said recordable contracts expressly so provide.

"(d) Each contract made pursuant to subdivision 2(a)(ii) shall provide that no water will be delivered from, through, or by means of the project works except in accordance with the provisions and limitations of section 2 hereof.

"(e) Each district contract may include provisions—

"(i) Requiring that all lands within the district not covered by recordable contracts provided for under subsection (c) or otherwise not eligible to receive water shall be subject to assessment in the same manner and to the same extent as like lands eligible to receive water, subject to such provisions as the Secretary may prescribe for postponement in payment of all or part of such assessments but not beyond the expiration of the period during which the price limit under subsection 2(c) applies.

"(ii) That, without compliance with other provisions of State law for the exclusion of lands, lands may be withdrawn from the district by filing a written notice of withdrawal with the district board on or before such date fixed by such board between a date ten days after the official notice of the election on the contract between the United States and the district and the date of such election. The date limiting the time of such filing shall be announced in the official notice of the proposed election, and lands for which such notice is filed shall be deemed excluded from the district for all purposes as of the time of such filing.

"(f) Any instrument, action, determination, rule, or regulation of the Secretary or his duly authorized representatives under the authority of this section 2 which is or may be determinative of the title to lands or interest in lands in private ownership within the project shall be effective as to any given parcel of land, as against purchasers for value without actual notice, only from the time of the filing for record in the office of the county auditor of the county or counties in which the lands affected are located of a copy thereof authenticated in the manner authorized by law. Such filing shall impart legal notice to the public of the matters and things set out therein."

**1957 Amendments.** Section 1 of the Act of September 2, 1957, 71 Stat. 390, which appears herein in chronological order, amended subsections (iii), (iv) and (v) of subsection 2(b) to read as they appear above. The original language of these subsections read as follows:

"(iii) Water shall not be delivered from, through, or by means of the project works to or for lands not conforming in area and boundaries to the farm units covering the lands involved, nor to or for more than one farm unit held by any one landowner, except that as to lands held by the one having equitable or legal title on May 27, 1937, or the heir or devisee of such owner, delivery may be made to or for a total irrigable area not exceeding the maximum provided in this section. The limitations of this subdivision shall not apply to lands owned by the United States or any agency or instrumentality thereof, corporate or otherwise.

"(iv) Lands within the project in excess of one farm unit held by any one landowner shall, except as otherwise provided in this Act, be deemed excess land: *Provided*, That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor.

"(v) As used in this Act, the terms 'owner', 'landowner', and 'any one landowner' denote any person, corporation, joint-stock association, or family; the term 'family' denotes a group consisting of either or both husband and wife, together with their children under eighteen years of age, or all of such children if both parents are dead; the term 'their children' includes the issue and lawfully adopted children of either or both husband and wife; and the term 'lands within the project' denotes those lands within the boundaries of the existing Columbia Basin irrigation districts, or revisions thereof approved by the Secretary, which the Secretary determines may be supplied water from, through, or by means of the project works and are required to be included to provide for sound development and operation of the project. Lands shall be deemed to be held by a family, if held as separate property of husband or wife, or constitute a part or all of their community property, or if they are the property of any or all of their children under eighteen years of age."

Section 1 of the 1957 Act also provided that:

"The last sentence of this amendment shall not be deemed to affect any irrevocable trust for the benefit of a child under eighteen created prior to this amendment, which would then have been held to be consistent with the provisions and intent of the Columbia Basin Project Act [57 Stat.

March 10, 1943

COLUMBIA BASIN PROJECT ACT—SEC. 4

733

14. 16 USC 835 note] or to excuse any violation or evasion of that Act, or of the rules and regulations issued pursuant to it or of contracts entered into under it, by the creation or purported creation of a trust prior to this amendment, which would then have been held to be inconsistent with said provisions and intent."

**1950 Amendment.** The Act of September 26, 1950, 64 Stat. 1037, added the

second paragraph of subsection 2(c), and deleted the last sentence of subdivision (ii) of subsection 2(e) which read: "Thereafter lands so withdrawn and excluded so long as they remain in private ownership shall not be entitled to receive water from, through, or by means of the project works." The Act appears herein in chronological order.

**Sec. 3. [Consideration in excess of appraised value—Fraudulent misrepresentation.]—Repealed.**

EXPLANATORY NOTES

**Section Repealed.** The Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, repealed section 3 of this Act. The text of section 3 as amended read as follows:

"**SEC. 3.** (a) Fraudulent misrepresentation as to the true consideration involved in the conveyance of, or contract to convey, any freehold estate in land covered by recordable contract or which is sought to be covered by a recordable contract under subsection 2(c) hereof, in the affidavits required or which may be required under that subsection shall constitute a misdemeanor punishable by a fine not exceeding \$500 or by imprisonment not exceeding six months, or both such fine and imprisonment.

"(b) Should any freehold estate in lands subject to the recordable contract made under subsection 2(c) hereof be conveyed or contracted to be conveyed, after the date of execution of such recordable contract and within five years from the time water becomes available for such lands, at a consideration in excess of the appraised value of said estate, the transaction, and any mortgage or other lien covering any deferred consideration thereunder, shall be invalid and unenforceable by the vendor or grantor, his successors or assigns as to that part of the consideration in excess of the appraised value of the estate involved. In the case of any such transaction involving deferred payments, said invalid portion of the considera-

tion shall be deducted first from the deferred payments in the inverse order of their due dates.

"The vendee or grantee in any such transaction, at any time within two years from the date of any such conveyance or contract and on filing a correct affidavit as required in subdivision 2(c)(ii), may recover from the vendor or grantor, or the successors or assigns thereof, an amount equal to the payments made in excess of the appraised value.

"In connection with any judgment or decree hereunder in favor of a vendee or grantee shall have the right to recover court costs and reasonable attorneys' fees."

**1950 Amendment.** The Act of September 26, 1950, 64 Stat. 1037, amended subsection 3(a) by deleting the word "made" after the words "recordable contract" and adding after the same words the following: "or which is sought to be covered by a recordable contract". The Act appears herein in chronological order.

**Supplementary Provision: Rights of Vendees or Grantees.** Subsection 5(b) of the Act of October 1, 1962, 76 Stat. 677, provides that: "The rights of any vendee or granted as defined in section 3 of the Columbia Basin Project Act of 1943 are hereby preserved as to any transactions that were consummated by contract or deed prior to repeal of said section 3 by this Act." The Act appears herein in chronological order.

**Sec. 4. [Purposes for which project is to be administered—Contracts to be consistent with sound project development—Qualification of applicants for irrigation farming—Farm units not suitable for settlement.]—(a)** For the purposes of assisting in the permanent settlement of farm families, protecting project land, and facilitating project development, the Secretary is authorized to administer public lands of the United States in the project area and lands acquired under this section; to sell, exchange, or lease such lands; to dedicate portions of such lands for public purposes in keeping with sound project development; to acquire in the name of the United States, at prices satisfactory to him, such lands or interests in lands, within or adjacent to the project area, as he deems appro-

March 10, 1943

priate for the protection, development, or improvement of the project; and to accept donations of real and personal property for the purposes of this Act. Any moneys realized on account of donations for purposes of this Act shall be covered into the Treasury as trust funds.

“(b) Contracts, exchanges, and leases made under this section shall be on terms that, in the Secretary's judgment, are in keeping with sound project development. In addition, land sale and exchange contracts shall be on a basis that, in the Secretary's judgment, provides for the return, in a reasonable period of years, of not less than the appraised value of the land and improvements thereon. Qualification of applicants for the purchase of land for irrigation farming shall be prescribed as provided in subsection (c) of section 4 of the Act of December 5, 1924 (43 Stat. 702), notwithstanding any other provisions of law. No farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with, any person, corporation, or joint-stock association which has theretofore purchased or entered into a contract to purchase a farm unit from the United States on the Columbia Basin project. The foregoing provisions of this paragraph shall apply only to the sale of farm units which are suitable for settlement purposes. Farm units which, in the opinion of the Secretary, are not suitable for settlement purposes may be sold with a preference to resident project land-owners as supplemental units, subject to the applicable irrigable acreage limitations on the delivery of water, but the purchasers thereof shall not be entitled to benefits of the Act of August 13, 1953 (67 Stat. 566) with respect thereto.” (57 Stat. 18; § 1 (4), Act of September 26, 1950, 64 Stat. 1037; § 1 (d), Act of September 2, 1957, 71 Stat. 591; § 3, Act of October 1, 1962, 76 Stat. 678; 16 U.S.C. § 835c)

EXPLANATORY NOTES

**1962 Amendment.** Section 3 of the Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, amended section 4 to read as it appears above. The text of section 4 prior to the 1962 amendment read as follows:

“SEC. 4. (a) For the purposes of assisting in the permanent settlement of farm families, protecting project land, facilitating project development, and preventing speculation in project lands, the Secretary is authorized to administer public lands of the United States in the project area and lands acquired under this section; to sell, exchange, or lease such lands; to establish town sites on such lands; to dedicate portions of such lands for public purposes in keeping with sound project development; to acquire in the name of the United States, at prices satisfactory to him, such lands or interest in lands, within or adjacent to the project area, as he deems appropriate for the protection, development, or improvement of the project; to accept donations of real and personal property for the purposes of this Act; and to disseminate information by appropriate means and methods. Any moneys realized on account of donations

for purposes of this Act shall be covered into the Treasury as trust funds.

“(b) Contracts, exchanges, and leases made under this section, shall be on terms that, in the Secretary's judgement, are in keeping with sound project development. In addition, land sale and exchange contracts shall be on a basis that, in the Secretary's judgment, provides for the return, in a reasonable period of years, of not less than the appraised value of the land and improvements thereon, and provides, in the case of any lands to be included in farm units, for the application of provisions similar to those of the recordable contracts provided under subsection 2 (c) hereof. Qualifications of applicants for the purchase of land for irrigation farming shall be prescribed as provided in subsection C of section 4 of the Act of December 5, 1924 (43 Stat. 702), notwithstanding any other provisions of law, and each such applicant shall be required to agree that he, his heirs and assigns will not, except with the approval of the Secretary, sell, assign, lease, or otherwise dispose of or contract to sell, assign, lease, or otherwise dispose of his land during a period ending five years from

the date of his purchase contract. No application for a farm unit shall be received from any person who, or a member of whose family, then has outstanding another application for a farm unit on the project or to whom a farm unit could not at the time of application lawfully be sold under this act. No farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with, any person, corporation, joint-stock association, or family which has theretofore purchased or entered into a contract to purchase a farm unit under this Act or which then owns a farm unit within the Columbia Basin Project. The prohibition of the preceding sentence, however, shall not preclude a purchase or contract to purchase by a person, otherwise eligible, whose farm unit has been or is acquired by the United States for exchange purposes under this Act or the Act of August 13, 1953 (67 Stat. 566) or, if he is 18 years of age or older, whose family purchased or entered into a contract to purchase a farm unit at a time when he was under 18 years of age."

**1957 Amendment.** The Act of September 2, 1957, 71 Stat. 590, amended subsection 4(b) by substituting a comma for the period at the end thereof (which in the original Act was identical to the end of the third sentence of the present subsection 4(b)), and adding thereto the following: "and each such applicant shall be required to agree that he, his heirs and assigns will not, except with the approval of the Secretary, sell, assign, lease, or otherwise dispose of or contract to sell, assign, lease, or otherwise dispose of his land during a period ending five years from the date of his purchase contract. No application for a farm unit shall be received from any person who, or a member of whose family, then has outstanding another application for a farm unit on the project or to whom a farm unit

could not at the time of application lawfully be sold under this Act. No farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with, any person, corporation, joint-stock association, or family which has theretofore purchased or entered into a contract to purchase a farm unit under this Act or which then owns a farm unit within the Columbia Basin Project. The prohibition of the preceding sentence, however, shall not preclude a purchase or contract to purchase by a person, otherwise eligible, whose farm unit has been or is acquired by the United States for exchange purposes under this Act or the Act of August 13, 1953 (67 Stat. 566) [43 USC 451] or, if he is 18 years of age or older, whose family purchased or entered into a contract to purchase a farm unit at a time when he was under 18 years of age."

**1950 Amendment.** The Act of September 26, 1950, 64 Stat. 1037, amended the second sentence of subsection 4(b) by deleting the period at the end thereof and adding the following: ", and provides, in the case of any lands to be included in farm units, for the application of provisions similar to those of the recordable contracts provided under subsection 2(c) hereof." The Act appears herein in chronological order.

**Reference in the Text.** Section 4 of the Act of December 5, 1924 (43 Stat. 702), referred to in the text, is the Fact Finders' Act. Subsection (c) of the Act deals with the qualifications of applicants for entry. The Act appears herein in chronological order.

**Reference in the Text.** The Act of August 13, 1933 (67 Stat. 566), referred to in the text, is the Farm Unit Exchange Act. The Act appears herein in chronological order.

#### NOTE OF OPINION

##### 1. Land titles

The fact that the Secretary may acquire lands under section 4 of the Columbia Basin Project Act for purposes of assisting settlement and preventing speculation, with no intention of erecting structures thereon,

does not exempt such purchases from the provisions of Section 355, Revised Statutes, 40 U.S.C. § 255, regarding approval of title by the Attorney General. Dec. Comp. Gen., B-80025. (October 1, 1948).

"Sec. 5(a) [Secretary may pay out of leasing funds annual sums in lieu of taxes on property from time it is acquired to date of sale—Amount so paid shall not exceed taxes.]—The Secretary may enter into agreements to pay annual sums in lieu of taxes to any State or political subdivision thereof with respect to any real property situated therein after it is acquired pursuant to the authority of this Act and before execution by the United States of a contract of sale covering it, out of funds derived from the leasing of such lands. The amount

March 10, 1943

so paid for any year upon any such property shall not exceed the taxes that would be paid to the State or subdivision as the case may be upon such property if it were not exempt from taxation thereby.

“(b) [Public lands within the project and lands acquired under this Act shall be (i) subject to State laws and (ii) subject to taxation by district—United States does not assume obligation for amounts so taxed.]—Any public lands within the project and any lands or interests in lands acquired by the United States under this Act, beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations made under section 8, shall be (i) subject to the provisions of the laws of the State of Washington relating to the organization, government, and regulation of irrigation, reclamation, and conservancy districts, and (ii) subject to legal assessment or taxation by any such district, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands of like character. The United States does not assume any obligation for amounts so assessed or taxed; and any proceedings to enforce them shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land sale contracts made under this Act, and to any lien for any other charges, accrued or unaccrued, under and by virtue of such contracts or any contract between the United States and the district in which the land is located.

“(c) [Upon execution by the United States of contract sale, lands may be taxed by State and enforced—if lands revert to United States, all liens shall be extinguished—State to execute release of lien.]—In addition to taxation or assessment under subsection 5(b) upon execution by the United States of a contract of sale of any lands within the projects, the lands under contract may be taxed by the State or political subdivision thereof in the same manner and to the same extent as privately owned land of a like character. All taxes legally so assessed may be enforced in the same manner and under the same proceeding whereby said taxes are enforced against privately owned lands, subject to the limitations in favor of the United States that govern the enforcement of district assessments or taxes as provided in subsection 5(b). If lands under any such contract shall at any time revert to the United States before transfer of title under the contract by reason of default thereunder, all liens or tax titles resulting from taxes levied pursuant to the authority of this subsection upon such lands shall be thereupon extinguished; and the levying of any such tax by such State or political subdivision shall be deemed to be an agreement on its part, in the event of such reversion, to execute and record a formal release of such lien or tax title.” (57 Stat. 19; § 6(a), Act of October 1, 1962, 76 Stat. 679; 16 U.S.C. § 835c-1)

EXPLANATORY NOTE

1962 Amendment. Section 6 of the Act of October 1, 1962, 76 Stat. 677, amended subsection 5(b) by deleting its last sentence. The deleted sentence read: “Regulations

to carry out this subsection shall be effective when filed for record in the manner provided in subsection 2(f).” The 1962 Act appears herein in chronological order.

**"Sec. 6. [Appropriations authorized—Revenues to be covered into General Treasury as miscellaneous receipts—Moneys appropriated deposited to "Columbia Basin Land Development" account.]**—There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such moneys as may be necessary to carry out the provisions of this Act, to be reimbursable to the extent required by this Act. All revenues received in carrying out the provisions of section 4 hereof shall be covered into the General Treasury as miscellaneous receipts. Amounts equal to appropriated funds requisitioned by the Secretary and made available for disbursement on the books of the Treasurer of the United States shall be debited in a special account in the Treasury, to be known as the Columbia Basin Land Development Account. Amounts equal to revenues covered into the General Treasury as miscellaneous receipts shall be credited in said special account. After such credits equal the amount of the debits with interest thereon at the rate of 3 per centum per annum from the respective dates of the debits, additional credits in said special account shall be made by the Secretary, in the manner determined by him, the basis of corresponding credits to the construction cost obligations of the district or districts entering into contracts for the repayment thereof." (57 Stat. 19; § 6(b), Act of October 1, 1962; 76 Stat. 679; 16 U.S.C. § 835c-2)

#### EXPLANATORY NOTE

**1962 Amendment.** Section 6 of the Act of October 1, 1962, 76 Stat. 677, amended section 6 by deleting the words "under section 2 hereof", which were the concluding

words of the section, and inserted in lieu thereof the words "for the repayment thereof". The 1962 Act appears herein in chronological order.

**Sec. 7. [Consent of State of Washington.]—Repealed.**

#### EXPLANATORY NOTES

**Section Repealed.** The Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, repealed section 7 of this Act. The text of section 7 as amended read as follows:

"SEC. 7. No water shall be delivered for irrigation within the project until the State of Washington, by appropriate legislation, shall have adopted, authorized, ratified, and consented to all the provisions of this Act insofar as such provisions or any of them, in whole or in part, may come within the scope of State jurisdiction or authority or be applicable to State lands.

"Legislation otherwise conforming to the standards above stated in this section will meet the requirements of the section even though, by reason of limitations in the State constitution, the contracts required under subsection 2(c) cannot be executed pursuant to such legislation as to the State's school and other public lands. As to such lands the provisions and requirements of subsection 2(c) shall remain effective, except that the purchaser of such State lands, his heirs and devisees, if otherwise qualified

to execute a recordable contract, shall not be disqualified to execute such contract by reason of the amount of the purchase price paid or to be paid to the State for such lands; but the period in which the required recordable contracts may be executed shall be extended: (a) As to any such lands remaining in the ownership of the State, until six months after the removal of the constitutional limitations above referred to; and (b) as to any of such lands which are offered for sale by the State in accordance with such program for the offering of State lands within the project as may be agreed to between the State and the Secretary, until six months after the State's conveyance or contract to convey is made, whichever is earlier."

**1950 Amendment.** The Act of September 27, 1950, 64 Stat. 1074, amended the second sentence of the second paragraph of section 7 to read as it appears above. The original language of the sentence read: "As to such lands, the provisions and requirements of subsection 2(c) shall remain effective, but if these constitutional limita-

March 10, 1943

tions have not been removed at least six months prior to the expiration of the time provided for the execution of the contracts the time is hereby extended for a period

ending six months after the removal of the limitations." The Act appears herein in chronological order.

**"Sec. 8. [Authority to make rules and regulations—to delegate powers—to effect land conveyances without regard to patent laws.]**—The Secretary is authorized to perform such acts to make such rules and regulations and to include in contracts relating to the Columbia Basin project such provisions as he deems proper for carrying out the provisions of this Act; and in connection with sales or exchanges under the Act, he is authorized to effect conveyances without regard to the law governing the patenting of public lands. Wherever in this Act functions, powers, or duties are conferred upon the Secretary, said functions, powers, or duties may be performed, exercised, or discharged by his duly authorized representatives." (57 Stat. 20; § 6(c), Act of October 1, 1962, 76 Stat. 679; 16 U.S.C. § 835c-4)

**EXPLANATORY NOTE**

**1962 Amendment.** Section 6 of the Act of October 1, 1962, 76 Stat. 677, amended section 8 by deleting after the second comma in the first sentence of the section the words "and to include in the contracts herein-

before provided for" and inserting in lieu thereof the words "and to include in contracts relating to the Columbia Basin Project". The 1962 Act appears herein in chronological order.

**Sec. 9 [Consent of U.S. to sale of State lands.]—*Repealed.***

**EXPLANATORY NOTE**

**Section Repealed.** The Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, repealed section 9 of this Act. The text of section 9 as amended read as follows:

"SEC. 9. The consent of the United States is hereby given to the sale of school

lands and any other public lands of the State of Washington comprising a part of the lands within the project at prices not to exceed their appraised values, determined as provided in subsection 2(a) hereof."

**"Sec. 10. [Savings clause.]**—If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby." (57 Stat. 20; 16 U.S.C. § 835, note)

**"Sec. 11. [Short title.]**—This Act may be cited as "The Columbia Basin Project Act." (57 Stat. 20; 16 U.S.C. § 835, note)

**EXPLANATORY NOTES**

**Columbia Basin Compact, Consent to Negotiate.** The Act of March 4, 1925, 43 Stat. 1268, granted the consent of Congress to the States of Washington, Idaho, Oregon and Montana to negotiate and enter into a compact not later than January 1, 1927, providing for an equitable apportionment of the water of the Columbia River and its tributaries. This Act was extended by subsequent acts through January 1, 1935 (Acts of April 13, 1926, 44 Stat. 247; March 3, 1927, 44 Stat. 1403; and June 29, 1932, 47

Stat. 381). The compact not having been entered into, the Congress again granted its consent to the same states and Wyoming to negotiate a compact by the Act of July 16, 1952, 66 Stat. 737. This act was amended by the Act of July 14, 1954, 68 Stat. 468, by adding the States of Nevada and Utah to those already authorized to negotiate and enter into a compact. The 1952 Act as amended, appears herein in chronological order.

**Supplementary Provision: Third Power-**

March 10, 1943

COLUMBIA BASIN PROJECT ACT—SEC. 11

739

**plant, Grand Coulee Dam.** Section 1 of the Act of June 14, 1966, 80 Stat. 200, authorized a third powerplant at Grand Coulee Dam. The Act appears herein in chronological order.

**Supplementary Provision: Consolidated Financial Statement, Columbia River Power System.** Section 2 of the Act of June 14, 1966, as amended, authorizes a consolidated financial statement for the Columbia River power system and provides for financial assistance to Pacific Northwest reclamation projects from net revenues of the power system. The Act appears herein in chronological order.

**Supplementary Provision: Authority to Amend or Modify Contracts, etc.** Section 4 of the Act of October 1, 1962, 76 Stat. 677, authorizes and directs the Secretary of the Interior "to amend or modify all existing contracts, instruments, rules, regulations, forms and procedures entered into or issued under the Columbia Basin Project Act, as amended (16 U.S.C., chap. 12D) prior to the date of enactment of this Act to conform to the provisions of this Act." The 1962 Act appears herein in chronological order.

**Supplementary Provision: Delivery of Water.** Subsection 5(a) of the Act of October 1, 1962, 76 Stat. 677, provides that: "Notwithstanding the provisions of the Federal reclamation laws, water may be delivered to a farm unit platted before the enactment of this Act that contains a nominal quarter section of land exceeding one hundred and sixty irrigable acres insofar as those provisions limit the delivery of water to irrigable lands in excess of one hundred and sixty irrigable acres." The 1962 Act appears herein in chronological order.

**Supplementary Provision: Water for Agricultural Research.** Section 7 of the Act of October 1, 1962, 76 Stat. 677, provides that: "The Act of June 23, 1959 (73 Stat.

87) is hereby amended to permit delivery of water to not to exceed six hundred and forty acres of irrigable lands whether or not said lands are in conformed farm units, owned by the State of Washington for use by the Washington State University for Agricultural purposes." The 1959 Act referred to authorizes the sale of conformed farm units, or portions of farm units, comprising not more than 640 acres of irrigable land, and the delivery of water thereto, to the State of Washington for use by the State College of Washington for agricultural research purposes. The 1959 and 1962 Acts both appear herein in chronological order.

**Supplementary Provision: Authority to Amend Contracts, etc.** Section 2 of the Act of September 2, 1957, 71 Stat. 590, authorizes the Secretary of the Interior "to amend any contract which has been entered into prior to the date of enactment of this Act, or any existing deed or other document to conform with the provisions of the first section of this Act. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amendment." The Act appears herein in chronological order.

**Supplementary Provision: Acquisition of Indian Lands for Grand Coulee Dam.** The Act of June 29, 1940, 54 Stat. 703, as amended by the Act of December 16, 1944, 58 Stat. 813, granted to the United States, subject to the other provisions of the Act, all the right, title and interest of the Indians in and to the tribal and allotted lands within the Spokane and Colville Reservations in aid of the construction of the Grand Coulee Dam project. Both the 1940 and 1944 Acts appear herein in chronological order.

**Legislative History.** H.R. 839, Public Law 8 in the 78th Congress. H.R. Rept. No. 67. H.R. Rept. No. 200 (conference report). S. Rept. No. 22 (on S. 408). H.R. Rept. No. 122 (on H. Res. 109).

May 26, 1943

740

## REPUBLICAN RIVER COMPACT

An act to grant the consent of Congress to a compact entered into by the States of Colorado, Kansas, and Nebraska relating to the waters of the Republican River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote flood control in the Basin, and for other purposes. (Act of May 26, 1943, ch. 104, 57 Stat. 86.)

[Sec. 1. Consent is given to compact.]—The consent of Congress is hereby given to the compact authorized by the Act entitled "An Act granting the consent of Congress to the States of Colorado, Kansas, and Nebraska to negotiate and enter into a compact for the division of the waters of the Republican River," approved August 4, 1942 (Public Law 696, Seventy-seventh Congress; 56 Stat. 736), signed by the commissioners for the States of Colorado, Kansas, and Nebraska at Lincoln, Nebraska, on December 31, 1942, and thereafter ratified by the Legislatures of the States of Colorado, Kansas, and Nebraska, which compact reads as follows:

### "REPUBLICAN RIVER COMPACT

"The States of Colorado, Kansas, and Nebraska, parties signatory to this compact (hereinafter referred to as Colorado, Kansas, and Nebraska, respectively, or individually as a State, or collectively as the States), having resolved to conclude a compact with respect to the waters of the Republican River Basin, and being duly authorized therefor by the Act of Congress of the United States of America, approved August 4, 1942 (Public No. 696, 77th Congress, Chapter 545, 2nd Session), and pursuant to Acts of their respective Legislatures have, through their respective Governors, appointed as their Commissioners:

M. C. Hinderlider, for Colorado  
George S. Knapp, for Kansas  
Wardner G. Scott, for Nebraska

who, after negotiations participated in by Glenn L. Parker, appointed by the President as the Representative of the United States of America, have agreed upon the following articles:

#### "ARTICLE I

"The major purposes of this compact are to provide for the most efficient use of the waters of the Republican River Basin (hereinafter referred to as the 'Basin') for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is for beneficial consumptive use; and to promote joint action by the States and the United States in the efficient use of water and the control of destructive floods.

"The physical and other conditions peculiar to the Basin constitute the basis for this compact, and none of the States hereby, nor the Congress of the United

May 26, 1943

REPUBLICAN RIVER COMPACT

741

States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

"ARTICLE II

"The Basin is all the area in Colorado, Kansas, and Nebraska, which is naturally drained by the Republican River, and its tributaries, to its junction with the Smoky Hill River in Kansas. The main stem of the Republican River extends from the junction near Haigler, Nebraska, of its North Fork and the Arkansas River, to its junction with Smoky Hill River near Junction City, Kansas. Frenchman Creek (River) in Nebraska is a continuation of Frenchman Creek (River) in Colorado. Red Willow Creek in Colorado is not identical with the stream having the same name in Nebraska. A map of the Basin approved by the Commissioners is attached and made a part thereof.

"The term 'Acre-foot', as herein used, is the quantity of water required to cover an acre to the depth of one foot and is equivalent to forty-three thousand, five hundred sixty (43,560) cubic feet.

"The term 'Virgin Water Supply', as herein used, is defined to be the water supply within the Basin undepleted by the activities of man.

"The term 'Beneficial Consumptive Use', is herein defined to be that use by which the water supply of the Basin is consumed through the activities of man, and shall include water consumed by evaporation from any reservoir, canal, ditch, or irrigated area.

"Beneficial consumptive use is the basis and principle upon which the allocations of water hereinafter made are predicated.

"ARTICLE III

"The specific allocations in acre-feet hereinafter made to each State are derived from the computed average annual virgin water supply originating in the following designated drainage basins, or parts thereof, in the amounts shown:

"North Fork of the Republican River drainage basin in Colorado, 44,700 acre-feet;

"Arkansas River drainage basin, 19,610 acre-feet;

"Buffalo Creek drainage basin, 7,890 acre-feet;

"Rock Creek drainage basin, 11,000 acre-feet;

"South Fork of the Republican River drainage basin, 57,200 acre-feet;

"Frenchman Creek (River) drainage basin in Nebraska, 98,500 acre-feet;

"Blackwood Creek drainage basin, 6,800 acre-feet;

"Driftwood Creek drainage basin, 7,300 acre-feet;

"Red Willow Creek drainage basin in Nebraska, 21,900 acre-feet;

"Medicine Creek drainage basin, 50,800 acre-feet;

"Beaver Creek drainage basin, 16,500 acre-feet;

"Sappa Creek drainage basin, 21,400 acre-feet;

"Prairie Dog Creek drainage basin, 27,600 acre-feet;

"The North Fork of the Republican River in Nebraska and the main stem of the Republican River between the junction of the North Fork and the Ari-

May 26, 1943

karee River and the lowest crossing of the river at the Nebraska-Kansas state line and the small tributaries thereof, 87,700 acre-feet.

"Should the future computed virgin water supply of any source vary more than ten (10) percent from the virgin water supply as hereinabove set forth, the allocations hereinafter made from such source shall be increased or decreased in the relative proportion that the future computed virgin water supply of such source bears to the computed virgin water supply used herein.

#### "ARTICLE IV

"There is hereby allocated for beneficial consumptive use in Colorado, annually, a total of fifty-four thousand, one hundred (54,100) acre-feet of water. This total is to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

"North Fork of the Republican River drainage basin, 10,000 acre-feet;

"Arikaree River drainage basin, 15,400 acre-feet;

"South Fork of the Republican River drainage basin, 25,400 acre-feet;

"Beaver Creek drainage basin, 3,300 acre-feet; and

"In addition, for beneficial consumptive use in Colorado, annually, the entire water supply of the Frenchman Creek (River) drainage basin in Colorado and of the Red Willow Creek drainage basin in Colorado.

"There is hereby allocated for beneficial consumptive use in Kansas, annually, a total of one hundred ninety thousand, three hundred (190,300) acre-feet of water. This total is to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

"Arikaree River drainage basin, 1,000 acre-feet;

"South Fork of the Republican River drainage basin, 23,000 acre-feet;

"Driftwood Creek drainage basin, 500 acre-feet;

"Beaver Creek drainage basin, 6,400 acre-feet;

"Sappa Creek drainage basin, 8,800 acre-feet;

"Prairie Dog Creek drainage basin, 12,600 acre-feet;

"From the main stem of the Republican River upstream from the lowest crossing of the river at the Nebraska-Kansas state line and from water supplies of upstream basins otherwise unallocated herein, 138,000 acre-feet; provided, that Kansas shall have the right to divert all or any portion thereof at or near Guide Rock, Nebraska; and

"In addition there is hereby allocated for beneficial consumptive use in Kansas, annually, the entire water supply originating in the Basin downstream from the lowest crossing of the river at the Nebraska-Kansas state line.

"There is hereby allocated for beneficial consumptive use in Nebraska, annually, a total of two hundred thirty-four thousand, five hundred (234,500) acre-feet of water. This total is to be derived from the sources and in the amounts hereinafter specified and is subject to such quantities being physically available from those sources:

"North Fork of the Republican River drainage basin in Colorado, 11,000 acre-feet;

"Frenchman Creek (River) drainage basin in Nebraska, 52,800 acre-feet;

"Rock Creek drainage basin, 4,400 acre-feet;

"Arikaree River drainage basin, 3,300 acre-feet;

"Buffalo Creek drainage basin, 2,600 acre-feet;

"South Fork of the Republican River drainage basin, 800 acre-feet;

"Driftwood Creek drainage basin, 1,200 acre-feet;

"Red Willow Creek drainage basin in Nebraska, 4,200 acre-feet;

"Medicine Creek drainage basin, 4,600 acre-feet;

"Beaver Creek drainage basin, 6,700 acre-feet;

"Sappa Creek drainage basin, 8,800 acre-feet;

"Prairie Dog Creek drainage basin, 2,100 acre-feet;

"From the North Fork of the Republican River in Nebraska, the main stem of the Republican River between the junction of the North Fork and Arikaree River and the lowest crossing of the river at the Nebraska-Kansas state line, from the small tributaries thereof, and from water supplies of upstream basins otherwise unallocated herein, 132,000 acre-feet.

"The use of the waters hereinabove allocated shall be subject to the laws of the State, for use in which the allocations are made.

#### "ARTICLE V

"The judgment and all provisions thereof in the case of Adelbert A. Weiland, as State Engineer of Colorado, et al. v. The Pioneer Irrigation Company, decided June 5, 1922, and reported in 259 U.S. 498, affecting the Pioneer Irrigation ditch or canal, are hereby recognized as binding upon the States; and Colorado, through its duly authorized officials, shall have the perpetual and exclusive right to control and regulate diversions of water at all times by said canal in conformity with said judgment.

"The water heretofore adjudicated to said Pioneer Canal by the District Court of Colorado, in the amount of fifty (50) cubic feet per second of time is included in and is a part of the total amounts of water hereinbefore allocated for beneficial consumptive use in Colorado and Nebraska.

#### "ARTICLE VI

"The right of any person, entity, or lower State to construct, or participate in the future construction and use of any storage reservoir or diversion works in an upper State for the purpose of regulating water herein allocated for beneficial consumptive use in such lower State, shall never be denied by an upper State; provided, that such right is subject to the rights of the upper State.

#### "ARTICLE VII

"Any person, entity, or lower State shall have the right to acquire necessary property rights in an upper State by purchase, or through the exercise of the

May 26, 1943

power of eminent domain, for the construction, operation and maintenance of storage reservoirs, and of appurtenant works, canals and conduits, required for the enjoyment of the privileges granted by Article VI; provided, however, that the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes assessed against the lands and improvements during the ten years preceding the use of such lands, in reimbursement for the loss of taxes to said political subdivisions of the State.

**"ARTICLE VIII"**

"Should any facility be constructed in an upper State under the provisions of Article VI, such construction and the operation of such facility shall be subject to the laws of such upper State.

"Any repairs to or replacements of such facility shall also be made in accordance with the laws of such upper State.

**"ARTICLE IX"**

"It shall be the duty of the three States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

"The United States Geological Survey, or whatever federal agency may succeed to the functions and duties of that agency, in so far as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of water facts necessary for the proper administration of this compact.

**"ARTICLE X"**

"Nothing in this compact shall be deemed:

"(a) To impair or affect any rights, powers or jurisdiction of the United States, or those acting by or under its authority, in, over, and to the waters of the Basin, nor to impair or affect the capacity of the United States, or those acting by or under its authority, to acquire rights in and to the use of waters of the Basin;

"(b) To subject any property of the United States, its agencies or instrumentalities, to taxation by any State, or subdivision thereof, nor to create an obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, state agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

May 26, 1943

REPUBLICAN RIVER COMPACT

745

"(c) To subject any property of the United States, its agencies or instrumentalities, to the laws of any State to any extent other than the extent these laws would apply without regard to this compact.

"ARTICLE XI

"This compact shall become operative when ratified by the Legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that:

"(a) Any beneficial consumptive uses by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be made within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

"(b) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Basin shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial consumptive use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial consumptive use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested federal agencies and the state officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes.

"(c) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the waters allocated by this compact which may be impaired by the exercise of federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under state law prior to the initiation or authorization of the federal program or project which causes such impairment.

"IN WITNESS WHEREOF, the Commissioners have signed this compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

"Done in the City of Lincoln, in the State of Nebraska, on the 31st day of December, in the year of our Lord, one thousand nine hundred forty-two.

"M. C. HINDERLIDER

"Commissioner for Colorado

"GEORGE S. KNAPP

"Commissioner for Kansas

"WARDNER G. SCOTT

"Commissioner for Nebraska

May 26, 1943

"I have participated in the negotiations leading to this proposed compact and propose to report to the Congress of the United States favorably thereon.

"GLENN L. PARKER  
"Representative of the United States"

Sec. 2. [United States participation.]—(a) In order that the conditions stated in article XI of the compact hereby consented to shall be met and that the compact shall be and continue to be operative, the following provisions are enacted—

(1) any beneficial consumptive uses by the United States, or those acting by or under its authority, within a State, of the waters allocated by such compact, shall be made within the allocations made by such compact for use in that State and shall be taken into account in determining the extent of use within that State;

(2) the United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Basin shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial consumptive use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial consumptive use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of such compact and after consultation with all interested Federal agencies and the State officials charged with the administration of such compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes.

(3) the United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the waters allocated by such compact which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters: *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with such compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

(b) As used in this section—

(1) "Beneficial consumptive uses" has the same meaning as when used in the compact consented to by Congress by this Act; and

(2) "Basin" refers to the Republican River Basin as shown on the map attached to and made a part of the original of such compact deposited in the archives of the Department of State. (57 Stat. 86-91)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Presidential Statement.** The following statement was made by the President on May 26, 1943:

"I am signing the Republican River Compact bill because I believe it offers a sound solution to problems of water allocation and utilization on that stream. The procedure prescribed by the bill for the

May 26, 1943

REPUBLICAN RIVER COMPACT

747

exercise of the powers of the Federal Government would not be entirely satisfactory in all circumstances but the prospects in fact for the exercise of such powers in the Republican basin are not great. For streams where conditions are otherwise and there appears to be a possible need for Federal comprehensive multiple purpose development or where opportunities for important electric power projects are present, I believe

the Republican River Compact should not serve as a precedent. In such cases the compact and the legislation should more adequately reflect a recognition of the responsibilities and prerogatives of the Federal Government."

Legislative History. S. 649, Public Law 60 in the 78th Congress. S. Rept. No. 152. H.R. Rept. No. 375 (on H.R. 2482).

July 12, 1943

748

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1944

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1944, and for other purposes. (Act of July 12, 1943, ch. 219, 57 Stat. 451)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

[All-American Canal—Land leveling—Preparation of raw public lands.]—Boulder Canyon project (All-American Canal): Not to exceed \$100,000 from unexpended balances of appropriations for this project shall be available for land leveling, construction of farm ditches on units of public lands, production of soil-building crops, and other necessary expenses in the preparation of raw public lands for irrigation farming, any such expenditures to be charged into the construction costs to be repayable by the lands benefited, and any sums received from the sale of crops or otherwise as a result of these operations to be credited to such construction costs. (57 Stat. 476)

#### EXPLANATORY NOTE

Provision Repeated. The same provision for land preparation work is contained in each subsequent annual Interior Department Appropriation Act through the Act of July 1, 1946, 60 Stat. 368.

\* \* \* \* \*

[Gila project—Land leveling—Preparation of raw public lands.]—Gila project, Arizona: *Provided*, That appropriations heretofore made for this project shall be available for land leveling, construction of farm ditches on units of public lands, production of soil-building crops, and other necessary expenses in the preparation of raw public lands for irrigation farming, any such expenditures to be charged into the construction costs to be repayable by the lands benefited, and any sums received from the sale of crops or otherwise as a result of these operations to be credited to such construction costs. (57 Stat. 476)

#### EXPLANATORY NOTE

Provision Repeated. The same provision for land preparation work is contained in each subsequent annual Interior Department Appropriation Act through the Act of July 1, 1946, 60 Stat. 367.

\* \* \* \* \*

[Lugert-Altus project—Certain construction costs reimbursable.]—Lugert-Altus project, Oklahoma, . . .: *Provided*, That of the total construction cost of all features of the project not to exceed \$3,080,000 shall be reimbursable under the provisions of the reclamation law. (57 Stat. 477)

#### EXPLANATORY NOTE

Change of Name. The Act of May 16, 1947, 61 Stat. 99, changed the name of the Lugert-Altus project to the W. C. Austin project. The Act appears herein in chronological order.

July 12, 1943

INTERIOR DEPARTMENT APPROPRIATION ACT, 1944 749

NOTE OF OPINION

1. Nonreimbursable costs

The limitation in this appropriation act is substantive legislation the effect of which is to declare all funds expended for project construction in excess of \$3,080,000 non-reimbursable. Memorandum of Chief Counsel Fix to Commissioner, April 22, 1948, at

19, in re questions of law raised by House Appropriations Subcommittee; reprinted in *Hearings on Interior Department Appropriation Bill for 1949 Before a House Appropriations Subcommittee*, 80th Cong., 2d Sess., pt. 3, at 381 (1948).

\* \* \* \* \*

**Sec. 10. [Short title.]**—This Act may be cited as the "Interior Department Appropriation Act, 1944". (57 Stat. 494)

EXPLANATORY NOTES

**Not Codified.** Extracts shown here are not codified in the U.S. Code.

used.

**Legislative History.** H.R. 2719, Public Law 133 in the 78th Congress. H.R. Rept. No. 455. S. Rept. No. 319. H.R. Rept. No. 640 and H.R. Rept. No. 668 (conference reports).

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first

February 3, 1944

750

## MEXICAN WATER TREATY AND PROTOCOL

Treaty with Mexico relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande. (Signed at Washington, February 3, 1944; Protocol signed at Washington, November 14, 1944; ratification advised by the Senate April 18, 1945, subject to certain understandings; ratification by the President November 1, 1945, subject to said understandings; ratified by Mexico October 16, 1945; ratifications exchanged at Washington, November 8, 1945; proclaimed by the President November 27, 1945, subject to said understandings; 59 Stat. 1219)

The Government of the United States of America and the Government of the United Mexican States: animated by the sincere spirit of cordiality and friendly cooperation which happily governs the relations between them; taking into account the fact that Articles VI and VII of the Treaty of Peace, Friendship and Limits between the United States of America and the United Mexican States signed at Guadalupe Hidalgo on February 2, 1848, and Article IV of the boundary treaty between the two countries signed at the City of Mexico December 30, 1853 regulate the use of the waters of the Rio Grande (Rio Bravo) and the Colorado River for purposes of navigation only; considering that the utilization of these waters for other purposes is desirable in the interest of both countries, and desiring, moreover, to fix and delimit the rights of the two countries with respect to the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, United States of America, to the Gulf of Mexico, in order to obtain the most complete and satisfactory utilization thereof, have resolved to conclude a treaty and for this purpose have named as their plenipotentiaries:

The President of the United States of America:

Cordell Hull, Secretary of State, of the United States of America, George S. Messersmith, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and Lawrence M. Lawson, United States Commissioner, International Boundary Commission, United States and Mexico; and

The President of the United Mexican States:

Francisco Castillo Nájera, Ambassador Extraordinary and Plenipotentiary of the United Mexican States in Washington, and Rafael Fernández MacGregor, Mexican Commissioner, International Boundary Commission, United States and Mexico; who, having communicated to each other their respective Full Powers and having found them in good and due form, have agreed upon the following:

### I—PRELIMINARY PROVISIONS

#### ARTICLE 1

[Definitions.]—For the purposes of this Treaty it shall be understood that:

(a) "The United States" means the United States of America.

(b) "Mexico" means the United Mexican States.

(c) "The Commission" means the International Boundary and Water Commission, United States and Mexico, as described in Article 2 of this Treaty.

(d) "To divert" means the deliberate act of taking water from any channel in order to convey it elsewhere for storage, or to utilize it for domestic, agricultural, stock-raising or industrial purposes whether this be done by means of dams across the channel, partition weirs, lateral intakes, pumps or any other methods.

(e) "Point of diversion" means the place where the act of diverting the water is effected.

(f) "Conservation capacity of storage reservoirs" means that part of their total capacity devoted to holding and conserving the water for disposal thereof as and when required, that is, capacity additional to that provided for silt retention and flood control.

(g) "Flood discharges and spills" means the voluntary or involuntary discharge of water for flood control as distinguished from releases for other purposes.

(h) "Return flow" means that portion of diverted water that eventually finds its way back to the source from which it was diverted.

(i) "Release" means the deliberate discharge of stored water for conveyance elsewhere or for direct utilization.

(j) "Consumptive use" means the use of water by evaporation, plant transpiration or other manner whereby the water is consumed and does not return to its source of supply. In general it is measured by the amount of water diverted less the part thereof which returns to the stream.

(k) "Lowest major international dam or reservoir" means the major international dam or reservoir situated farthest downstream.

(l) "Highest major international dam or reservoir" means the major international dam or reservoir situated farthest upstream.

## ARTICLE 2

[International Boundary and Water Commission.]—The International Boundary Commission established pursuant to the provisions of the Convention between the United States and Mexico signed in Washington March 1, 1889 to facilitate the carrying out of the principles contained in the Treaty of November 12, 1884 and to avoid difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande (Rio Bravo) and the Colorado River shall hereafter be known as the International Boundary and Water Commission, United States and Mexico, which shall continue to function for the entire period during which the present Treaty shall continue in force. Accordingly, the term of the Convention of March 1, 1889 shall be considered to be indefinitely extended, and the Convention of November 21, 1900 between the United States and Mexico regarding that Convention shall be considered completely terminated.

The application of the present Treaty, the regulation and exercise of the rights and obligations which the two Governments assume thereunder, and the settlement of all disputes to which its observance and execution may give rise are hereby entrusted to the International Boundary and Water Commission,

February 3, 1944

which shall function in conformity with the powers and limitations set forth in this Treaty.

The Commission shall in all respects have the status of an international body, and shall consist of a United States Section and a Mexican Section. The head of each Section shall be an Engineer Commissioner. Wherever there are provisions in this Treaty for joint action or joint agreement by the two Governments, or for the furnishing of reports, studies or plans to the two Governments, or similar provisions, it shall be understood that the particular matter in question shall be handled by or through the Department of State of the United States and the Ministry of Foreign Relations of Mexico.

The Commission or either of its two Sections may employ such assistants and engineering and legal advisers as it may deem necessary. Each Government shall accord diplomatic status to the Commissioner, designated by the other Government. The Commissioner, two principal engineers, a legal adviser, and a secretary, designated by each Government as members of its Section of the Commission, shall be entitled in the territory of the other country to the privileges and immunities appertaining to diplomatic officers. The Commission and its personnel may freely carry out their observations, studies and field work in the territory of either country.

The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary, each Section of the Commission retaining jurisdiction over that part of the works located within the limits of its own country. Neither Section shall assume jurisdiction or control over works located within the limits of the country of the other without the express consent of the Government of the latter. The works constructed, acquired or used in fulfillment of the provisions of this Treaty and located wholly within the territorial limits of either country, although these works may be international in character, shall remain, except as herein otherwise specifically provided, under the exclusive jurisdiction and control of the Section of the Commission in whose country the works may be situated.

The duties and powers vested in the Commission by this Treaty shall be in addition to those vested in the International Boundary Commission by the Convention of March 1, 1889 and other pertinent treaties and agreements in force between the two countries except as the provisions of any of them may be modified by the present Treaty.

Each Government shall bear the expenses incurred in the maintenance of its Section of the Commission. The joint expenses, which may be incurred as agreed upon by the Commission, shall be borne equally by the two Governments.

### ARTICLE 3

[**Preferences in uses of water.**]—In matters in which the Commission may be called upon to make provision for the joint use of international waters, the following order of preferences shall serve as a guide:

1. Domestic and municipal uses.
2. Agriculture and stockraising.

February 3, 1944

to use one-third of the flow reaching the Rio Grande (Rio Bravo) from said tributaries, although such one-third may be in excess of that amount.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

In the event of extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, making it difficult for Mexico to make available the run-off of 350,000 acre-feet (431,721,000 cubic meters) annually, allotted in subparagraph (c) of paragraph B of this Article to the United States as the minimum contribution from the aforesaid Mexican tributaries, any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle with water from the said measured tributaries.

Whenever the conservation capacities assigned to the United States in at least two of the major international reservoirs, including the highest major reservoir, are filled with waters belonging to the United States, a cycle of five years shall be considered as terminated and all debits fully paid, whereupon a new five-year cycle shall commence.

#### ARTICLE 5

[International storage dams.]—The two Governments agree to construct jointly, through their respective Sections of the Commission, the following works in the main channel of the Rio Grande (Rio Bravo):

I. The dams required for the conservation, storage and regulation of the greatest quantity of the annual flow of the river in a way to ensure the continuance of existing uses and the development of the greatest number of feasible projects, within the limits imposed by the water allotments specified.

II. The dams and other joint works required for the diversion of the flow of the Rio Grande (Rio Bravo).

One of the storage dams shall be constructed in the section between Santa Helena Canyon and the mouth of the Pecos River; one in the section between Eagle Pass and Laredo, Texas (Piedras Negras and Nuevo Laredo in Mexico); and a third in the section between Laredo and Roma, Texas (Nuevo Laredo and San Pedro de Roma in Mexico). One or more of the stipulated dams may be omitted, and others than those enumerated may be built, in either case as may be determined by the Commission, subject to the approval of the two Governments.

In planning the construction of such dams the Commission shall determine:

(a) The most feasible sites;

(b) The maximum feasible reservoir capacity at each site;

(c) The conservation capacity required by each country at each site, taking into consideration the amount and regimen of its allotment of water and its contemplated uses;

(d) The capacity required for retention of silt;

(e) The capacity required for flood control.

The conservation and silt capacities of each reservoir shall be assigned to each

February 3, 1944

MEXICAN WATER TREATY AND PROTOCOL

755

country in the same proportion as the capacities required by each country in such reservoir for conservation purposes. Each country shall have an undivided interest in the flood control capacity of each reservoir.

The construction of the international storage dams shall start within two years following the approval of the respective plans by the two Governments. The works shall begin with the construction of the lowest major international storage dam, but works in the upper reaches of the river may be constructed simultaneously. The lowest major international storage dam shall be completed within a period of eight years from the date of the entry into force of this Treaty.

The construction of the dams and other joint works required for the diversion of the flows of the river shall be initiated on the dates recommended by the Commission and approved by the two Governments.

The cost of construction, operation and maintenance of each of the international storage dams shall be prorated between the two Governments in proportion to the capacity allotted to each country for conservation purposes in the reservoir at such dam.

The cost of construction, operation and maintenance of each of the dams and other joint works required for the diversion of the flows of the river shall be prorated between the two Governments in proportion to the benefits which the respective countries receive therefrom, as determined by the Commission and approved by the two Governments.

EXPLANATORY NOTE

**Falcon and Amistad Dams.** Of the three dams referred to in Article 5, two have been constructed or are under construction.

Falcon Dam was completed in 1953. It is located about 300 miles upstream from the mouth of the river, about 90 miles upstream from the head of the Lower Rio Grande Valley, and about 80 miles below Laredo, Texas. The Act of October 5, 1949, 63 Stat. 701, authorizes U.S. participation in the construction of hydroelectric power facilities at Falcon Dam, and the Act of June 18, 1954, 68 Stat. 255, authorizes the Secretary of the Interior to market this power. The 1949 and 1954 Acts appear herein in chronological order.

Amistad Dam is located about 290 river miles above Falcon Dam, about 12 miles above Del Rio, Texas, and about 600 river miles below Fort Quitman, Texas. The site

is about a mile below the confluence of Devils River, and the proposed dam originally was named Diablo (Devils) Dam. Actual construction started in 1964 and is scheduled for completion at the end of 1968. The Act of July 7, 1960, 74 Stat. 360, authorizes United States participation in the construction of Amistad Dam, including power development if it can be put on a self-liquidating basis. On October 24, 1960, Presidents Eisenhower and Mateos entered into an agreement to proceed with construction of the dam. 11 U.S. & O.I.A. 2396. The Act of December 23, 1963, 77 Stat. 475, authorizes the Secretary of the Interior to market power generated at the project in conjunction with power from Falcon Dam. The 1960 and 1963 Acts appear herein in chronological order.

ARTICLE 6

[**Flood control works.**]—The Commission shall study, investigate, and prepare plans for flood control works, where and when necessary, other than those referred to in Article 5 of this Treaty, on the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. These works may include levees along the river, floodways and grade-control structures, and works for the canalization, rectification and artificial channeling of reaches of the river. The

February 3, 1944

vert and use water not belonging entirely to such country, when the water belonging to the other country can be diverted and used without injury to the latter and can be replaced at some other point on the river.

(e) The Commission shall have the power to authorize temporary diversion and use by one country of water belonging to the other, when the latter does not need it or is unable to use it, provided that such authorization or the use of such water shall not establish any right to continue to divert it.

(f) In case of the occurrence of an extraordinary drought in one country with an abundant supply of water in the other country, water stored in the international storage reservoirs and belonging to the country enjoying such abundant water supply may be withdrawn, with the consent of the Commission, for the use of the country undergoing the drought.

(g) Each country shall have the right to divert from the main channel of the river any amount of water, including the water belonging to the other country, for the purpose of generating hydro-electric power, provided that such diversion causes no injury to the other country and does not interfere with the international generation of power and that the quantities not returning directly to the river are charged against the share of the country making the diversion. The feasibility of such diversions not existing on the date this Treaty enters into force shall be determined by the Commission, which shall also determine the amount of water consumed, such water to be charged against the country making the diversion.

(h) In case either of the two countries shall construct works for diverting into the main channel of the Rio Grande (Rio Bravo) or its tributaries waters that do not at the time this Treaty enters into force contribute to the flow of the Rio Grande (Rio Bravo) such water shall belong to the country making such diversion.

(i) Main stream channel losses shall be charged in proportion to the ownership of water being conveyed in the channel at the times and places of the losses.

(j) The Commission shall keep a record of the waters belonging to each country and of those that may be available at a given moment, taking into account the measurement of the allotments, the regulation of the waters in storage, the consumptive uses, the withdrawals, the diversions, and the losses. For this purpose the Commission shall construct, operate and maintain on the main channel of the Rio Grande (Rio Bravo), and each Section shall construct, operate and maintain on the measured tributaries in its own country, all the gaging stations and mechanical apparatus necessary for the purpose of making computations and of obtaining the necessary data for such record. The information with respect to the diversions and consumptive uses on the unmeasured tributaries shall be furnished to the Commission by the appropriate Section. The cost of construction of any new gaging stations located on the main channel of the Rio Grande (Rio Bravo) shall be borne equally by the two Governments. The operation and maintenance of all gaging stations or the cost of such operation and maintenance shall be apportioned between the two Sections in accordance with determinations to be made by the Commission.

February 3, 1944

MEXICAN WATER TREATY AND PROTOCOL

759

III—COLORADO RIVER

ARTICLE 10

[Allotment to Mexico.]—Of the waters of the Colorado River, from any and all sources, there are allotted to Mexico:

(a) A guaranteed annual quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) to be delivered in accordance with the provisions of Article 15 of this Treaty.

(b) Any other quantities arriving at the Mexican points of diversion, with the understanding that in any year in which, as determined by the United States Section, there exists a surplus of waters of the Colorado River in excess of the amount necessary to supply uses in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually to Mexico, the United States undertakes to deliver to Mexico, in the manner set out in Article 15 of this Treaty, additional waters of the Colorado River system to provide a total quantity not to exceed 1,700,000 acre-feet (2,096,931,000 cubic meters) a year. Mexico shall acquire no right beyond that provided by this subparagraph by the use of the waters of the Colorado River system, for any purpose whatsoever, in excess of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually.

In the event of extraordinary drought or serious accident to the irrigation system in the United States, thereby making it difficult for the United States to deliver the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) a year, the water allotted to Mexico under subparagraph (a) of this Article will be reduced in the same proportion as consumptive uses in the United States are reduced.

ARTICLE 11

[Place of delivery.]—(a) The United States shall deliver all waters allotted to Mexico wherever these waters may arrive in the bed of the limitrophe section of the Colorado River, with the exceptions hereinafter provided. Such waters shall be made up of the waters of the said river, whatever their origin, subject to the provisions of the following paragraphs of this Article.

(b) Of the waters of the Colorado River allotted to Mexico by subparagraph (a) of Article 10 of this Treaty, the United States shall deliver, wherever such waters may arrive in the limitrophe section of the river, 1,000,000 acre-feet (1,233,489,000 cubic meters) annually from the time the Davis dam and reservoir are placed in operation until January 1, 1980 and thereafter 1,125,000 acre-feet (1,387,675,000 cubic meters) annually, except that, should the main diversion structure referred to in subparagraph (a) of Article 12 of this Treaty be located entirely in Mexico and should Mexico so request, the United States shall deliver a quantity of water not exceeding 25,000 acre-feet (30,837,000 cubic meters) annually, unless a larger quantity may be mutually agreed upon, at a point, to be likewise mutually agreed upon, on the international land boundary near San Luis Sonora, in which event the quantities of 1,000,000 acre-feet (1,233,489,000 cubic meters) and 1,125,000 acre-feet (1,387,675,000 cubic

February 3, 1944

by the two Governments, which, for this purpose, shall take into consideration the proportionate uses of these facilities by the two countries, these determinations to be made as soon as Davis dam and reservoir are placed in operation.

(b) Annually, a proportionate part of the total cost of maintenance and operation of such facilities, these costs to be prorated between the two countries in proportion to the amount of water delivered annually through such facilities for use in each of the two countries.

In the event that revenues from the sale of hydro-electric power which may be generated at Pilot Knob become available for the amortization of part or all of the costs of the facilities named in subparagraph (a) of this Article, the part that Mexico should pay of the costs of said facilities shall be reduced or repaid in the same proportion as the balance of the total costs are reduced or repaid. It is understood that any such revenue shall not become available until the cost of any works which may be constructed for the generation of hydro-electric power at said location has been fully amortized from the revenues derived therefrom.

NOTE OF OPINION

1. Allocation of costs

For discussion of the allocation of costs of the All-American canal system within the meaning of the phrase "cost actually incurred in the construction", as the phrase is used in Article 14(a) of the Treaty, see

the letter from Assistant Secretary Aandahl to the Secretary of State, September 14, 1953, and Commissioner Dexheimer's memorandum to Regional Director, Boulder City, October 8, 1954, in re costs of the California sluiceway.

ARTICLE 15

[Schedule of delivery.]—A. The water allotted in subparagraph (a) of Article 10 of this Treaty shall be delivered to Mexico at the points of delivery specified in Article 11, in accordance with the following two annual schedules of deliveries by months, which the Mexican Section shall formulate and present to the Commission before the beginning of each calendar year:

SCHEDULE I

Schedule I shall cover the delivery, in the limittrophe section of the Colorado River, of 1,000,000 acre-feet (1,233,489,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 1,125,000 acre-feet (1,387,675,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 1,000,000 acre-foot (1,233,489,000 cubic meters) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 600 cubic feet (17.0 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,000 cubic feet (28.3 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

February 3, 1944

MEXICAN WATER TREATY AND PROTOCOL

763

With reference to the 1,125,000 acre-foot (1,387,675,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 675 cubic feet (19.1 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,125 cubic feet (31.9 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

Should deliveries of water be made at a point on the land boundary near San Luis, Sonora, as provided for in Article 11, such deliveries shall be made under a sub-schedule to be formulated and furnished by the Mexican Section. The quantities and monthly rates of deliveries under such sub-schedule shall be in proportion to those specified for Schedule I, unless otherwise agreed upon by the Commission.

SCHEDULE II

Schedule II shall cover the delivery at the boundary line by means of the All-American Canal of 500,000 acre-feet (616,745,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 375,000 acre-feet (462,558,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 500,000 acre-foot (616,745,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 300 cubic feet (8.5 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 500 cubic feet (14.2 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

With reference to the 375,000 acre-foot (462,558,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 225 cubic feet (6.4 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 375 cubic feet (10.6 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

B. The United States shall be under no obligation to deliver, through the All-American Canal, more than 500,000 acre-feet (616,745,000 cubic meters) annually from the date Davis dam and reservoir are placed in operation until January 1, 1980 or more than 375,000 acre-feet (462,558,000 cubic meters) annually thereafter. If, by mutual agreement, any part of the quantities of water specified in this paragraph are delivered to Mexico at points on the land boundary otherwise than through the All-American Canal, the above quantities of water and the rates of deliveries set out under Schedule II of this Article shall be correspondingly diminished.

February 3, 1944

each country in its territory, to such general regulations as may appropriately be prescribed and enforced by the Commission with the approval of the two Governments for the purpose of the application of the provisions of this Treaty, and to such regulations as may appropriately be prescribed and enforced for the same purpose by each Section of the Commission with respect to the areas and borders of such parts of those lakes as lie within its territory. Neither Government shall use for military purposes such water surface situated within the territory of the other country except by express agreement between the two Governments.

#### ARTICLE 19

[Electric power.]—The two Governments shall conclude such special agreements as may be necessary to regulate the generation, development and disposition of electric power at international plants, including the necessary provisions for the export of electric current.

#### ARTICLE 20

[Construction of works.]—The two Governments shall, through their respective Sections of the Commission, carry out the construction of works allotted to them. For this purpose the respective Sections of the Commission may make use of any competent public or private agencies in accordance with the laws of the respective countries. With respect to such works as either Section of the Commission may have to execute on the territory of the other, it shall, in the execution of such works, observe the laws of the place where such works are located or carried out, with the exceptions hereinafter stated.

All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of such works shall be exempt from import and export customs duties. The whole of the personnel employed either directly or indirectly on the construction, operation or maintenance of the works may pass freely from one country to the other for the purpose of going to and from the place of location of the works, without any immigration restrictions, passports or labor requirements. Each Government shall furnish, through its own Section of the Commission, convenient means of identification to the personnel employed by it on the aforesaid works and verification certificates covering all materials, implements, equipment and repair parts intended for the works.

Each Government shall assume responsibility for and shall adjust exclusively in accordance with its own laws all claims arising within its territory in connection with the construction, operation or maintenance of the whole or of any part of the works herein agreed upon, or of any works which may, in the execution of this Treaty, be agreed upon in the future.

#### ARTICLE 21

[Boundary.]—The construction of the international dams and the formation of artificial lakes shall produce no change in the fluvial international boundary,

February 3, 1944

MEXICAN WATER TREATY AND PROTOCOL

767

which shall continue to be governed by existing treaties and conventions in force between the two countries.

The Commission shall, with the approval of the two Governments, establish in the artificial lakes, by buoys or by other suitable markers, a practicable and convenient line to provide for the exercise of the jurisdiction and control vested by this Treaty in the Commission and its respective Sections. Such line shall also mark the boundary for the application of the customs and police regulations of each country.

ARTICLE 22

[1933 Treaty.]—The provisions of the Convention between the United States and Mexico for the rectification of the Rio Grande (Rio Bravo) in the El Paso-Juárez Valley signed on February 1, 1933, shall govern, so far as delimitation of the boundary, distribution of jurisdiction and sovereignty, and relations with private owners are concerned, in any places where works for the artificial channeling, canalization or rectification of the Rio Grande (Rio Bravo) and the Colorado River are carried out.

ARTICLE 23

[Jurisdiction.]—The two Governments recognize the public interest attached to the works required for the execution and performance of this Treaty and agree to acquire, in accordance with their respective domestic laws, any private property that may be required for the construction of the said works, including the main structures and their appurtenances and the construction materials therefor, and for the operation and maintenance thereof, at the cost of the country within which the property is situated, except as may be otherwise specifically provided in this Treaty.

Each Section of the Commission shall determine the extent and location of any private property to be acquired within its own country and shall make the necessary requests upon its Government for the acquisition of such property.

The Commission shall determine the cases in which it shall become necessary to locate works for the conveyance of water or electrical energy and for the servicing of any such works, for the benefit of either of the two countries, in the territory of the other country, in order that such works can be built pursuant to agreement between the two Governments. Such works shall be subject to the jurisdiction and supervision of the Section of the Commission within whose country they are located.

Construction of the works built in pursuance of the provisions of this Treaty shall not confer upon either of the two countries any rights either of property or of jurisdiction over any part whatsoever of the territory of the other. These works shall be part of the territory and be the property of the country wherein they are situated. However, in the case of any incidents occurring on works constructed across the limitrophe part of a river and with supports on both banks, the jurisdiction of each country shall be limited by the center line of such works, which shall be marked by the Commission, without thereby changing the international boundary.

February 3, 1944

VI—TRANSITORY PROVISIONS

ARTICLE 26

[**Interim releases, Lower Rio Grande Valley.**]—During a period of eight years from the date of the entry into force of this Treaty, or until the beginning of operation of the lowest major international reservoir on the Rio Grande (Rio Bravo), should it be placed in operation prior to the expiration of said period, Mexico will cooperate with the United States to relieve, in times of drought, any lack of water needed to irrigate the lands now under irrigation in the Lower Rio Grande Valley in the United States, and for this purpose Mexico will release water from El Azúcar reservoir on the San Juan River and allow that water to run through its system of canals back into the San Juan River in order that the United States may divert such water from the Rio Grande (Rio Bravo). Such releases shall be made on condition that they do not affect the Mexican irrigation system, provided that Mexico shall, in any event, except in cases of extraordinary drought or serious accident to its hydraulic works, release and make available to the United States for its use the quantities requested, under the following conditions: that during the said eight years there shall be made available a total of 160,000 acre-feet (197,358,000 cubic meters) and up to 40,000 acre-feet (49,340,000 cubic meters) in any one year; that the water shall be made available as requested at rates not exceeding 750 cubic feet (21.2 cubic meters) per second; that when the rates of flow requested and made available have been more than 500 cubic feet (14.2 cubic meters) per second the period of release shall not extend beyond fifteen consecutive days; and that at least thirty days must elapse between any two periods of release during which rates of flow in excess of 500 cubic feet (14.2 cubic meters) per second have been requested and made available. In addition to the guaranteed flow, Mexico shall release from El Azúcar reservoir and conduct through its canal system and the San Juan River, for use in the United States during periods of drought and after satisfying the needs of Mexican users, any excess water that does not in the opinion of the Mexican Section have to be stored and that may be needed for the irrigation of lands which were under irrigation during the year 1943 in the Lower Rio Grande Valley in the United States.

ARTICLE 27

[**Interim provisions, Colorado River.**]—The provisions of Article 10, 11, and 15 of this Treaty shall not be applied during a period of five years from the date of the entry into force of this Treaty, or until the Davis dam and the major Mexican diversion structure on the Colorado River are placed in operation, should these works be placed in operation prior to the expiration of said period. In the meantime Mexico may construct and operate at its expense a temporary diversion structure in the bed of the Colorado River in territory of the United States for the purpose of diverting water into the Alamo Canal, provided that the plans for such structure and the construction and operation thereof shall be subject to the approval of the United States Section. During this period of time the

February 3, 1944

MEXICAN WATER TREATY AND PROTOCOL

771

United States will make available in the river at such diversion structure river flow not currently required in the United States, and the United States will cooperate with Mexico to the end that the latter may satisfy its irrigation requirements within the limits of those requirements for lands irrigated in Mexico from the Colorado River during the year 1943.

VII—FINAL PROVISIONS

ARTICLE 28

[Effective date.]—This Treaty shall be ratified and the ratifications thereof shall be exchanged in Washington. It shall enter into force on the day of the exchange of ratifications and shall continue in force until terminated by another Treaty concluded for that purpose between the two Governments.

In witness whereof the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in the English and Spanish languages, in Washington on this third day of February, 1944.

For the Goverment of the United States of America:

CORDELL HULL

[SEAL]

GEORGE S. MESSERSMITH

[SEAL]

LAWRENCE M. LAWSON

[SEAL]

For the Government of the United Mexican States:

F. CASTILLO NÁJERA

[SEAL]

RAFAEL FERNÁNDEZ MACGREGOR

[SEAL]

PROTOCOL

The Government of the United States of America and the Government of the United Mexican States agree and understand that:

Wherever, by virtue of the provisions of the Treaty between the United States of America and the United Mexican States, signed in Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico, specific functions are imposed on, or exclusive jurisdiction is vested in, either of the Sections of the International Boundary and Water Commission, which involve the construction or use of works for storage or conveyance of water, flood control, stream gaging, or for any other purpose, which are situated wholly within the territory of the country of that Section, and which are to be used only partly for the performance of treaty provisions, such jurisdiction shall be exercised, and such functions, including the construction, operation and maintenance of the said works, shall be performed and carried out by the Federal agencies of that country which now or hereafter may be authorized by domestic law to construct, or to operate and maintain, such works. Such functions or jurisdictions shall be exercised in conformity with the provisions of the Treaty and in cooperation with the respective Section of the Commission, to the end that all international obligations and functions may be coordinated and fulfilled.

February 3, 1944

774 MEXICAN WATER TREATY AND PROTOCOL

trol the distribution of water to users within the territorial limits of any of the individual States.

(d) That "international dam or reservoir" means a dam or reservoir built across the common boundary between the two countries.

(e) That the words "international plants", appearing in article 19, mean only hydroelectric generating plants in connection with dams built across the common boundary between the two countries.

(f) That the words "electric current", appearing in article 19, mean hydroelectric power generated at an international plant.

(g) That by the use of the words "The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary \* \* \*" in the first sentence of the fifth paragraph of article 2, is meant: "The jurisdiction of the Commission shall extend and be limited to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary \* \* \*."

(h) The word "agreements" whenever used in subparagraphs (a), (c), and (d) of article 24 of the treaty shall refer only to agreements entered into pursuant to and subject to the provisions and limitations of treaties in force between the United States of America and the United Mexican States.

(i) The word "disputes" in the second paragraph of article 2 shall have reference only to disputes between the Governments of the United States of America and the United Mexican States.

(j) First, that the one million seven hundred thousand acre-feet specified in subparagraph (b) of article 10 includes and is not in addition to the one million five hundred thousand acre-feet, the delivery of which to Mexico is guaranteed in subparagraph (a) of article 10; second, that the one million five hundred thousand acre-feet specified in three places in said subparagraph (b) is identical with the one million five hundred thousand acre-feet specified in said subparagraph (a); third, that any use by Mexico under said subparagraph (b) of quantities of water arriving at the Mexican points of diversion in excess of said one million five hundred thousand acre-feet shall not give rise to any future claim of right by Mexico in excess of said guaranteed quantity of one million five hundred thousand acre-feet of water.

(k) The United States recognizes a duty to require that the protective structures to be constructed under article 12, paragraph (a), of this treaty, are so constructed, operated, and maintained as to adequately prevent damage to property and lands within the United States from the construction and operation of the diversion structure referred to in said paragraph. (59 Stat. 1263)

EXPLANATORY NOTES

Treaties and Conventions with Mexico Regarding the Rio Grande and the Colorado River. The 1944 Treaty is one of a number of treaties and agreements that have been entered into with Mexico regard-

ing the Rio Grande and the Colorado and Tijuana Rivers.

Article V of the Treaty of Peace, Friendship, Limits, and Settlements, February 2, 1848 (effective May 30, 1848) (this treaty,

popularly known as the Treaty of Guadalupe Hidalgo, ended the war with Mexico), 9 Stat. 922, T.S. No. 207, made the middle of the channel of the Rio Grande the international boundary from its mouth to the point where it intersects the southern boundary of New Mexico. Article VI of the Treaty guaranteed to vessels and citizens of the United States the right of free passage in the Colorado River from the Gulf of California to U.S. territory; and Article VII guaranteed the free navigation of the Rio Grande (called the Rio Bravo del Norte in the treaty) below New Mexico to the citizens of both countries.

Article IV of the Treaty of December 30, 1853 (effective June 30, 1854) (this treaty is popularly known as the Gadsden treaty), 10 Stat. 1031, T.S. No. 208, continued the Rio Grande as the common boundary up to the parallel of  $31^{\circ} 47'$  north latitude and continued the navigation guarantee. Article IV also reaffirmed the right of passage of the Colorado River, and extended to the portion of the Colorado that now formed the common boundary under the Gadsden purchase the same stipulations that governed the international reach of the Rio Grande.

The Convention of November 12, 1884 (effective September 13, 1886), 24 Stat. 1011, T.S. No. 226, adopted for the international water boundary of the Rio Grande and the Rio Colorado the commonly accepted rules or principles of accretion and avulsion.

The Convention of March 1, 1889 (effective December 24, 1890), 26 Stat. 1512, T.S. No. 232, established the International Boundary Commission with power to decide disputes over boundary changes by reasons of changes in the channels of the Rio Grande or the Colorado Rivers, and to prevent alterations of the common boundary. The 1889 convention was effective for 5 years. It was extended by Conventions of October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, and December 22, 1899, and finally was made permanent by the Convention of November 21, 1900 (effective December 24, 1900), 31 Stat. 1936, T.S. No. 244, and the Treaty of 1944.

The Convention of March 20, 1905 (effective May 31, 1907), 35 Stat. 1863, T.S. No. 461, provided that in a number of specific existing cases and in future cases meeting specified criteria where the river channel changed as a result both of erosion and avulsion, leaving small portions of land known as "bancos" between the old bed and the new channel, the international boundary would follow the new channel rather than remaining in the old bed, as would have resulted from application of the

rules of Articles I and II of the Convention of November 12, 1884.

The Convention of May 21, 1906 (effective January 16, 1907), 34 Stat. 2953, T.S. No. 455, allocates between the U.S. and Mexico the waters of the Rio Grande above Fort Quitman, Texas, the point which for international purposes is considered to divide the Rio Grande between the Upper Rio Grande (river and basin) from the Lower Rio Grande (river and basin). The Convention generally obligates the United States to deliver 60,000 acre-feet of water annually to Mexico from the Upper Rio Grande in the bed of the river at the point where the head works of the Old Mexican Canal exist above the City of Juarez, Mexico. The 1906 Convention appears herein in chronological order.

The Convention of February 1, 1933 (effective November 10, 1933), 48 Stat. 1621, T.S. No. 864, provides for the rectification of the channel of the Rio Grande in the El Paso-Juarez Valley. This work is known as the Rio Grande rectification project.

On October 24, 1960, Presidents Eisenhower and Mateos entered into an agreement to proceed with the construction of Amistad Dam. 11 U.S.T. & O.I.A. 2396.

The Convention of August 29, 1963 (effective January 14, 1964), 15 U.S.T. & O.I.A. 21, provides a solution to the long-standing controversy over El Chamizal, an area of land in El Paso now on the north side of the river which in 1853 was on the south side of the river, by relocating the channel of the river and thereby transferring 823.50 acres from the north (U.S.) to the south (Mexican) side (386 already belonging to Mexico). The Act of April 29, 1964, Public Law 88-300, 78 Stat. 184, provides authority for the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, to implement the convention. For legislative history of the 1964 Act see S. 2394 in the 88th Congress; S. Rept. No. 868; H.R. Rept. No. 1233.

**Cross Reference: International Flood Control Project, Tijuana River.** The Act of October 10, 1966, 80 Stat. 884, authorized the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, to conclude an agreement with Mexico, in accordance with the provisions of this treaty, for the joint construction, operation and maintenance of an international flood control project for the Tijuana River. The 1966 Act appears herein in chronological order.

**Cross Reference: Lower Rio Grande Salinity Problem.** The Act of September 19,

February 26, 1944

ARTICLE I

A. The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the Basin) for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is required for the full development of the Basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

B. The physical and other conditions peculiar to the Basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

C. Either State and all others using, claiming or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State, shall be subject to the terms of this compact.

ARTICLE II

As used in this compact:

A. The term "Belle Fourche River" shall mean and include the Belle Fourche River and all its tributaries originating in Wyoming.

B. The term "Basin" shall mean that area in South Dakota and Wyoming which is naturally drained by the Belle Fourche River, and all its tributaries.

C. The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

D. Where the name of the State or the term "State" or "States" is used, these shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State.

ARTICLE III

It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

February 26, 1944

BELLE FOURCHE RIVER COMPACT

779

ARTICLE IV

Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water gaging stations as it finds necessary to administer this compact.

ARTICLE V

A. Wyoming and South Dakota agree that the unappropriated waters of the Belle Fourche River as of the date of this compact shall be allocated to each State as follows:

90% to South Dakota

10% to Wyoming;

Provided that allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity. For storage of its allocated water, Wyoming shall have the privilege of purchasing at cost not to exceed 10% of the total storage capacity of any reservoir or reservoirs constructed in Wyoming for irrigation of lands in South Dakota, or may construct reservoirs itself for the purpose of utilizing such water. Either State may temporarily divert, or store for beneficial use, any unused part of the above percentages allotted to the other, but no continuing right shall be established thereby.

B. Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under A of this Article, are agreed to be an equitable apportionment between the States of the waters of the Basin.

C. The waters allocated under A of this Article and the rights recognized under B of this Article are hereinafter referred to collectively as the apportioned water. For the purposes of the administration of this compact and determining the apportioned water at any given date within a given calendar year, there shall be taken the sum of:

(1) The quantity of water in acre-feet that passed the Wyoming-South Dakota State line during the period from January 1 of that year to that given date.

(2) The quantity of water in acre-feet in storage on that date in all reservoirs built in Wyoming on the Belle Fourche River subsequent to the date of this compact.

ARTICLE VI

Any person, entity, or State shall have the right to acquire necessary property rights in another State by purchase or through the exercise of the power of eminent domain for the construction, operation and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by Article V and Article VII A; provided, however, that the grantees of such rights shall pay to the political subdivisions

February 26, 1944

ple purposes, that beneficial use of the waters within the Basin is of paramount importance to development of the Basin, and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested Federal agencies and the State officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purpose.

C. The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned waters which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

ARTICLE XV

Should a court of competent jurisdiction hold any part of this compact to be contrary to the constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

In Witness Whereof the Commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done at the City of Cheyenne in the State of Wyoming, this 18th day of February, in the year of Our Lord, One Thousand Nine Hundred and Forty-three.

Commissioners for South Dakota:

(Sgd)	M. Q. Sharpe
	M. Q. SHARPE
(Sgd)	G. W. Morsman
	G. W. MORSMAN
(Sgd)	S. G. Mortimer
	S. G. MORTIMER
(Sgd)	W. D. Buchholz
	W. D. BUCHHOLZ

Commissioners for Wyoming:

(Sgd)	L. C. Bishop
	L. C. BISHOP
(Sgd)	Samuel McKean
	SAMUEL MCKEAN
(Sgd)	L. H. Robinson
	L. H. ROBINSON
(Sgd)	Mrs. E. E. McKean
	Mrs. E. E. MCKEAN

February 26, 1944

BELLE FOURCHE RIVER COMPACT

783

I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

(Sgd) Howard R. Stinson

HOWARD R. STINSON,

Representative of the United States of America.

**Sec. 2. [United States water rights with respect to the compact—Definitions.]**—(a) In order that the conditions stated in article XIV of the compact hereby consented to shall be met and that the compact shall be and continue to be operative, the following provisions are enacted:

(1) Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by such compact, shall be within the allocations made by such compact for use in that State and shall be taken into account in determining the extent of use within that State;

(2) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Belle Fourche River and all its tributaries shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of such compact and after consultation with all interested Federal agencies and the State officials charged with the administration of such compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes;

(3) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned water which may be impaired by the exercises of Federal jurisdiction in, over, and to such water: *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with such compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

(b) As used in this section, the following terms: "beneficial use," "Basin," and "apportioned water," shall have the same meanings as those ascribed to them in the compact consented to by this Act. (58 Stat. 99)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Presidential Statement.** The following statement was made by the President, on February 28, 1944:

"In signing the Belle Fourche River Basin Compact bill, I find it necessary to call attention, as I did last May in the case of the Republican River Compact bill, to the restrictions imposed upon the use of

water by the United States. The procedure prescribed by the bill for the exercise of the powers of the Federal Government would not be entirely satisfactory in all circumstances but the prospects in fact for the exercise of such powers in the Belle Fourche basin are not great. For streams where conditions are otherwise and there appears to be a possible need for Federal comprehensive multiple-purpose development or where

**FIRST DEFICIENCY APPROPRIATION ACT, 1944**

[Extracts from] An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1944, and for prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1944, and for other purposes. (Act of April 1, 1944, ch. 152, 58 Stat. 150)

\* \* \* \* \*

**TITLE I—GENERAL APPROPRIATIONS**

\* \* \* \* \*

Department of the Interior

\* \* \* \* \*

BUREAU OF RECLAMATION

[Authorization of temporary weir, Palo Verde Irrigation District.]—Colorado River front work and levee system: For an additional amount for the Colorado River front work and levee system, \$250,000, to be available for the construction, operation, and maintenance of a temporary weir in the Colorado River below the heading of the diversion canal for the Palo Verde Irrigation District, California: *Provided*, That the construction, operation, or maintenance of said weir shall not be deemed a recognition of any obligation or liability whatsoever on the part of the United States; and no part of said sum or other funds of the United States shall be expended for the construction, operation, or maintenance of said weir after six months from the date of the termination of the present war, as determined by proclamation of the President or concurrent resolution of the Congress. (58 Stat. 157)

\* \* \* \* \*

**EXPLANATORY NOTES**

**Not Codified.** The extract of the act. Law 279 in the 78th Congress, H.R. Rept. No. 1239. S. Rept. No. 772.

**Legislative History.** H.R. 4346, Public

June 5, 1944

## HUNGRY HORSE DAM

An act to provide for the partial construction of the Hungry Horse Dam on the South Fork of the Flathead River in the State of Montana, and for other purposes. (Act of June 5, 1944, ch. 234, 58 Stat. 270)

[**Sec. 1. Secretary authorized to proceed with the construction, operation, and maintenance—To impound not less than one million acre-feet of water.**]—For the purpose of irrigation and reclamation of arid lands, for controlling floods, improving navigation, regulating the flow of the South Fork of the Flathead River, for the generation of electric energy, and for other beneficial uses primarily in the State of Montana but also in down-stream areas, the Secretary of the Interior is authorized and directed to proceed as soon as practicable with the construction, operation, and maintenance of the proposed Hungry Horse Dam (including facilities for generating electric energy) on the South Fork of the Flathead River, Flathead County, Montana, to such a height as may be necessary to impound not less than one million acre-feet of water. The Hungry Horse project shall be subject to the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts amendatory thereof or supplementary thereto. (58 Stat. 270; Act of May 29, 1958, 72 Stat. 147; 43 U.S.C. § 593a)

### EXPLANATORY NOTE

**1958 Amendment.** The Act of May 29, 1958, 72 Stat. 147, amended section 1 by adding to it the last sentence as it appears above. The 1958 Act appears herein in chronological order.

**Sec. 2. [Completion of dam authorized for maximum usable and feasible capacity.]**—The Secretary of the Interior is authorized to complete, as soon as the necessary additional material is available, the construction of the Hungry Horse Dam so as to provide a storage reservoir of the maximum usable and feasible capacity. (58 Stat. 270; 43 U.S.C. § 593a)

**Sec. 3. [Additional works for irrigation purposes.]**—The Secretary of the Interior is authorized to construct, operate, and maintain under the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), such additional works as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and findings thereon have been made by the Secretary of the Interior as provided in such Federal reclamation laws; and, within the limits of the water users' repayment ability, such report may be predicated on allocation to irrigation of an appropriate portion of the cost of constructing said dam and reservoir. Said dam and reservoir and said irrigation works may be utilized for irrigation purposes only pursuant to the provisions of said Federal reclamation laws. (58 Stat. 271; 43 U.S.C. § 593b)

**Sec. 4. [Appropriation authorized.]**—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. (58 Stat. 271)

June 5, 1944

HUNGRY HORSE DAM

787

**EXPLANATORY NOTES**

**Not Codified.** Section 4 of this Act is not codified in the U.S. Code.  
Legislative History. H.R. 3570, Public Law 329 in the 78th Congress. H.R. Rept. No. 1193. S. Rept. No. 862.

June 17, 1944

## AMENDED CONTRACT AND ADJUSTMENT OF LANDS AND REVENUES, KLAMATH PROJECT

An act to approve a contract negotiated with the Klamath Drainage District and to authorize its execution, and for other purposes. (Act of June 17, 1944, ch. 261, 58 Stat. 279)

[**Sec. 1. Congress approves contract.**

**Sec. 2. [Special provisions.]**—In aid of the administration of this contract and for other purposes—

(a) The Act of May 27, 1920 (ch. 209, 41 Stat. 627), is hereby repealed.  
(b) Lands owned by the United States, ceded by the States of California and Oregon pursuant to the Act of February 3, 1905 (Cal. Stat. 1905, p. 4, and of January 20, 1905 (L. Oreg. 1905, ch. 5, p. 63), lying in Klamath County, Oregon, west of range 11 east, Willamette meridian, and in Siskiyou County, California, west of range 4 east, Mount Diablo meridian, shall be subject to all applicable provisions of the Federal reclamation laws concerning entry and patent, except that any part of these lands administered by the Fish and Wildlife Service pursuant to the existing agreement with the Bureau of Reclamation, as this may be amended from time to time with the approval of the Secretary, shall not be opened to entry.

(c) Net revenues heretofore and hereafter received from lands owned by the United States within the district boundaries shall be covered into the reclamation fund and shall be applied: First, to offset the balance of \$47,627.89 as to which the district's obligation is to be released under the proposed contract; second, to offset the balance of the charges heretofore apportioned to the Government-owned lands in Klamath County, Oregon, pursuant to the Act of May 27, 1920, supra, amounting to \$36,714.37; third, to offset the balance of charges allocated as of December 31, 1942, to the Lower Klamath Lake Division; and, fourth, as an increment to the reclamation fund without further application to project construction costs. (58 Stat. 279; 43 U.S.C. § 612)

(d) *Repealed.*

### EXPLANATORY NOTES

**Provision Repealed.** Subsection 2(e) of the Act of August 1, 1956, 70 Stat. 799, which appears herein in chronological order, repealed subsection 2(d), but provided that the repeal shall not affect the application of net revenues received prior to January 1, 1943, which was made by the second sentence of the subsection. The repealed subsection read as follows:

"(d) The lands in Siskiyou County, Cali-

fornia, west of range 4 east, Mount Diablo meridian, and in the vicinity of Lower Klamath Lake, including the lands heretofore uncovered by the changing level of that lake, shall be deemed to be from and after December 31, 1942, part of the Modoc unit of the Tule Lake Division of the Klamath project. Net revenues which have accrued from Government-owned lands under the primary jurisdiction of the Bureau

June 17, 1944

MISCELLANEOUS ADJUSTMENTS, KLAMATH PROJECT 789

of Reclamation in that area prior to January 1, 1943, shall be applied to offset the balance of the charges allocated to the Lower Klamath Lake Division. Net revenues accruing from and after December 31, 1942, from such Government-owned lands shall be covered into the reclamation fund and applied: First, to offset the costs heretofore or hereafter incurred in connection with the completion of the Modoc unit; and, second, as an increment to the reclamation fund without further application to project construction costs."

**Exemption.** The Public Works Appropri-

ation Act, 1964, Act of December 31, 1963, 77 Stat. 850, authorizes certain leasing revenues to be credited to the Klamath project water rights program notwithstanding the provisions of section 2(c) of the Act of June 17, 1944, and sections 2(a), 2(b), and 2(c) of the Act of August 1, 1956. The referenced provision appears herein in chronological order.

**Reference in the Text.** The Act of May 27, 1920 (ch. 209, 41 Stat. 627), which is repealed by subsection 2(a), and referred to in subsection 2(c), appears herein in chronological order as a note.

**Sec. 3. [Act to be part of the reclamation laws.]**—This Act is declared to be a part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939. (58 Stat. 280; 43 U.S.C. § 612, note)

EXPLANATORY NOTE

**Legislative History.** H.R. 3476, Public Law 342 in the 78th Congress. H.R. Rept.

NOTE OF OPINION

**1. Homestead entry**

The Secretary of the Interior has the authority, but is not required, to open for homestead entry under the reclamation laws any or all of the lands, whether ceded by the states of California or Oregon or

public lands in the Tule Lake Unit of the Tule Lake Wild Life Refuge, and the Klamath Straits Unit, the Sheepy Lake West Unit, and the Sheepy Lake East Unit of the Klamath Lake Reservation for the protection of native birds. Solicitor White Opinion, M-36157 (December 12, 1952).

June 28, 1944

790

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1945

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1945, and for other purposes. (Act of June 28, 1944, ch. 298, 58 Stat. 463)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

[Central Valley project—Power revenues.]—Not to exceed \$400,000 from power revenues shall be available for the operation and maintenance of the power system. (58 Stat 487)

#### EXPLANATORY NOTE

**Provision Repeated.** A similar appropriation of power revenues for operation and maintenance purposes of the Central Valley project is contained in each subsequent an-

nual Interior Department Appropriation Act through the Act of October 12, 1949, 63 Stat. 780.

\* \* \* \* \*

[General provisions—Operation and maintenance administration.]—Operation and maintenance administration: For expenses incident to the general administration of Reclamation projects operated and maintained or under construction by the Bureau or transferred to water users' organizations for operation and maintenance, and incident to the sale of acquired lands or interests therein and public lands under reclamation withdrawal where permitted under the Federal Reclamation Laws, including giving information and advice to settlers and to water users' organizations on Reclamation projects in the selection of lands, equipment, and livestock, the classification or reclassification of lands, the preparation of land for irrigation, the selection of crops, methods of irrigation and agricultural practice, and general farm management, the cost of which shall be charged to the general reclamation fund and shall not be charged as a part of the construction or operation and maintenance cost payable by the water users under the projects, \$200,000. (58 Stat. 487)

#### EXPLANATORY NOTE

**Provision Continued.** Each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act there-

after through the most recent one, the Act of October 15, 1966, 80 Stat. 1002, incorporate the above provision by reference.

\* \* \* \* \*

[Boulder Canyon project—Adjustment for costs of Boulder City.]—Boulder Canyon project: . . . *Provided*, That on or before June 1, 1946, the Secretary shall report to the Congress on expenditures incurred and revenues received in the construction, operation, and maintenance of Boulder City, together with his recommendations for allocation and adjustment of such expenditures and revenues between the construction, operation, and maintenance of the Boulder

June 28, 1944

INTERIOR DEPARTMENT APPROPRIATION ACT, 1945 791

Canyon project and other Federal activities; and that such expenditures from the Colorado River Dam fund prior to such allocation and adjustment, under this or other appropriation acts heretofore or hereafter enacted, shall be without prejudice to the rights, if any, of power contractors to have adjustments, with respect to such expenditures, made to accord with the substantive provisions of the Boulder Canyon Project Adjustment Act. (58 Stat. 489)

EXPLANATORY NOTE

**Cross Reference.** The Interior Department Appropriation Act, 1949, Act of June 29, 1948, 62 Stat. 1130, and the subsequent appropriation acts contain further provisions relating to adjustments for non-project costs. The provisions appear herein in chronological order.

\* \* \* \* \*

[Colorado River—Purchase of lands subject to seepage or overflow—Protection of Needles.]—To defray the cost of operating and maintaining the Colorado River front work and levee system adjacent to the Yuma Federal irrigation project in Arizona and California, and to defray the cost of other necessary protection works along the Colorado River between said Yuma project and Boulder Dam, as authorized by the act of July 1, 1940 (54 Stat. 708), to be immediately available, \$340,000, of which not to exceed \$100,000 may be expended for the purchase of lands subject to seepage or overflow and improvements thereon: *Provided*, That the expenditure of any moneys for the purchase of said lands and improvements or for remedial or other necessary works for the protection of public or private property in or near the city of Needles, California, shall not be deemed a recognition of any obligation or liability whatsoever on the part of the United States: *Provided further*, That any moneys received by the United States as reimbursement in accordance with contracts heretofore entered into under the authority of the act of December 21, 1928 (45 Stat. 1057), as amended, and ratified by the act of August 30, 1935 (49 Stat. 1028), for work in or near said city of Needles, shall be covered into the Treasury as miscellaneous receipts. (58 Stat. 489)

EXPLANATORY NOTES

**Provision Repeated.** Similar provisions relating to the purchase of lands and the protection of property in or near Needles are contained in the Interior Department Appropriation Act, 1946, Act of July 3, 1945, 59 Stat. 343.

**References in the Text.** The Act of

July 1, 1940, relates to the Colorado River Front Work and Levee System. The Act of December 21, 1928, cited in the text, is the Boulder Canyon Project Act. The Act of August 30, 1935, is the River and Harbor Act of 1935. These acts appear herein in chronological order.

NOTE OF OPINION

1. **Valuation of improvements**

In view of the legislative intent, funds appropriated in the Interior Department Appropriation Acts 1945 and 1946, for the purchase of lands, near Needles, California, subject to seepage and overflow and im-

provements thereon, may properly be regarded as a relief measure for the benefit of the owners and payment of the appraised value of improvements subsequently destroyed by fire is authorized. Dec. Comp. Gen. B-59368 (September 4, 1946).

\* \* \* \* \*

June 28, 1944

792 INTERIOR DEPARTMENT APPROPRIATION ACT, 1945

**Sec. 11. [Short title.]**—This Act may be cited as the "Interior Department Appropriation Act, 1945". (58 Stat. 508)

EXPLANATORY NOTES

**Not Codified.** Extracts of this act shown here are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 4679, Public Law 369 in the 78th Congress. H.R. Rept. No. 1395. S. Rept. No. 899. H.R. Rept. No. 1678 (conference report).

## CONVEYANCE OF LANDS TO UNIVERSITY OF WYOMING

An act authorizing the Secretary of the Interior to convey certain lands in Powell townsite, Wyoming, Shoshone reclamation project, Wyoming, to the University of Wyoming.  
(Act of December 15, 1944, ch. 590, 58 Stat. 807)

[**Sec. 1. Secretary authorized to issue patent.**]—The Secretary of the Interior is hereby authorized and directed to cause a patent to issue conveying that unplatted portion of the townsite of Powell, Wyoming, on the Shoshone reclamation project, located in the northwest corner of the townsite, containing approximately twenty-four acres, to the University of Wyoming; but in said patent there shall be reserved to the United States all oil, coal, and other mineral deposits within said lands and the right to prospect for, mine, and remove the same. (58 Stat. 807)

**Sec. 2. [Forfeiture of grant if terms not complied with.]—Repealed.**

### EXPLANATORY NOTES

**1954 Amendment.** The Act of May 17, 1954, 68 Stat. 100, which appears herein in chronological order, amended section 1 by striking ", in trust for use as an agricultural experiment station;" which followed the words "University of Wyoming". It also repealed section 2 entirely. The repealed section read as follows: "SEC. 2. The conveyance herein authorized shall be made upon the express condition that any use to which the area is put shall comply with all town ordinances and that within thirty days of the receipt of any request therefor from the Secretary of the Interior, the president of the University of Wyoming shall submit a report as to the use made of the land herein granted the university during the preceding period named in such request, showing compliance with the terms and conditions stated in this Act; and that in the event of his failure to so report, or in the event of a showing in such report to

the Secretary of the Interior that the terms of the grant have not been complied with, the grant shall be held to be forfeited and the title shall revert to the United States, and the Secretary of the Interior is hereby authorized and empowered to determine the facts and declare such forfeiture and such reversion and restore said land to the public domain, and such order of the Secretary shall be final and conclusive." The 1954 Act also empowered the Secretary of the Interior to execute and deliver to the University of Wyoming any documentary evidence which he may determine to be necessary to carry out the intention of the Act.

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** H.R. 4665, Public Law 487 in the 78th Congress. H.R. Rept. No. 1977. S. Rept. No. 1371.

December 16, 1944

794

## AMEND ACQUISITION OF INDIAN LANDS FOR GRAND COULEE DAM AND RESERVOIR ACT

An act to amend section 1, Act of June 29, 1940 (54 Stat. 703), for the acquisition of Indian lands for the Grand Coulee Dam and Reservoir, and for other purposes. (Act of December 16, 1944, ch. 601, 58 Stat. 813)

[In special circumstances lands may be taken above elevation 1310—Lands taken for operation and maintenance.]—The first paragraph of section 1 of the Act approved June 29, 1940 (54 Stat. 703), [is] amended to read as follows: “That, in aid of the construction, operation and maintenance of the Columbia Basin project (formerly the Grand Coulee Dam project), authorized by the Act of August 30, 1935 (49 Stat. 1028), the Act of August 4, 1939 (53 Stat. 1187), and the Columbia Basin Project Act (Public, Numbered 8, Seventy-eighth Congress, first session, 57 Stat. 14), there is hereby granted to the United States, subject to the provisions of this Act, (a) all the right, title, and interest of the Indians in and to the tribal and allotted lands within the Spokane and Colville Reservations, including sites of agency and school buildings and related structures and unsold lands in the Klaxta town site, as may be designated therefor by the Secretary of the Interior from time to time: *Provided*, That no lands shall be taken for reservoir purposes above the elevation of one thousand three hundred and ten feet above sea level as shown by General Land Office surveys, except in Klaxta town site and except where in the judgment of the Secretary of the Interior, special circumstances concerning the reservoir or its operation and maintenance require the taking of land above that elevation; and (b) such other interests in or to any such lands and property within these reservations as may be required and as may be designated by the Secretary of the Interior from time to time for the construction of pipe lines, highways, railroads, telegraph, telephone, and electric-transmission lines in connection with the project, or for the relocation or reconstruction of such facilities made necessary by the construction of the project.” (58 Stat. 813; 16 U.S.C. § 835d)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of June 29, 1940.

**References in the Text.** The Acts of August 30, 1935 (49 Stat. 1028), authorizing the Grand Coulee Dam, and of August 4, 1939 (53 Stat. 1187), the Reclamation Project Act of 1939, and the Columbia

Basin Project Act, enacted March 10, 1943, referred to in the text, appear herein in chronological order.

**Legislative History.** S. 1597, Public Law 497 in the 78th Congress. S. Rept. No. 827. H.R. Rept. No. 2003. H.R. Rept. No. 1752 (on H.R. 3869).

### ALVA B. ADAMS TUNNEL

An act to provide that the transmountain tunnel constructed in connection with the Colorado-Big Thompson project shall be known as the "Alva B. Adams Tunnel". (Act of December 20, 1944, ch. 622, 58 Stat. 835)

[Designation of tunnel.]—The transmountain tunnel constructed in connection with the Colorado-Big Thompson reclamation project shall hereafter be known as the "Alva B. Adams Tunnel". (58 Stat. 835)

#### EXPLANATORY NOTES

Not Codified. This Act is not codified

Legislative History. S. 1571, Public Law 517 in the 78th Congress. S. Rept. No. 958. H.R. Rept. No. 2037.

December 22, 1944

796

## FLOOD CONTROL ACT OF 1944

[Extracts from] An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes. (Act of December 22, 1944, ch. 665, 58 Stat. 887)

[Sec. 1. Policy of Congress—Federal-State cooperation in plans—Review of project proposals—Reports to Congress—Proposed works to which objections are made not to be deemed authorized unless by Act of Congress.]—In connection with the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is hereby declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.

In conformity with this policy:

(a) Plans, proposals, or reports of the Chief of Engineers, War Department, for any works of improvement for navigation or flood control not heretofore or herein authorized, shall be submitted to the Congress only upon compliance with the provisions of this paragraph (a). Investigations which form the basis of any such plans, proposals, or reports shall be conducted in such a manner as to give to the affected State or States, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. If such investigations in whole or part are concerned with the use or control of waters arising west of the ninety-seventh meridian, the Chief of Engineers shall give to the Secretary of the Interior, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. The relations of the Chief of Engineers with any State under this paragraph (a) shall be with the Governor of the State or such official or agency of the State as the Governor may designate. The term "affected State or States" shall include those in which the works or any part thereof are proposed to be located; those which in whole or part are both within the drainage basin involved and situated in a State lying wholly or in part west of the ninety-eighth meridian; and such of those which are east of the ninety-eighth meridian as, in the judgment of the Chief of Engineers, will be substantially affected. Such plans, proposals, or reports and

related investigations shall be made to the end, among other things, of facilitating the coordination of plans for the construction and operation of the proposed works with other plans involving the waters which would be used or controlled by such proposed works. Each report submitting any such plans or proposals to the Congress shall set out therein, among other things, the relationship between the plans for construction and operation of the proposed works and the plans, if any, submitted by the affected States and by the Secretary of the Interior. The Chief of Engineers shall transmit a copy of his proposed report to each affected State, and, in case the plans or proposals covered by the report are concerned with the use or control of waters which rise in whole or in part west of the ninety-seventh meridian, to the Secretary of the Interior. Within ninety days from the date of receipt of said proposed report, the written views and recommendations of each affected State and of the Secretary of the Interior may be submitted to the Chief of Engineers. The Secretary of War shall transmit to the Congress, with such comments and recommendations as he deems appropriate, the proposed report together with the submitted views and recommendations of affected States and of the Secretary of the Interior. The Secretary of War may prepare and make said transmittal any time following said ninety-day period. The letter of transmittal and its attachments shall be printed as a House or Senate document.

(b) The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

(c) The Secretary of the Interior, in making investigations of and reports on works for irrigation and purposes incidental thereto shall, in relation to an affected State or States (as defined in paragraph (a) of this section), and to the Secretary of War, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of War. In the event a submission of views and recommendations, made by an affected State or by the Secretary of War pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and subsection 9(a) of the Reclamation Project Act of 1939 (53 Stat. 1187) and subsection 3(a) of the Act of August 11, 1939 (53 Stat. 1418), as amended, are hereby amended accordingly. (58 Stat. 887; 33 U.S.C. § 701-1)

#### EXPLANATORY NOTES

**Provisions Repeated.** Language identical to that contained in section 1 above is repeated in section 1 of the Rivers and Harbors Act of 1945. These provisions are incorporated by reference in the Flood Control Acts of 1950, 1954 and 1965.

**References in the Text.** The Reclamation Project Act of 1939 (53 Stat. 1187), was enacted August 4, 1939. The Act of August 11, 1939 (53 Stat. 1418), is the Water Conservation and Utilization Act. Both Acts appear herein in chronological order.

December 22, 1944

Cross Reference, Glendo Unit, Missouri River Basin Project. Section 2 of the Joint Resolution of July 16, 1954, 68 Stat. 486, provides that "With respect to the Glendo

Unit, the provisions of section 1(c) of the Flood Control Act of 1944 are hereby waived." The Resolution appears herein in chronological order.

NOTES OF OPINIONS

Priority of uses 2  
Water rights 1

1. Water rights

The language in the first paragraph of section 1 stating a policy of Congress, inter alia, to "protect to the fullest extent possible established and potential uses," was not to prohibit the taking of state-created water rights by eminent domain, but rather to assure that just compensation would be provided in the event of such taking. *Turner v.*

*Kings River Conservation Dist.*, 360 F. 2d 184, 192-93 (9th Cir. 1966).

2. Priority of uses

The use of water for the generation of hydroelectric energy is an "industrial use" within the meaning of the O'Mahoney-Millikin Amendment, § 1(b) of the Flood Control Act of 1944, and therefore it has a statutory priority over the use of water for navigational purposes. Letter of Solicitor Barry to Assistant Attorney General Katzenbach, June 15, 1961.

Sec. 2. [Jurisdiction of Secretaries of the Army and of Agriculture.]—The words "flood control" as used in section 1 of the Act of June 22, 1936, shall be construed to include channel and major drainage improvements, and that hereafter Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the War Department under the direction of the Secretary of War and supervision of the Chief of Engineers, and Federal investigations of watersheds and measures for run-off and water-flow retardation and soil-erosion prevention on watersheds shall be under the jurisdiction of and shall be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture, except as otherwise provided by Act of Congress. (58 Stat. 889; 33 U.S.C. § 701a-1)

EXPLANATORY NOTES

Reference in the Text. The Act of June 22, 1936, referred to in the text, is the Flood Control Act of 1936. Section 1 of the Act is a Declaration of Congressional Policy that, destructive floods being a national menace, flood control on navigable waters or their tributaries is a proper activity of the Federal Government in coopera-

tion with the States, their political subdivisions, and localities thereof. The Act appears herein in chronological order.

Earlier Provisions. Similar provisions appeared in section 2 of the Flood Control Act of 1936 and the Flood Control Act of 1938. Extracts from these Acts appear herein in chronological order.

NOTE OF OPINION

1. Purpose

The statement in section 2 of the Flood Control Act of 1944 that investigations of flood control shall be under the jurisdiction of the War Department was intended to differentiate between the relative roles of the War Department and the Depart-

ment of Agriculture, and does not prevent the Bureau of Reclamation from investigating multiple-purpose projects that include flood control, such as the Pleasant Valley development on the Snake River. Solicitor Bennett Opinion, 65 I.D. 129 (1958).

Sec. 3. [Local cooperation in Federal projects.]—Section 3 of the Act approved June 22, 1936 (Public Numbered 738, Seventy-fourth Congress), as amended by section 2 of the Act approved June 28, 1938 (Public, Numbered 761, Seventy-fifth Congress), shall apply to all works authorized in this Act, except

that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936, shall apply thereto, and except as otherwise provided by law: *Provided*, That the authorization for any flood-control project herein adopted requiring local cooperation shall expire five years from the date on which local interests are notified in writing by the War Department of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of War that the required cooperation will be furnished. (58 Stat. 889; 33 U.S.C. § 701c, note)

#### EXPLANATORY NOTES

**Provision Repeated.** A similar provision was contained in the Act of August 18, 1941, 55 Stat. 638, and in the subsequent Acts of July 24, 1946, 60 Stat. 641; June 30, 1948, 62 Stat. 1175; May 17, 1950, 64 Stat. 170; September 3, 1954, 68 Stat. 1256; and of November 7, 1966, 80 Stat. 1418.

**Reference in the Text.** Section 3 of the Act approved June 22, 1936 (Public, Num-

bered 738, Seventy-fourth Congress), as amended by section 2 of the Act approved June 28, 1938 (Public, Numbered 761, Seventy-fifth Congress), referred to in the text, deals with the required financial participation of States and their political subdivisions in flood control projects. Extracts from both Acts, including the sections referred to, appear herein in chronological order.

**Sec. 4. [Recreation facilities at Army water resource development projects—Leases at such projects for other purposes—Natural resources development—Disposition of revenues.]**—The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to construct, maintain, and operate public park and recreational facilities at water resource development projects under the control of the Department of the Army, to permit the construction of such facilities by local interests (particularly those to be operated and maintained by such interests), and to permit the maintenance and operation of such facilities by local interests. The Secretary of the Army is also authorized to grant leases of lands, including structures or facilities thereon, at water resource development projects for such periods, and upon such terms and for such purposes as he may deem reasonable in the public interest: *Provided*, That leases to nonprofit organizations for park or recreational purposes may be granted at reduced or nominal considerations in recognition of the public service to be rendered in utilizing the leased premises: *Provided further*, That preference shall be given to Federal, State, or local governmental agencies, and licenses or leases where appropriate, may be granted without monetary considerations, to such agencies for the use of all or any portion of a project area for any public purpose, when the Secretary of the Army determines such action to be in the public interest, and for such periods of time and upon such conditions as he may find advisable: *And provided further*, That in any such lease or license to a Federal, State, or local governmental agency which involves lands to be utilized for the development and conservation of fish and wildlife, forests, and other natural resources, the licensee or lessee may be authorized to cut timber and harvest crops as may be necessary to further such beneficial uses and to collect and utilize the proceeds of any sales of timber and crops in the development, conservation, maintenance, and utilization of such lands. Any balance of proceeds not so utilized shall be paid to the United States at such time or times as the Secretary of the Army may determine appro-

December 22, 1944

800

FLOOD CONTROL ACT OF 1944—SEC. 5

priate. The water areas of all such projects shall be open to public use generally for boating, swimming, bathing, fishing, and other recreational purposes, and ready access to and exit from such areas along the shores of such projects shall be maintained for general public use, when such use is determined by the Secretary of the Army not to be contrary to the public interest, all under such rules and regulations as the Secretary of the Army may deem necessary. No use of any area to which this section applies shall be permitted which is inconsistent with the laws for the protection of fish and game of the State in which such area is situated. All moneys received by the United States for leases or privileges shall be deposited in the Treasury of the United States as miscellaneous receipts. (58 Stat. 889; § 4, Act of July 24, 1946, 60 Stat. 642; § 209, Act of September 3, 1954, 68 Stat. 1266; § 207, Act of October 23, 1962, 76 Stat. 1195; § 2(a), Act of September 3, 1964, 78 Stat. 899; 16 U.S.C. § 460d)

EXPLANATORY NOTES

**1964 Amendment.** Section 2(a) of the Land and Water Conservation Fund Act of 1965 (enacted September 3, 1964), amended Section 4, as amended by the Flood Control Act of 1962 (76 Stat. 1195) by deleting “, without charge,” which appeared after the word “generally” in the third sentence from the end of the section. The 1964 Act appears herein in chronological order.

**1962 Amendment.** Section 207 of the Flood Control Act of 1962 (76 Stat. 1195), amended section 4 of this Act by substitut-

ing references to water resource development projects for references to reservoir areas wherever appearing, and by authorizing the Chief of Engineers to permit the construction, maintenance and operation of facilities by local interests.

**1954 Amendment.** The Act of September 3, 1954, 68 Stat. 1266, amended the section generally.

**1946 Amendment.** The Act of July 24, 1946, 60 Stat. 642, amended the section by inserting the first proviso.

**Sec. 5. [Surplus electric power and energy generated at Army projects shall be marketed by Secretary of the Interior—Rate schedules—Construction of transmission facilities—Preference customers—Disposition of revenues.]—** Electric power and energy generated at reservoir projects under the control of the War Department and in the opinion of the Secretary of War not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives,

and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts (58 Stat. 890; 16 U. S. C. § 825s)

#### EXPLANATORY NOTES

**Southwestern Power Administration.** The Southwestern Power Administration, which was created by the Secretary of the Interior in 1943, is designated as the agency to market available surplus electric power and energy at the following reservoir projects pursuant to section 5 of the Flood Control Act of 1944: Beaver, Blakely Mountain, Broken Bow, Bull Shoals, Clarence Cannon, Dardanelle, DeGray, Denison, Eufaula, Fort Gibson, Greers Ferry, Kaysinger Bluff, Keystone, Narrows, Norfork, Ozark Lock and Dam, Robert S. Kerr, Sam Rayburn, Stockton, Table Rock, Tenkiller Ferry, Webber Falls Lock and Dam, and Whitney. 270 DM 2.1.

**Southeastern Power Administration.** The Southeastern Power Administration was created by the Secretary of the Interior in 1950 to carry out functions under section 5 of the Flood Control Act of 1944 pertaining to the transmission and disposition of surplus electric power and energy generated at reservoir projects which are or may be under the control of the Department of the Army in the States of West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and Kentucky. 165 DM 1.1

**Cumberland Projects Rates Controversy.** On December 18, 1948, the Secretary of the Interior entered into an agreement to sell to the Tennessee Valley Authority the entire output of the Department of the Army Wolf Creek, Center Hill, and Dale Hollow projects on the Cumberland River and its tributaries. On September 15, 1955, the Secretary submitted the rates and charges of the contract as amended to the Federal Power Commission for confirmation and approval. By its order of May 20, 1958, the Commission disapproved the rate schedules on the grounds that the incremental method of allocating costs was not proper and that an interest rate of 2.5%, rather than 2%, should be used. 19 F.P.C. 774 (1958). The Department continued to honor the contractual rate schedule, however, and reported the disagreement with the Commission to the Congress on May 5, 1959. In October and November 1964, the Secretary filed a substitute rate schedule with the Commission that follows the incremental method of cost allocation but utilizes a 2.5% interest rate. The revised schedule was approved by order of the Commission on December 23, 1964. 32 F.P.C. 1523 (1964).

#### NOTES OF OPINIONS

Amendment of contracts	10
Construction with other laws	1
Delegation	4
Federal Power Act	2
Judicial proceedings	3
Missouri River Basin project	11
Preference clause	6
Purchases of power	7
Repayment of costs	9
Studies	5
Transmission lines	8

##### 1. Construction with other laws

The preference provisions of section 5 of the Flood Control Act of 1944 must be read in *pari materia* with the preference provisions of section 5(c) of the Boulder Canyon Project Act (43 U.S.C. § 617d(c)), the Tennessee Valley Authority Act (16 U.S.C. § 831k), and Section 4 of the Bonneville Project Act (16 U.S.C. § 832c(d)). 41 Op. Atty Gen. 236, 245 (1955), in re disposition of power from Clark Hill reservoir project.

The provisions relating to power marketing and power rates in section 9(c) of the

Reclamation Project Act of 1939, section 5 of the Flood Control Act of 1944, and section 6 of the Bonneville Power Act are *in pari materia*, and each may be examined to shed light on the Congressional intent with respect to the others. Indeed, as a practical matter, as illustrated by the Bonneville Power Administration, because a single system may be used to market power from three different sources, the three statutes have to be read together and interpreted as establishing identical criteria for power rates. Consequently, the mandate of the Flood Control Act of 1944 to market power from Army projects "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles," applies also to power marketed from reclamation projects under reclamation law. Letter of Secretary Udall to Representative Aspinwall, May 15, 1965, in re basis for establishing power rates for the Colorado River Storage Project.

December 22, 1944

## 2. Federal Power Act

The Secretary of the Interior and an association of power cooperatives have standing to petition for judicial review of an order of the Federal Power Commission granting a license to a private power company to construct a hydroelectric generating plant on a site (Roanoke Rapids) allegedly approved by Congress for Federal development. *United States ex rel Chapman v. Federal Power Commission*, 345 U.S. 153 (1953), *reversing on this ground* 191 F. 2d 796 (4th Cir. 1951).

The authority of the Federal Power Commission under section 5 of the Flood Control Act of 1944 is limited to the review of rates submitted by the Secretary for future application and does not extend to the adjudication of the legal rights of others, and therefore the Commission is without jurisdiction to pass upon the validity and continued applicability of rates specified in an existing contract between the Southwestern Power Administration and Arkansas Power and Light Co. and Reynolds Metals Co. 18 F.P.C. 153, 156-57 (1957).

## 3. Judicial proceedings

The competition which private electric power companies would suffer as the result of contracts between the Southwestern Power Administration and five federated cooperatives does not constitute a sufficient interest to enable the power companies to sue to enjoin implementation of the contracts. *Kansas City Power & Light Co. v. McKay*, 225 F. 2d 924 (D.C. Cir. 1955), *cert. denied*, 350 U.S. 884 (1955).

## 4. Delegation

The 1945 reestablishment of the Southwestern Power Administration by the Secretary of the Interior (Departmental Order No. 2135, 10 F.R. 14527) to carry out in the southwestern area the functions vested in him by section 5 of the Flood Control Act of 1944, seems clearly within the general authority of the Secretary to determine, and to make appropriate provisions concerning, the manner in which the business of the Department shall be distributed and performed (R.S. 161; 5 U.S.C. § 22). Solicitor White Opinion, 59 I.D. 449 (1947).

The action of the Secretary of the Interior in requesting passage of the Act of December 19, 1941, must be regarded as an effort to obtain specific authority to delegate to officials of the Bureau of Reclamation those functions, if any, under the reclamation laws which could not otherwise be delegated to subordinate officials of the Department. Consequently, the Act of December 19, 1941, does not preclude the

Secretary from assigning to the Southwestern Power Administration the function of marketing power from reclamation projects. Solicitor White Opinion, 59 I.D. 453 (1947).

## 5. Studies

The Secretary of the Interior has implied authority under section 5 of the Flood Control Act of 1944 to conduct studies on power marketing in those areas respecting which the Army Engineers are concluding surveys looking toward possible reservoir developments. The Secretary also has express authority under section 3 of the Flood Control Act of March 1, 1917, to detail departmental representatives to assist the Army Engineers in the study and examination of watersheds. Solicitor White Opinion, M-36080 (May 16, 1951), *in re* power study in the New England-New York area.

## 6. Preference clause

When the Secretary of the Interior has before him two competing proposals to purchase power from a reservoir project under the control of the Department of the Army, one proposal by a preference customer lacking transmission facilities (Georgia Electric Membership Corporation) and one from a non-preference customer possessing such facilities (Georgia Power Company), the Secretary must contract with the preference customer on the condition that such customer will, within a reasonable time to be fixed by the Secretary, obtain the means for taking and delivering the power. If within such period the preference customer does not meet the conditions, the Secretary is authorized to contract with the non-preference customer, with adequate provision, however, enabling the Secretary to deal with the preference customer should it subsequently obtain the means to take and deliver the power. 41 Op. Atty. Gen. 236 (1955), *in re* disposition of power from Clark Hill reservoir project.

The disposition of electric energy to a private company under an arrangement whereby it agrees to sell an equivalent amount of power to preference customers designated by the Secretary does not constitute the granting of preference in "the sale" of power to public bodies and cooperatives as required by section 5 of the Flood Control Act of 1944. 41 Op. Atty. Gen. 236, 244 (1955), *in re* disposition of power from Clark Hill reservoir project.

## 7. Purchases of power

Section 5 of the Flood Control Act of 1944 authorizes the Secretary to construct or acquire steam generating plants where in fact the proper marketing of the surplus

hydroelectric power requires that such power be supplemented by steam facilities. Letter of Solicitor Gardner to Charles D. Curran, Bureau of the Budget, November 16, 1945; reprinted in *Hearings on the Interior Department Appropriation Bill for 1947 Before the House Committee on Appropriations*, 79th Cong., 2d Sess., part 3: Southwestern Power Administration, at 73 (1946).

The Secretary has authority under section 5 of the Flood Control Act of 1944 to purchase supplemental power for resale to firm up Federal hydroelectric power. Memorandum of Chief Counsel Fix to Commissioner, October 15, 1948.

The Southwestern Power Administration is authorized under section 5 of the Flood Control Act of 1944 to rent transmission lines and related facilities and to purchase electric power and energy to the extent necessary to firm up the hydroelectric power distributed by the Administration from Army reservoir projects and thus achieve the statutory objective of the most widespread use of such hydroelectric power. Solicitor White Opinion M-36009 (July 15, 1949).

Both the purchase by the Southwestern Power Administration of thermal energy generated at steam plants owned by electric cooperatives, which purchase is reasonably incidental to the integration of hydroelectric power generated at the Federal projects, and the lease of transmission lines of the cooperatives are within the scope of section 5 of the Flood Control Act of 1944. *Kansas City Power & Light Co. v. McKay*, 115 F. Supp. 402, 417-18 (D.D.C. 1953), judgment vacated for lack of capacity to sue, 225 F. 2d 924 (D.C. Cir. 1955), cert. denied, 350 U.S. 884 (1955).

#### **8. Transmission lines**

The Secretary of the Interior has authority under subsection 2(b), 2(f), 5(a), 5(b) and 9(b) of the Bonneville Project Act; section 5 of the Flood Control Act of 1944; sections 9(c) and 14 of the Reclamation Project Act of 1939; and section 2 of the Act of August 30, 1965, 49 Stat. 1039, reauthorizing the Grand Coulee Dam project, to construct transmission lines between the Pacific Northwest and the Pacific Southwest. Solicitor Barry Opinion, 70 I.D. 237 (1963).

#### **9. Repayment of costs**

Neither the Hayden-O'Mahoney amendment nor the power marketing statutes involved in the power operations of the Bonneville Power Administration (section 7 of the Bonneville Project Act, section 9(c) of the Reclamation Project Act of 1939,

and section 5 of the Flood Control Act of 1944) require that the costs of each project to be met from power revenues have to be amortized on the basis of a fixed annual obligation. The legal requirements are satisfied if such costs are returned within a reasonable period of years whatever accounting procedure is applied. Statement furnished by Assistant Secretary Holum in regard to statutory authority for revised procedure for presenting Bonneville Power Administration rate and repayment data on a consolidated system basis, printed in *Hearings on H.R. 2337, To Provide for the Construction of the Lower Teton Division, Teton Basin Federal Reclamation Project, Before the Irrigation and Reclamation Subcommittee of the House Committee on Interior and Insular Affairs*, 88th Cong., 2d Sess. 36-38 (1964).

#### **10. Amendment of contracts**

Where rights have been vested in the United States under the terms of a contract, no officer or employee of the Government has authority to modify such terms except in the interest of the Government. Dec. Comp. Gen. B-125127 (February 14, 1956).

Where committee reports and other legislative history show a clear Congressional intent that certain power marketing contracts between the Southwestern Power Administration and several generating and transmission cooperatives should be reactivated but that a provision giving the Administration the option to purchase transmission lines should be deleted, the deletion of the purchase option provision must be considered to be in the interest of the Government and the provision may be deleted without consideration. Dec. Comp. Gen. B-125127 (February 14, 1956).

In view of the Congressional intent expressed in committee and conference reports, there is no objection to the inclusion of a provision for settlement of accounts on a net-balance basis in contracts by the Southwestern Power Administration with generating and transmission cooperatives for the sale, purchase, and transmission of power under section 5 of the Flood Control Act of 1944. Dec. Comp. Gen. B-125127 (February 14, 1956).

#### **11. Missouri River Basin project**

It is section 9, not section 5, of the Flood Control Act of 1944 that governs the marketing of power from the Missouri River Basin project, the repayment of project costs from power revenues, and other matters relating to the power aspects of the project. Testimony of Assistant Solicitor

December 22, 1944

Weinberg, *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess., pt. 1, 313–392 *passim* (1957), reversing Solicitor White Opinion, M-36022 (January 18, 1950), reprinted *ibid* at 366.

**Sec. 6. [Contracts for sale of surplus water at Army projects—Disposition of revenues.]**—The Secretary of War is authorized to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the War Department: *Provided*, That no contracts for such water shall adversely affect then existing lawful uses of such water. All moneys received from such contracts shall be deposited in the Treasury of the United States as miscellaneous receipts. (58 Stat. 890; § 1(a), Act of May 23, 1952, 66 Stat. 93; 33 U.S.C. § 708)

EXPLANATORY NOTE

**1952 Amendment.** The Act of May 23, 1952, 66 Stat. 93, revived and reenacted section 6 which had previously been repealed by paragraph (59) of section 1 of the Act of October 31, 1951, 65 Stat. 703.

**Sec. 7. [Regulations for use of storage allocated to flood control or navigation at all reservoirs constructed wholly or in part with Federal funds to be prescribed by Secretary of the Army—TVA exception.]**—Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the Lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department (58 Stat. 890; 33 U.S.C. § 709)

NOTES OF OPINIONS

**1. Application**

Operation of Caballo Reservoir for flood control is subject to the Agreement of October 9, 1935, between the Departments of State and Interior, irrespective of the authority of the Secretary of War to promulgate flood control regulations pursuant to section 7 of the Flood Control Act of 1944. Memorandum of Chief Counsel Fix, May 2, 1946.

Section 7 of the Flood Control Act of 1944 applies retrospectively as well as prospectively. Memorandum of Chief Counsel Fix, May 2, 1946.

Section 7 of the Flood Control Act of 1944, which requires the operation of Federal reservoirs for flood control or navigation under regulations issued by the Secretary of the Army, applies only to reservoirs in which storage has been allocated to flood control or navigation, and does not apply to

reservoirs for which only costs, not storage, have been allocated to either purpose. In the latter case, the Secretary of the Interior is charged by section 9(b) of the Reclamation Project Act of 1939 with the responsibility for operating the project for such purposes. Memorandum of Chief Counsel Fisher, April 30, 1952, in re operation of Shasta Dam, Central Valley project, for navigation. *Accord:* Memorandum of Chief Counsel Fix, May 2, 1946, in re application of section 7 of the Flood Control Act of 1944.

If it has been decided not to allocate storage space in Shasta Reservoir to navigation, section 7 of the Flood Control Act of 1944 will not apply to navigation features. Letter of Secretary of the Army Pace to Secretary of the Interior, September 29, 1952.

**Sec. 8. [Utilization of Army dam and reservoir projects for irrigation pursuant to reclamation laws—Existing projects excepted.]**—Hereafter, whenever the Secretary of War determines, upon recommendation by the Secretary of the Interior that any dam and reservoir project operated under the direction of the Secretary of War may be utilized for irrigation purposes, the Secretary of the Interior is authorized to construct, operate, and maintain, under the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), such additional works in connection therewith as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and finding thereon have been made by the Secretary of the Interior as provided in said Federal reclamation laws and after subsequent specific authorization of the Congress by an authorization Act; and, within the limits of the water users' repayment ability such report may be predicated on the allocation to irrigation of an appropriate portion of the cost of structures and facilities used for irrigation and other purposes. Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing: *Provided*, That this section shall not apply to any dam or reservoir heretofore constructed in whole or in part by the Army engineers, which provides conservation storage of water for irrigation purposes. (58 Stat. 891; 43 U.S.C. § 390)

#### NOTES OF OPINIONS

Existing uses	1
Judicial proceedings	2
Reclamation laws	3
Revenues	5
Studies	4

#### 1. Existing uses

The restrictive clause in section 8 that "the foregoing requirement shall not prejudice lawful uses now existing," refers to existing uses to which War Department projects were being devoted at the time the Act was passed and was intended to relieve these arrangements for use, which antedates the Act, from the new requirement that "Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes only in conformity with the provisions of this section." The clause does not apply to the Pine Flat project, because it had not then been built. *Turner v. Kings River Conservation Dist.*, 360 F. 2d 184, 193 (9th Cir. 1966).

#### 2. Judicial proceedings

A suit against officials of the Bureau of Reclamation for injunctive relief in connection with the operation of a project is not barred on the grounds that it is a suit against the United States without its consent if in fact the actions of the officials

sought to be enjoined are prohibited by statute or by the Constitution. *Turner v. Kings River Conservation Dist.*, 360 F. 2d 184, 190 (9th Cir. 1966).

The action by holders of private water rights in the Kings River for an injunction against officials of the Bureau of Reclamation and the Corps of Engineers restraining them from operating Pine Flat Dam in a manner that interferes with their water rights, is dismissed on the grounds that it is an action against the United States without its consent, because the officials are acting within their statutory authority. The proper remedy of the plaintiffs is an action in the Court of Claims for damages for the taking of property rights. *Turner v. Kings River Conservation Dist.*, 360 F. 2d 184 (9th Cir. 1966).

#### 3. Reclamation laws

Section 46 of the Omnibus Adjustment Act of 1926 is a part of reclamation law made applicable by section 8 of the Flood Control Act of 1944 to flood control projects of the Department of the Army. Solicitor Bennett Opinion, 64 I.D. 273, 274 (1957) in re proposed contract with Kings River Conservation District.

The Secretary of the Interior is charged with the responsibility, under section 8 of the Flood Control Act of 1944, for the

December 22, 1944

negotiation of appropriate repayment contracts with water users under reclamation law for the repayment of allocations to irrigation functions of dam and reservoir projects operated under the direction of the Secretary of the Army. This responsibility exists whether or not additional facilities are required for irrigation functions at such projects. Solicitor Bennett Opinion, 65 I.D. 525 (1957).

In order to give effect to the intent of Congress, section 8 of the Flood Control Act of 1944 requires that the reclamation laws apply to any contract for the disposition of irrigation benefits from the Isabella reservoir on the Kern River and the Pine Flat reservoir on the Kings River, California, both of which are projects of the Department of the Army, even though no additional works need to be constructed to make irrigation benefits available from the projects, and notwithstanding any contrary implication that might be drawn from section 10. 41 Op. Atty. Gen. 377, 65 I.D. 549 (1958).

Excess land provisions are a part of reclamation law made applicable by this section to Kings and Kern River project repayment contracts. Solicitor Barry Opinion, 68 I.D. 372, 375 n. 2 (1961), in re proposed repayment contracts for Kings and Kern River projects.

#### 4. Studies

Section 8 of the Flood Control Act of 1944 authorizes the Secretary of the Interior to investigate reclamation development in connection with proposed Department of the Army reservoir projects outside of the 17 reclamation states. Opinion of Chief Counsel Fisher, September 12, 1952, in re authority of Bureau of Reclamation to perform work in Arkansas and Louisiana in connection with the Arkansas-Red-White River investigations, and Opinion of Associate

Solicitor Hogan, December 6, 1963, in re authority to make studies in Louisiana; both reprinted in *Hearings on Public Works Appropriations Bill, 1965, Before a Subcommittee of the House Committee on Appropriations*, 88th Cong., 2d Sess., pt. 2, at 134-38 (1964).

The Bureau of Reclamation is authorized under reclamation law to expend appropriations made from the general funds of the Treasury under the heading "General Investigations—general engineering and research" for atmospheric water resources research that is of primary benefit to States other than the 17 Western States. Although expenditures from the Reclamation Fund may be made only for the benefit of the 17 Western States, expenditures from general fund appropriations are not so limited because section 2 of the Reclamation Act and section 8 of the Flood Control Act of 1944 evidence a Congressional intent to make the benefits of reclamation law available to all parts of the Nation notwithstanding the limitations on the use of the Reclamation Fund. Memorandum of Associate Solicitor Hogan, July 13, 1966.

#### 5. Revenues

An appropriate share of revenues received in connection with contracts for irrigation service from Pine Flat Dam and other Department of the Army developments from which the Secretary of the Interior disposes of irrigation benefits pursuant to section 8 of the Flood Control Act of 1944, should be deposited in the general fund of the Treasury as miscellaneous receipts. Letter of Administrative Assistant Secretary Beasley to Mr. A. T. Samuelson, General Accounting Office, April 22, 1957, reprinted in *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess., pt. 1, at 364-66 (1957).

**Sec. 9. [Comprehensive development of Missouri River Basin.]**—(a) The general comprehensive plans set forth in House Document 475 and Senate Document 191, Seventy-eighth Congress, second session, as revised and coordinated by Senate Document 247, Seventy-eighth Congress, second session, are hereby approved and the initial stages recommended are hereby authorized and shall be prosecuted by the War Department and the Department of the Interior as speedily as may be consistent with budgetary requirements.

(b) The general comprehensive plan for flood control and other purposes in the Missouri River Basin approved by the Act of June 28, 1938, as modified by subsequent Acts, is hereby expanded to include the works referred to in paragraph (a) to be undertaken by the War Department; and said expanded plan shall be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers.

(c) Subject to the basin-wide findings and recommendations regarding the benefits, the allocations of costs and the repayments by water users, made in said House and Senate documents, the reclamation and power developments to be undertaken by the Secretary of the Interior under said plans shall be governed by the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), except that irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian lands.

(d) In addition to previous authorizations there is hereby authorized to be appropriated the sum of \$200,000,000 for the partial accomplishment of the works to be undertaken under said expanded plans by the Corps of Engineers.

(e) The sum of \$200,000,000 is hereby authorized to be appropriated for the partial accomplishment of the works to be undertaken under said plans by the Secretary of the Interior. (58 Stat. 891)

#### EXPLANATORY NOTES

**Supplementary Provisions: Additional Authorizations.** In addition to the \$200,000,000 authorized to be appropriated by this Act, appropriations authorized through calendar year 1966 for works undertaken or planned in the Missouri River Basin by the Secretary of the Interior are as follows: (1) Flood Control Act, July 24, 1946 (60 Stat. 641), \$150,000,000; (2) Flood Control Act, May 17, 1950 (64 Stat. 170), \$200,000,000; (3) Flood Control Act, July 3, 1958 (72 Stat. 297), \$200,000,000; (4) Flood Control Act, July 14, 1960 (74 Stat. 480), \$60,000,000; (5) Act of December 30, 1963 (77 Stat. 842), \$16,000,000; (6)

Act of August 14, 1964 (78 Stat. 446) (for fiscal years 1965 and 1966), \$120,000,000; and (7) Act of July 19, 1966 (80 Stat. 322) (for fiscal years 1967 and 1968), \$60,000,000. Each of these Acts, or extracts therefrom, appear herein in chronological order.

**Reference in the Text.** The Act of June 28, 1938, authorizing a general comprehensive plan for flood control and other purposes in the Missouri River Basin referred to in the text, is the Flood Control Act of 1938, 52 Stat. 1215. Extracts of the Act appear herein in chronological order, but do not include the Missouri River Basin item.

#### NOTES OF OPINIONS

Fort Peck project	4
Indian lands	5
Power operations	3
Repayment of costs	2
Revenues	1

#### 1. Revenues

Inasmuch as the Hayden-O'Mahoney amendment does not apply to facilities constructed by the Department of the Army, an appropriate allocation of revenues should be made to the Department of the Army powerplants in the Missouri River Basin project, and as required by general provisions of law, the sum represented thereby must be deposited in the general fund of the Treasury. Testimony of Assistant Solicitor Weinberg, *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess. 334 (1957).

Office, April 22, 1957; reprinted in *Joint Hearings*, *id.* at 364.

#### 2. Repayment of costs

There is no limitation in reclamation law on the number of years in which power costs have to be paid out. The 40-year limit specified in section 9(c) of the Reclamation Project Act of 1939 is a limit on the length of a contract for the sale of power, but not a limit on payout. Fifty years has been selected as a matter of policy but not of law. Testimony of Assistant Solicitor Weinberg, *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess. 334 (1957).

#### 3. Power operations

It is section 9, not section 5, of the Flood Control Act of 1944 that governs the marketing of power from the Missouri River Basin project, the repayment of project costs from power revenues, and other mat-

December 22, 1944

ters relating to the power aspects of the project. Testimony of Assistant Solicitor Weinberg, *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess., pt. 1, 313-392 *passim* (1957), reversing Solicitor White Opinion, M-36022 (January 18, 1950), reprinted *ibid.* at 366.

Inasmuch as the proposed intertie between the Missouri River Basin project and the Southwestern Power Administration will enable the project to take advantage of hydraulic diversity between the two areas and, thereby, increase the amount of dependable capacity available to the project, authority for construction of the intertie by the Bureau of Reclamation is included in the broad authorization under section 9 of the Flood Control Act of 1944 and recommendation (c), page 16, of Senate Document 191 to construct transmission lines the Bureau finds necessary or desirable in connection with the project. Memorandum of Associate Solicitor Weinberg to Commissioner of Reclamation, April 12, 1962.

Power marketing and transmission operations of the Bureau of Reclamation under the reclamation laws have not been considered to be restricted to the reclamation states, and this administrative construction of the law has been concurred in by action of the Congress in appropriating funds for transmission lines in states such as Iowa and Minnesota. Memorandum of Associate Solicitor Weinberg to Director, Division of Budget and Finance, July 23, 1962, in re authority to construct the Creston-Fairport intertie.

The Missouri River Basin project must be considered to extend at least to all areas of the Missouri River Basin, and therefore the construction of a transmission line within the Basin would be authorized even if the fact that the line is outside of the 17 reclamation western states were grounds for questioning the authority, which it is not. Memorandum of Associate Solicitor Weinberg to Director, Division of Budget and Finance, July 23, 1962, in re authority for construction of Creston-Fairport intertie.

The Secretary of the Interior is authorized to construct transmission lines, such as the Creston-Fairport intertie between the Missouri River Basin project and the Southwestern Power Administration, which are necessary to effectuate an exchange of power for the purpose of orderly and economical construction or operation and maintenance of any reclamation project, as provided in section 14 of the Reclamation Project Act

of 1939. Memorandum of Associate Solicitor Weinberg to Director, Division of Budget and Finance, July 23, 1962.

#### 4. Fort Peck project

The Fort Peck project, including the reservoir as well as the power plant, was incorporated as an integral part of the Missouri River Basin project authorized by Section 9 of the Flood Control Act of 1944 for purposes of determining project feasibility and repayment, establishing power rates, water regulation, and so forth. Memorandum of comments transmitted with letter from Administrative Assistant Secretary Beasley to Mr. Adolph T. Samuelson, General Accounting Office, November 26, 1956; reprinted in *Missouri Basin Water Problems: Joint Hearings Before the Senate Committees on Interior and Insular Affairs and Public Works*, 85th Cong., 1st Sess., pt. 1, at 358 (1957).

#### 5. Indian lands

The United States has authority to condemn tribal lands of the Crow Tribe for construction of Yellowtail Dam, under section 9(c) of the Flood Control Act of 1944 and the Federal Reclamation Laws; under the general condemnation act of August 1, 1888, 55 Stat. 357, 40 U.S.C. § 257; and under the several acts appropriating money for preconstruction work and for initiation of construction. *United States v. 5,677.94 Acres of Land*, 162 F. Supp. 108 (D. Mont. 1958); *ibid.*, 152 F. Supp. 861 (D. Mont. 1957); Opinion of Solicitor Davis, M-36148 (Supp.) (February 3, 1954).

The United States, by its treaties and through a course of dealing with the Crow Tribe, has recognized an aboriginal Indian title in the Crow Tribe in its tribal lands and the tribe's right of occupancy, possession, and use of the territory, including the development of water power. Consequently, the United States must compensate the Crow Tribe for the water-power value of tribal lands sought to be condemned for Yellowtail Dam and Reservoir. *United States v. 5,677.94 Acres of Land*, 162 F. Supp. 108 (D. Mont. 1958).

The provision in subsection 9(c) of the Flood Control Act of 1944 that "irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian 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.

**Sec. 10. [Authorization of projects.]—**

\* \* \* \* \*

**SACRAMENTO-SAN JOAQUIN RIVER BASIN****SACRAMENTO RIVER**

The projects for the control of floods and other purposes on the Sacramento River, California, adopted by the Acts approved March 1, 1917, May 15, 1928, August 26, 1937, and August 18, 1941, are hereby modified substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 649, Seventy-eighth Congress, second session, at an estimated cost of \$50,100,000; and in addition to previous authorizations there is hereby authorized to be appropriated the sum of \$15,000,000 for the prosecution of the modified projects: *Provided*, That this modification of the project shall not be construed to authorize the construction of a high dam at the Table Mountain site but shall authorize only the low-level project to approximately the elevation of four hundred feet above mean sea level, said low-level dam to be built on a foundation sufficient for such dam and not on a foundation for future construction of a higher dam.

[**Folsom Reservoir.**]—The project for the Folsom Reservoir on the American River, California, is hereby authorized substantially in accordance with the plans contained in House Document Numbered 649, Seventy-eighth Congress, second session, with such modifications thereof as in the discretion of the Secretary of War and the Chief of Engineers may be advisable, at an estimated cost of \$18,474,000. (58 Stat. 900)

**EXPLANATORY NOTE**

**Black Butte Reservoir.** The first paragraph above includes authorization for the Black Butte Reservoir.

**SAN JOAQUIN RIVER**

[**Isabella Reservoir.**]—The project for the Isabella Reservoir on the Kern River for flood control and other purposes in the San Joaquin Valley, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated January 26, 1944, contained in House Document Numbered 513, Seventy-eighth Congress, second session, at an estimated cost of \$6,800,000. (58 Stat. 901)

[**Terminus and Success Reservoirs.**]—The plan for the Terminus and Success Reservoirs on the Kaweah and Tule Rivers for flood control and other purposes in the San Joaquin Valley, California, in accordance with the recommendations of the Chief of Engineers in Flood Control Committee Document Numbered 1, Seventy-eighth Congress, second session, is approved, and there is hereby authorized \$4,600,000 for initiation and partial accomplishment of the plan. (58 Stat. 901)

[**Kings River and Tulare Lake Basin.**]—The project for flood control and other purposes for the Kings River and Tulare Lake Basin, California, is hereby

December 22, 1944

810

FLOOD CONTROL ACT OF 1944—SEC. 10

authorized substantially in accordance with the plans contained in House Document Numbered 630, Seventy-sixth Congress, third session, with such modifications thereof as in the discretion of the Secretary of War and the Chief of Engineers may be advisable at an estimated cost of \$19,700,000: *Provided*, That the conditions of local cooperation specified in said document shall not apply: *Provided further*, That the Secretary of War shall make arrangements for payment to the United States by the State or other responsible agency, either in lump sum or annual installments, for conservation storage when used: *Provided further*, That the division of costs between flood control, and irrigation and other water uses shall be determined by the Secretary of War on the basis of continuing studies by the Bureau of Reclamation, the War Department, and the local organizations. (58 Stat. 901)

EXPLANATORY NOTES

**Pine Flat Reservoir.** This includes authorization of Pine Flat Reservoir and supersedes a finding of feasibility by the Secretary of the Interior dated January 24, 1940, submitted to Congress February 10, 1940, which authorized the Kings River Project as a Reclamation project.

**Supplementary Provision: Division of Costs.** A provision in the Civil Functions

Appropriation Act, 1947, approved May 2, 1946, states that none of the appropriations for the Kings River and Tulare Lake project shall be used for the construction of the dam until the Secretary of War, with the concurrence of the Secretary of the Interior, has determined the division of costs among project purposes. The Act appears herein in chronological order.

\* \* \* \* \*

[**New Hogan Reservoir.**]—The plan of improvement for flood control and other purposes on the Calaveras River and Littlejohn Creek and tributaries, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 545, Seventy-eighth Congress, second session, at an estimated cost of \$3,868,200. (58 Stat. 902)

EXPLANATORY NOTE

**New Hogan Reservoir.** The paragraph above includes authorization for the New

Hogan Reservoir.

NOTES OF OPINIONS

Judicial proceedings 1

Local cooperation 3

Reclamation laws 2

1. Judicial proceedings

The action by holders of private water rights in the Kings River for an injunction against officials of the Bureau of Reclamation and the Corps of Engineers restraining them from operating Pine Flat Dam in a manner that interferes with their water rights, is dismissed on the grounds that it is an action against the United States without its consent, because the officials are acting within their statutory authority. The proper remedy of the plaintiffs is an action in the Court of Claims for damages for the taking of property rights. *Turner v. Kings River Conservation Dist.*, 360 F. 2d 184 (9th Cir. 1966).

2. Reclamation laws

In order to give effect to the intent of Congress, section 8 of the Flood Control Act of 1944 requires that the reclamation laws apply to any contract for the disposition of irrigation benefits from the Isabella reservoir on the Kern River and the Pine Flat reservoir on the Kings River, California, both of which are projects of the Department of the Army, even though no additional works need to be constructed to make irrigation benefits available from the projects, and notwithstanding any contrary implication that might be drawn from section 10. 41 Op. Atty. Gen. 377, 65 I.D. 549 (1958).

Excess land provisions are a part of reclamation laws applicable to the repayment contracts for the Kings and Kern River

projects. Solicitor Barry Opinion, 68 I.D. 372 (1961).

### 3. Local cooperation

The proviso in the authorization of the project for the Kings River and Tulare Lake Basin that "the conditions of local cooperation specified in said document shall not apply" refers only to obtaining assur-

ances from state or local agencies for initial financing of the project and for maintenance and operation of the facility after completion as a condition precedent to the commencement of construction, and does not apply to contractual arrangements authorized by the Federal Reclamation Laws. *Turner v. Kings River Conservation District*, 360 F. 2d. 184, 199 (9th Cir. 1966).

\* \* \* \*

### EXPLANATORY NOTES

**Not Codified.** Section 9 and the extracts herein of section 10 of this Act are not codified in the U.S. Code.

**Presidential Statement.** The following statement was issued by the President on December 23, 1944:

"I have signed, on December 22, 1944, the Flood Control Bill, H. R. 4485. It appears to me that, in general, this legislation is a step forward in the development of our national water resources and power policies. The plan of calling upon states affected by proposed projects for their views is a desirable one, but, of course, the establishment of such a procedure should not be interpreted by anyone as an abrogation by the Federal Government of any part of its powers over navigable waters. Authorization of the projects listed in the bill will augment the backlog of public works available for prompt initiation, if necessary, in the post-war period. "I note, however, that the bill authorizes for construction by the Corps of Engineers

and the Bureau of Reclamation those improvements in the Missouri River Basin which, on November 27, 1944, I recommended be developed and administered by a Missouri Valley Authority. My approval of this bill is given with the distinct understanding that it is not to be interpreted as jeopardizing in any way the creation of a Missouri Valley Authority, the establishment of which should receive the early consideration of the next Congress.

"I consider the projects authorized by the bill to be primarily for post-war construction, and, until the current wars are terminated, I do not intend to submit estimates of appropriation or approve allocations of funds for any project that does not have an important and direct value to the winning of the war."

**Legislative History.** H.R. 4485, Public Law 534 in the 78th Congress. H.R. Rept. No. 1309. S. Rept. No. 1030. H.R. Rept. No. 205 (conference report).

December 23, 1944

812

## AMEND CONSULTING ENGINEERS AND ECONOMISTS ON IMPORTANT RECLAMATION WORK ACT

An act to amend section 1 of an act entitled "An act authorizing the Secretary of the Interior to employ engineers and economists for consultation purposes on important reclamation work", approved February 28, 1929 (45 Stat. 1406), as amended by the Act of April 22, 1940 (54 Stat. 148). (Act of December 23, 1944, ch. 708, 58 Stat. 915)

[Authority to hire retired Interior personnel.]—Section 1 of the Act of February 28, 1929 (45 Stat. 1406), as amended by the Act of April 22, 1940 (54 Stat. 148), authorizing the Secretary of the Interior to employ engineers and economists for consultation purposes on important reclamation work, is hereby amended by changing the period to a colon and adding the following: "*Provided further*, That, notwithstanding the provisions of any other Act, retired personnel of the Department of the Interior may be employed by the Secretary of the Interior as consultants in accordance with the provisions of this Act, without deductions from compensation for retirement, without loss of or redetermination of retirement status, and without loss or reduction of retirement annuity or other benefits by reason of such employment, except that there shall be deducted from the compensation otherwise payable to any such retired employee sums equal to the retirement annuity or benefit allocable to the days of actual employment hereunder." (58 Stat. 915; 43 U.S.C. § 411b)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of February 28, 1929.

**Legislative History.** H.R. 3429, Public

Law 546 in the 78th Congress. H.R. Rept. No. 848. S. Rept. No. 860. H.R. Rept. No. 2042 (conference report).

**RIVER ND HARBOR ACT OF 1945**

[Extracts from] An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. (Act of March 2, 1945, ch. 19, 59 Stat. 10)

\* \* \* \* \*

**Sec. 2. [Projects authorized.]—**

\* \* \* \* \*

[**Snake River Dams.**]—Snake River, Oregon, Washington, and Idaho: The construction of such dams as are necessary, and open channel improvement for purposes of providing slack water navigation and irrigation in accordance with the plan submitted in House Document Numbered 704, Seventy-fifth Congress, with such modifications as do not change the requirement to provide slack-water navigation as the Secretary of War may find advisable after consultation with the Secretary of the Interior and such other agencies as may be concerned: *Provided*, That surplus electric energy generated at the dams authorized in this item shall be delivered to the Secretary of the Interior for disposition in accordance with existing laws relating to the disposition of power at Bonneville Dam: *Provided further*, That nothing in this paragraph shall be construed as conferring the power of condemnation of transmission lines; \* \* \* (59 Stat. 21)

\* \* \* \* \*

[**Umatilla Dam (McNary Dam).**]—Columbia River, Oregon and Washington: The construction of the Umatilla Dam for purposes of navigation, power development, and irrigation in accordance with the plan submitted in House Document Numbered 704, Seventy-fifth Congress: *Provided*, That surplus electric energy generated at said dam shall be delivered to the Secretary of the Interior for disposition in accordance with existing laws relating to the disposition of power at Bonneville Dam: *Provided further*, That nothing in this paragraph shall be construed as conferring the power of condemnation of transmission lines: *Provided further*, That said dam shall be so constructed as to provide a pool elevation of three hundred and forty feet above sea level if a dam of that height is found to be feasible. In the design, construction, and operation of the Umatilla Dam adequate provision shall be made for the protection of anadromous fishes by affording free access to their natural spawning grounds or by other appropriate means. Studies and surveys necessary for fish protection shall be made by the Fish and Wildlife Service of the Department of the Interior, and designs for structures and facilities required for fish protection shall be prepared in cooperation with that agency. Funds appropriated for the design, construction, or operation of said dam shall be available for transfer to the Department of the Interior for the foregoing purposes. The aforesaid dam heretofore referred to as the Umatilla Dam shall when completed be named the McNary Dam in honor of the late Senator Charles L. McNary, and shall be dedicated to his memory as a monument to his distinguished public service; \* \* \* (59 Stat. 22)

March 2, 1945

EXPLANATORY NOTES

**Not Codified.** Extracts of this act shown here are not codified in the U.S. Code.

**Cross Reference,** Flood Control Act of 1944. Section 1 of the Rivers and Harbors Act of 1945 contains language identical to that in section 1 of the Flood Control Act

of December 22, 1944. The 1944 Act appears herein in chronological order.

**Legislative History.** S. 35, Public Law 14 in the 79th Congress. S. Rept. No. 22. H.R. Rept. No. 63. H.R. Rept. No. 102 (on H. Res. 127).

**CONSENT TO NEGOTIATE ARKANSAS RIVER COMPACT****[STATES OF COLORADO AND KANSAS]**

An act granting the consent of Congress to the States of Colorado and Kansas to negotiate and enter into a compact for the division of the waters of the Arkansas River. (Act of April 19, 1945, ch. 79, 59 Stat. 53)

**[Sec. 1. Consent is given to enter into compact.]**—Consent of Congress is hereby given to the States of Colorado and Kansas to negotiate and enter into a compact not later than January 1, 1950, providing for an equitable division and apportionment between the said States of the waters of the Arkansas River and all of its tributaries, upon the condition that one suitable person who shall be appointed by the President of the United States shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact entered into: *Provided*, That any such compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of said States and approved by the Congress of the United States. (59 Stat. 53)

**Sec. 2. [Appropriation authorized to pay the Representative of the United States.]**—There is hereby authorized to be appropriated a sufficient sum to pay the salary and expenses of the representative of the United States appointed hereunder: *Provided*, That such representative, if otherwise employed by the United States, while so employed shall not receive additional salary in the appointment hereunder. (59 Stat. 53)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Arkansas River Compact—Colorado and Kansas.** The Compact authorized to be negotiated by this act was approved by Congress by the Act of May 31,

1949. The 1949 Act appears herein in chronological order.

**Legislative History.** H.R. 914, Public Law 34 in the 79th Congress. H.R. Rept. No. 242. S. Rept. No. 107.

April 19, 1945

## AMEND FACT FINDERS' ACT

An act to amend the Fact Finders' Act. (Act of April 19, 1945, ch. 80, 59 Stat. 54)

[Subsection O amended to provide that the cost and expense of general administration and general investigations not chargeable to specific projects shall not be reimbursable.]—Subsection O of section 4 of the Act of December 5, 1924, commonly known as the Fact Finders' Act (43 Stat. 704), is hereby amended to read as follows:

"SUBSEC. O. That the cost and expense after June 30, 1945, of the office of the Commissioner in the District of Columbia, and, except for such cost and expense as are incurred on behalf of specific projects, of general investigations and of nonproject offices outside the District of Columbia, shall be charged to the reclamation fund and shall not be charged as a part of the reimbursable construction or operation and maintenance costs." (59 Stat. 54; 43 U.S.C. § 377)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under subsection O of section 4 of the Act of December 5, 1924.

**Legislative History.** H.R. 1534, Public Law 35 in the 79th Congress. H.R. Rept. No. 153, S. Rept. No. 108,

### AMEND RECLAMATION PROJECT ACT OF 1939

An act to amend sections 4, 7, and 17 of the Reclamation Project Act of 1939 (53 Stat. 1187) for the purpose of extending the time in which amendatory contracts may be made, and for other related purposes. (Act of April 24, 1945, ch. 94, 59 Stat. 75)

[Sec. 1. Operation of normal and percentage plan—Secretary authorized to amend repayment contracts to conform to provisions of this amendment.]—Section 4(d) of the Reclamation Project Act of 1939 is hereby amended to read as follows:

“(d) For each project contract unit where a repayment contract is entered into pursuant to this section, each year the percentage of the normal returns for said year by which the annual returns of said year exceed or are less than said normal returns shall be determined by the Secretary. For each unit or major fraction of a unit of said percentage of said increase or decrease there shall be an increase or decrease, respectively, of 2 per centum in the amount or amounts of the installment or installments for said year under the organization's obligation or obligations as determined under subsections (b) and (e) of this section. Said latter amount or amounts as thus increased or decreased shall be the payment or payments of construction charges due and payable for said year, except that in no event shall the amount of the said payment or payments due and payable for any year be less than 15 per centum nor, as determined by the Secretary, more than from 150 to 200 per centum, inclusive, of the amount or amounts of the installment or installments for said year under the organization's obligation or obligations as determined under subsections (b) and (e) of this section. The Secretary is hereby authorized to amend any repayment contracts heretofore or hereafter entered into pursuant to the provisions of this section to conform to the provisions of this amendment.” (59 Stat. 75)

Sec. 2. [Reports to Congress—Execution of contracts only after approval by Act of Congress—Subsequent amendatory contracts may be executed without approval by Congress.]—Section 7(c) of the Reclamation Project Act of 1939 is hereby amended to read as follows:

“(c) The Secretary from time to time shall report to the Congress on any proposed contracts negotiated pursuant to the authority of subsection (a) or (b) (1) of this section, and he may execute any such contract on behalf of the United States only after approval thereof has been given by Act of Congress. Contracts, so approved, however, may be amended from time to time by mutual agreement and without further approval by Congress if such amendments are within the scope of authority heretofore or hereafter granted to the Secretary under any Act, except that amendments providing for repayment of construction charges in a period of years longer than authorized by this Act, as it may be amended, shall be effective only when approved by Congress.” (59 Stat. 76; 43 U.S.C. § 485f)

Sec. 3. [(a) Extension of time for modification of existing repayment con-

April 24, 1945

tracts—(b) **Deferment of construction charges.**]—Section 17 of the Reclamation Project Act of 1939 is hereby amended to read as follows:

“(a) The authority granted in sections 3 and 4 of this Act for modification of existing repayment contracts or other forms of obligations to pay construction charges shall continue through December 31, 1950, or December 31 of the fifth full calendar year after the cessation of hostilities in the present war, as determined by proclamation of the President or concurrent resolution of the Congress, whichever period is the longer.

“(b) The Secretary is hereby authorized, subject to the provisions of this subsection, to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation (exclusive of contracts entered into under this Act) that are due and unpaid as of the date of this amendment or which will become due prior to the expiration of the authority under subsection (a) of this section as he deems necessary to adjust such installments to amounts within the probable ability of the water users to pay. Any such deferment shall be effected only after findings by the Secretary that the installments under consideration probably cannot be paid on their due dates without undue burden on the water users, considering the various factors which in the Secretary's judgment bear on the ability of the water users so to pay.

“The Secretary may effect the deferments hereunder subject to such conditions and provisions relating to the operation and maintenance of the project involved as he deems to be in the interest of the United States. If, however, any deferments would affect installments to accrue more than twelve months after the action of deferment, they shall be effected only by a formal supplemental contract. Such a contract shall provide by its terms that, it being only an interim solution of the repayment problems dealt with therein, its terms are not, in themselves, to be construed as a criterion of the terms of any amendatory contract that may be negotiated pursuant to sections 3, 4, or 7 of this Act.”  
(59 Stat. 76; 43 U.S.C. § 485b-1)

EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under sections 4, 7 and 17 of the Reclamation Project Act of August 4, 1939.

**Legislative History.** S. 37, Public Law 39 in the 79th Congress. S. Rept. No. 109. H.R. Rept. No. 372 (on H.R. 528).

**CONVEYANCE OF LANDS TO UNIVERSITY OF ARIZONA**

An act authorizing the Secretary of the Interior to convey certain lands on the Gila reclamation project, Arizona, to the University of Arizona. (Act of June 29, 1945, ch. 195, 59 Stat. 262)

[**Sec. 1. Secretary authorized to issue patent.**]—The Secretary of the Interior is hereby authorized and directed to cause a patent to issue conveying the west half southwest quarter, section 28, township 9 south, range 23 west, Gila and Salt River meridian, Arizona, to the board of regents of the University of Arizona, for use by the University as an agricultural experimental farm; but in said patent there shall be reserved to the United States all oil, coal, and other mineral deposits within said lands and the right to prospect for, mine, and remove the same and a perpetual right-of-way for ditches, canals, laterals, transmission lines, telephone lines, and roadway constructed by or under authority of the United States. (59 Stat. 262)

**Sec. 2. [Forfeiture of grant if terms not complied with.]**—The conveyance herein authorized shall be made upon the express condition that if the terms of the grant have not been complied with, the grant shall be held to be forfeited and the title shall revert to the United States, and the Secretary of the Interior is hereby authorized and empowered to determine the facts and declare such forfeiture and such reversion and restore said land to the public domain, and such order of the Secretary shall be final and conclusive. (59 Stat. 262)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in 90 in the 79th Congress. S. Rept. No. 194.  
the U.S. Code. H.R. Rept. No. 600.

**Legislative History.** S. 118, Public Law

July 14, 1945

820

## AMENDED CONTRACT WITH TRUCKEE-CARSON IRRIGATION DISTRICT

An act for the relief of the Truckee-Carson Irrigation District. (Act of July 14, 1945, ch. 295, 59 Stat. 466)

[Secretary authorized to execute contract.]—The proposed contract approved as to form by the Secretary of the Interior on January 9, 1945, between the United States of America and the Truckee-Carson Irrigation District is approved and, after said contract shall have been duly executed for and in behalf of the Truckee-Carson Irrigation District, the said Secretary is hereby authorized to execute it on behalf of the United States. (59 Stat. 466)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 143 in the 79th Congress. S. Rept. No. 226. the U.S. Code. H.R. Rept. No. 778.

**Legislative History.** S. 24, Public Law

### AMEND BOULDER CANYON PROJECT ACT

An act to amend section 9 of the Boulder Canyon Project Act, approved December 21, 1928. (Act of March 6, 1946, ch. 58, 60 Stat. 36)

[Amendment of Boulder Canyon Project Act—World War II veterans—Gila Canal lands.]—Section 9 of the Boulder Canyon Project Act (45 Stat. 1057, 1063; 43 U.S.C., sec. 617h) is amended to read as follows:

"All lands of the United States found by the Secretary of the Interior to be practicable of irrigation and reclamation by the irrigation works authorized herein shall be withdrawn from public entry. Thereafter, at the direction of the Secretary of the Interior, such lands shall be opened for entry, in tracts varying in size but not exceeding one hundred and sixty acres, as may be determined by the Secretary of the Interior, in accordance with the provisions of the reclamation law, and any such entryman shall pay an equitable share in accordance with the benefits received, as determined by the said Secretary, of the construction cost of said canal and appurtenant structures; said payments to be made in such installments and at such times as may be specified by the Secretary of the Interior, in accordance with the provisions of the said reclamation law, and shall constitute revenue from said project and be covered into the fund herein provided for: *Provided*, That all persons who served in the United States Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve, shall have the exclusive preference right for a period of three months to enter said lands, subject, however, to the provisions of subsection (c) of section 4 of the Act of December 5, 1924 (43 Stat. 672, 702; 43 U.S.C., sec. 433); and also, so far as practicable, preference shall be given to said persons in all construction work authorized by this chapter: *Provided further*, That the above exclusive preference rights shall apply to veteran settlers on lands watered from the Gila canal in Arizona the same as to veteran settlers on lands watered from the All-American Canal in California: *Provided further*, That in the event such an entry shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, lands so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the local land office, and after the expiration of said sixty-day period such lands shall be open to entry, subject to the preference in this section provided." (60 Stat. 36; 43 U.S.C. § 617h)

#### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under section 9 of the Act of December 21, 1928.

**Legislative History.** H.R. 4932, Public Law 318 in the 79th Congress. H.R. Rept. No. 1437. S. Rept. No. 933.

April 23, 1946

822

## ACQUISITION OF INDIAN LANDS FOR FORT PECK PROJECT

An act for the acquisition of Indian lands required in connection with the construction, operation, and maintenance of electric transmission lines and other works, Fort Peck project, Montana. (Act of April 23, 1946, ch. 199, 60 Stat. 118)

[**Sec. 1. Acquisition of Indian lands.**]—In aid of the construction of the Fort Peck project, there is hereby granted to the United States, subject to the provisions of this Act, such right, title, and interest of the Indians as may be required in and to such tribal and allotted lands as may be designated by the Secretary of the Interior from time to time for the construction, operation, and maintenance of electric transmission lines and other works of the project or for the relocation or reconstruction of properties made necessary by the construction of the project. (60 Stat. 118; 16 U.S.C. § 833l)

**Sec. 2. [Secretary to determine compensation—Funds credited to tribe or allottees.]**—As land or interests in lands are designated from time to time under this Act, the Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation therefor. The amounts due the tribe and the individual allottees or their heirs or devisees shall be paid from funds now or hereafter made available to the Department of the Interior for the Fort Peck project to the superintendent of the appropriate Indian agency, or such other officer as may be designated by the Secretary of the Interior, for credit on the books of such agency to the accounts of the tribe and the individuals concerned. (60 Stat. 118; 16 U.S.C. § 833m)

**Sec. 3. [Use of funds deposited to credit of allottees—Status of acquired lands.]**—Funds deposited to the credit of allottees, their heirs, or devisees may be used, in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements, or the relocation of existing improvements or construction of new improvements on the lands so acquired for the allottees or heirs whose lands and improvements are acquired under the provisions of this Act. Lands so acquired shall be held in the same status as those from which the funds were derived, and shall be nontaxable until otherwise provided by Congress. (60 Stat. 118; 16 U.S.C. § 833n)

**Sec. 4. [Authority to prescribe regulations.]**—The Secretary of the Interior is hereby authorized to perform any and all acts and to prescribe such regulations as he may deem appropriate to carry out the provisions of this Act. (60 Stat. 118; 16 U.S.C. § 833o)

**Sec. 5. [Reverter to Fort Peck Indian Tribes.]**—All designations of Indian lands pursuant to this Act shall be made subject to the condition that in the event any such lands shall no longer be required for the purposes for which they were designated, then the right, title, or interest so acquired in lands so designated shall revert to the United States in trust for the Fort Peck Indian Tribes. (60 Stat. 118; 16 U.S.C. § 833p)

### EXPLANATORY NOTE

Legislative History. S. 486, Public Law H.R. Rept. No. 483.  
353 in the 79th Congress. S. Rept. No. 376.

## CIVIL FUNCTIONS APPROPRIATIONS ACT, 1947

[Extracts from] An act making appropriations for the fiscal year ending June 30, 1947, for civil functions administered by the War Department, and for other purposes. (Act of May 2, 1946, ch. 247, 60 Stat. 160)

### CORPS OF ENGINEERS

#### FLOOD CONTROL

\* \* \* \* \*

[Kings River and Tulare Lake Project.]—Flood control, Kings River and Tulare Lake, California: For construction of works for flood control and other purposes on the Kings River and Tulare Lake, California, \$1,000,000, as authorized in Public Law Numbered 534, Seventy-eighth Congress, second session, approved December 22, 1944: *Provided*, That none of the appropriation for the Kings River and Tulare Lake project, California, shall be used for the construction of the dam until the Secretary of War has received the reports as to the division of costs between flood control, navigation, and other water uses from the Bureau of Reclamation and local organizations and, with the concurrence of the Secretary of the Interior, shall have made a determination as to what the allocation shall be: *Provided further*, That the reports from these continuing studies shall be made not later than six months from the date of the enactment of this Act and that the agreement of concurrence shall be made not later than nine months from the date of the enactment of this Act. (60 Stat. 161)

#### EXPLANATORY NOTES

**Not Codified.** The above provision is not codified in the U.S. Code.

**Presidential Statement.** The following statement was issued by the President on May 3, 1946:

"The War Department Civil Functions Appropriation Bill, 1947 (H.R. 5400), which I approved on May 2, 1946, makes appropriations for a number of thoroughly worth-while projects that will further the development of the water resources of the Nation. I am also glad to note that the Congress, by the addition of certain provisos to the item for the Kings River Project, California, has afforded an opportunity for assuring that the Federal reclamation policy, including repayment and the wide distribution of benefits, will apply to that project. This is in accordance with the view that I have heretofore expressed and the position repeatedly taken by the late President Roosevelt. It is consistent with the policies laid down by the Congress in the Flood Control Act of 1944.

"Consistently with the action taken by

the Congress on the Kings River Project, I propose in the near future to send to the Congress my recommendations regarding an over-all plan for the development of the water resources of the Central Valley area in California. I am withholding action in that regard pending receipt of comments from the Governor of California. The over-all plan for the Central Valley area of California will include means for achieving comprehensive development and utilization of its water resources for all beneficial purposes, including irrigation and power, and it will provide adequately for flood protection. It will have regard for the need for integrated operation of reservoirs which is essential for complete utilization of the land and water resources of the area. It will provide for application in the Central Valley area of the Federal reclamation policy—including repayment of costs and the wide distribution of benefits. I hope that the Congress will, by the adoption of that plan, act to put an end to a situation which, in California and in Washington, has been

May 2, 1946

824 CIVIL FUNCTIONS APPROPRIATIONS ACT, 1947

productive of administrative confusion as well as confusion to the general public.

"In the meantime, in view of the legislative history of the provisos in the Kings River item, and in view of the disadvantageous position in which the Government would be placed if repayment arrangements were unduly postponed, I am asking the Director of the Budget to impound the funds appropriated for construction of the project, pending determination of the allocation

of costs and the making of the necessary repayment arrangements."

**Reference in the Text.** Public Law Numbered 534, Seventy-eighth Congress, second session, approved December 22, 1944, referred to in the text, is the Flood Control Act of 1944. Extracts from the act appear herein in chronological order.

**Legislative History.** H.R. 5400, Public Law 374 in the 79th Congress. H.R. Rept. No. 1524. S. Rept. No. 1067. H.R. Rept. No. 1931 (conference report).

## BOULDER CITY CEMETERY ACT

An act authorizing the Secretary of the Interior to convey certain lands situated in Clark County, Nevada, to the Boulder City Cemetery Association for cemetery purposes. (Act of June 25, 1946, ch. 473, 60 Stat. 307)

[**Conveyance of lands to Cemetery Association authorized.**]—The Secretary of the Interior hereby is authorized to convey to the Boulder City Cemetery Association, a rural cemetery association incorporated pursuant to the laws of the State of Nevada, for cemetery purposes, upon such terms and conditions as he may prescribe and subject to such rules and regulations for the protection of property and interests of the United States of America and for the preservation of the public health, safety, and welfare in Boulder City, Nevada, and vicinity, as may thereafter be promulgated by him or pursuant to his authority, all right, title, and interest of the United States of America in and to certain lands in Clark County, State of Nevada, heretofore withdrawn for reclamation purposes, described as follows:

The east half of the southwest quarter of the northwest quarter of the northwest quarter of the southwest quarter, the southeast quarter of the northwest quarter of the northwest quarter of the southwest quarter, the west half of the southwest quarter of the northeast quarter of the northwest quarter of the southwest quarter, the east half of the northwest quarter of the southwest quarter of the northwest quarter of the southwest quarter, the northeast quarter of the southwest quarter of the northwest quarter of the southwest quarter, and the west half of the northwest quarter of the southeast quarter of the northwest quarter of the southwest quarter, section 10, township 23 south, range 64 east, Mount Diablo base and meridian, Nevada, consisting of ten acres, more or less, by deed reserving a right-of-way thereon for the construction, operation, and maintenance of electric transmission lines and telephone lines constructed by the authority of the United States or under permit from the Secretary of the Interior: *Provided*, That title to such of said lands as should in the judgment of the Secretary so revert shall revert to the United States in any of the following events: (a) if any portion of said lands shall cease to be used and maintained for cemetery purposes; (b) if any portion of said lands shall be used for any purpose other than cemetery purposes; or (c) if said association shall violate any of the rules or regulations hereafter promulgated by the Secretary of the Interior pursuant to this Act and if the Secretary, whose decision shall be final, shall determine in writing that as a result of such violation the interests of the United States require a reverter of said lands; a reverter resulting from any of the aforesaid events shall become effective upon the filing for record by the Secretary with the Recorder of Clark County, State of Nevada, of a declaration that a reverter has occurred for reasons therein stated and upon the service of a copy thereof upon the association by regular mail addressed to it at its last known address. (60 Stat. 307)

June 25, 1946

BOULDER CITY CEMETERY ACT

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 439 in the 79th Congress, H.R. Rept. No. 1878. S. Rept. No. 1365.

**Legislative History.** H.R. 3966, Public Law 439, 79th Congress, 1st Session.

## PURCHASE OF IMPROVEMENTS ON PUBLIC LANDS, ANDERSON RANCH RESERVOIR

An act authorizing the Secretary of the Interior to purchase improvements or pay damages for removal of improvements located on public lands of the United States in the Anderson Ranch Reservoir site, Boise reclamation project, Idaho. (Act of June 26, 1946, ch. 496, 60 Stat. 313)

[Purchase of improvements authorized.]—The Secretary of the Interior is authorized to purchase improvements located on public lands of the United States within the boundaries of the Anderson Ranch Reservoir, Boise reclamation project, Idaho, or to make payment for damages for the removal of improvements from the public lands of the United States within the boundaries of said reservoir. Any funds appropriated for the construction of the Anderson Ranch Reservoir, Boise reclamation project, Idaho, shall be available for such purchase or payment of damages. Payments may be made pursuant to this Act to persons, firms, or corporations who shall establish to the satisfaction of the Secretary of the Interior that they are entitled equitably to receive the same, and who sign contracts and vouchers for the same upon forms approved by the Secretary of the Interior: *Provided*, That amounts so paid shall not exceed the reasonable value, in the judgment of the Secretary of the Interior, of the improvements purchased or the actual damages (not exceeding in any event the reasonable value of the said improvements, as determined by the Secretary of the Interior) found by the Secretary of the Interior to have been sustained as a result of the removal of said improvements, as the case may be. (60 Stat. 313)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 450 in the 79th Congress. H.R. Rept. No. 1208. S. Rept. No. 1473.

**Legislative History.** H.R. 1689, Public

June 28, 1946

## AMEND COLORADO RIVER FRONT WORK AND LEVEE SYSTEM ACT

An act to amend the laws authorizing the performance of necessary protection work between the Yuma project and Boulder Dam by the Bureau of Reclamation. (Act of June 28, 1946, ch. 517, 60 Stat. 338)

[**Colorado River Front Work and Levee System Act amended.**]—The provision of the Act entitled “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes,” approved January 21, 1927 (44 Stat. 1010, 1021), amended by the Act entitled “An Act to authorize defraying cost of necessary work between the Yuma project and Boulder Dam,” approved July 1, 1940 (54 Stat. 708), is hereby further amended to read as follows:

“That for the purpose of controlling the floods, improving navigation, and regulating the flow of the Colorado River, there is hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, for the fiscal year ending June 30, 1928, and annually thereafter, such sums as may be necessary, to be spent by the Bureau of Reclamation under the direction of the Secretary of the Interior, to defray the cost of (a) operating and maintaining the Colorado River front work and levee system in Arizona, Nevada, and California; (b) constructing, improving, extending, operating, and maintaining protection and drainage works and systems along the Colorado River including such protection and drainage works and systems within a non-Federal reclamation project when need for such systems results from irrigation operations on Federal reclamation projects; (c) controlling said river, and improving, modifying, straightening, and rectifying the channel thereof; and (d) conducting investigations and studies in connection therewith: *Provided*, That the expenditure of moneys for any of the foregoing purposes shall not be deemed a recognition of any obligation or liability whatsoever on the part of the United States: *Provided further*, That, within the discretion of the Secretary of the Interior, local communities to be benefited by works constructed pursuant to this Act may be required to provide, without cost to the United States, necessary rights-of-way and maintenance of the completed works and assurance, satisfactory to him, of payment of valid claims arising out of damage caused to persons or property by reason of the construction, operation, or maintenance of any such works: *Provided further*, That any moneys received by the United States as reimbursement in accordance with contracts heretofore entered into under the authority of the Act of December 21, 1928 (45 Stat. 1057), as amended, and ratified by the Act of August 30, 1935 (49 Stat. 1028, 1039), for expenditures made under the authority of this paragraph, shall be covered into the Treasury as miscellaneous receipts. In connection with operations conducted under this paragraph, the Secretary of the Interior shall have the same authority with respect to (a) the acquisition, exchange and disposition of lands, interests in lands, water rights and other property, and the relocation

June 28, 1946

## COLORADO FRONT WORK AND LEVEE SYSTEM

829

thereof; (b) the utilization of lands owned or acquired by the United States; (c) construction and supply contracts; (d) the performance of necessary or proper acts; and (e) the making of necessary or proper rules and regulations, which he has in connection with the projects under the Federal reclamation laws, Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto. Nothing contained in this paragraph shall be deemed to amend, repeal, or otherwise affect the provisions contained in the First Deficiency Appropriation Act, 1944, under the caption 'Department of the Interior, Bureau of Reclamation—Colorado River front work and levee system' (58 Stat. 150, 157)." (60 Stat. 338)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1958 Amendment.** The Act of May 1, 1958, amended item "(b)" of the Act by adding after the words "Colorado River" the following: "including such protection and drainage works and systems within a non-Federal reclamation project when need for such systems results from irrigation operations on Federal reclamation projects." The 1958 Act appears herein in chronological order.

**Supplementary Provision: Credit for Flood Protective Levee System.** The Act of September 2, 1950, 64 Stat. 576, authorized credits for costs incurred by the Yuma project, the Yuma Auxiliary project and the Imperial Irrigation District of California, in constructing, operating and maintaining flood protective levee systems along or adjacent to the lower Colorado River in Arizona, California and Lower California, Mexico. The 1950 Act appears herein in chronological order.

**Reference in the Text.** The act entitled "An Act to authorize defraying cost of necessary work between the Yuma project and Boulder Dam," approved July 1, 1940 (54 Stat. 708), referred to in the text, appears herein in chronological order.

**References in the Text.** The Act of December 21, 1928 (45 Stat. 1057), as amended, referred to in the text, is the Boulder Canyon Project Act. The Act of August 30, 1935 (49 Stat. 1028, 1039), referred to in the text as ratifying the 1928 Act is the section of the Rivers and Harbors Act of 1935 which authorized the Parker Dam on the Colorado River and the Grand Coulee Dam on the Columbia River, and which ratified and validated all contracts and agreements executed in connection with these projects. Both the 1928 Act and extracts from the 1935 Act appear herein in chronological order.

**Reference in the Text.** The First Deficiency Appropriation Act, 1944, was approved April 1, 1944. The portion of the Act referred to in the text, i.e., "Department of the Interior, Bureau of Reclamation—Colorado River front work and levee system" (58 Stat. 150, 157), appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of January 21, 1927.

**Legislative History.** H.R. 5674, Public Law 469 in the 79th Congress. H.R. Rept. No. 1818. S. Rept. No. 1474.

July 1, 1946

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1947

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1947, and for other purposes. (Act of July 1, 1946, ch. 529, 60 Stat. 348)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

[Utilization of power revenues.]—Utilization of power revenues: No power revenues on any project shall be distributed as profits, before or after retirement of the project debt, and nothing contained in any previous appropriation Act shall be deemed to have authorized such distribution: *Provided*, That the application of such revenues to the cost of operation, maintenance, and debt service of the irrigation system, shall not be construed to be such a distribution; (60 Stat. 366; 16 U.S.C. § 825t)

#### EXPLANATORY NOTE

**Codification.** This provision originally was codified as 16 U.S.C. § 825t but it subsequently was eliminated for the reason that it was not repeated in the subsequent appropriation act. However, since the pro-

vision is worded as if it were intended to be permanent legislation, it has been reinstated in the supplement to the 1964 edition of the Code.

#### NOTES OF OPINIONS

Permanent legislation 1  
Use of power revenues 2

##### 1. Permanent legislation

The provision relating to utilization of power revenues is to be regarded as permanent legislation. Letter of Comptroller General Warren to Chairman Robert F. Jones, Interior Subcommittee, House Committee on Appropriations, February 28, 1947; reprinted in *Hearings on Interior Department Appropriation Bill for 1948 Before the House Appropriations Committee*, 80th Congress, 1st Sess., pt. 3, vol. 2, at 1485 (1947).

##### 2. Use of power revenues

The availability of power revenues to aid irrigation has, in one form or another, been a part of general reclamation law almost since its beginning. This is evident from

section 5 of the Act of April 16, 1906, 34 Stat. 116, 117, 43 U.S.C. § 522; the Act of February 24, 1911, 36 Stat. 930, 43 U.S.C. § 522; and subsection I, section 4, of the Act of December 5, 1924, 43 Stat. 703, 43 U.S.C. § 501. This general trend has been reinforced by the Hayden-O'Mahoney amendment to the Interior Department Appropriation Act, 1939, the Act of May 9, 1938, 52 Stat. 322, 43 U.S.C. § 392a, and a provision in the Interior Department Appropriation Act, 1947, Act of July 1, 1946, 60 Stat. 366, as well as section 9 of the Reclamation Project Act of 1939, Act of August 4, 1939, 53 Stat. 1193, 43 U.S.C. § 485h. Memorandum of Chief Counsel Fisher, September 12, 1952, in re procedure on use of surplus power revenues for assistance in financing irrigation distribution systems.

\* \* \* \* \*

[Transfer of War Relocation Centers.]—For purposes of effecting settlement of war veterans on public land reclamation projects and to provide facilities for veteran employment in construction and operation of reclamation projects, the Bureau of Reclamation is hereby authorized to acquire by transfer without exchange of funds from the War Assets Administration or other Federal agency in responsible charge and such agencies are directed to transfer the lands, im-

July 1, 1946

INTERIOR DEPARTMENT APPROPRIATION ACT, 1947

831

provements, buildings, furnishings, and equipment acquired by the War Relocation Authority and declared surplus on the War Relocation Centers on the Heart Mountain Division of the Shoshone project, Wyoming, the Minidoka (Hunt) project, Idaho, and the Tulelake Division of the Klamath project, California; and on the former prisoner of war camp at Indianola, Nebraska: *Provided*, That said lands, improvements, buildings, furnishings, and equipment shall be made available under regulations of the Secretary of the Interior to veteran settlers and nonprofit organizations and otherwise in accordance with the provisions of Senate Report Numbered 1412, Seventy-ninth Congress, second session: *Provided further*, That the War Assets Administration is authorized and directed to transfer to the Bureau of Reclamation funds required for maintenance and protection of the transferred property pending its final disposition. (60 Stat. 369)

\* \* \* \* \*

**Sec. 12. [Short title.]**—This Act may be cited as the “Interior Department Appropriation Act, 1947”. (60 Stat. 386)

EXPLANATORY NOTES

**Not Codified.** Extracts of this act shown here are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts

appear herein only in the act in which first used.

**Legislative History.** H.R. 6335, Public Law 478 in the 79th Congress. H.R. Rept. No. 1984. S. Rept. No. 2329.

July 24, 1946

## FLOOD CONTROL ACT OF 1946

[Extracts from] An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes. (Act of July 24, 1946, ch. 596, 60 Stat. 641)

\* \* \* \* \*

### Sec. 10. [Projects authorized.]—

\* \* \* \* \*

#### ARKANSAS RIVER BASIN

The Chief of Engineers is authorized to provide in the Canton Reservoir on the North Canadian River one hundred and seven thousand acre-feet of irrigation and water supply storage (including approximately sixty-nine thousand acre-feet for irrigation and thirty-eight thousand acre-feet for municipal water supply for Enid, Oklahoma, to be utilized in accordance with section 8 and section 6, respectively, of the Flood Control Act of December 22, 1944 (Public, 534, Seventy-eighth Congress)), upon the condition that when siltation of the reservoir shall encroach upon the flood control allocation the irrigation and water supply storage will be reduced progressively unless provision is made to raise the height of the dam or otherwise provide compensatory storage for flood control on the basis of an equitable distribution of the costs among the water users and other beneficiaries of conservation storage, as determined at that time. (60 Stat. 647; Act of June 30, 1948, 62 Stat. 1176)

#### EXPLANATORY NOTES

**1948 Amendment.** The Act of June 30, 1948, 62 Stat. 1171, extracts of which appear herein in chronological order, amended this provision to read as it appears above. As originally enacted, it read as follows: "The Chief of Engineers is authorized to provide in the Canton Reservoir on the North Canadian River sixty-nine thousand acre-feet of irrigation storage, upon the condition that when siltation of the reservoir shall encroach upon the flood control allocation the irrigation storage will be re-

duced progressively unless provision is made to raise the height of the dam or otherwise provide compensatory storage for flood control on the basis of an equitable distribution of the costs among the water users and other beneficiaries of conservation storage, as determined at that time."

**Reference in the Text.** Extracts from the Flood Control Act of December 22, 1944 (Public, 534, Seventy-eighth Congress), referred to in the text, appear herein in chronological order.

\* \* \* \* \*

#### BRAZOS RIVER BASIN

The project for the Belton Reservoir on Leon River, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated April 19, 1946, at an estimated cost of \$15,500,000.

Of the conservation storage capacity provided by such reservoir, not to exceed forty-five thousand acre-feet of such capacity shall be available for irrigation purposes in the Leon, Lampasas, and Little River Valleys.

July 24, 1946

FLOOD CONTROL ACT OF 1946

833

The project for flood protection at Eastland, on Leon River, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated April 19, 1946, at an estimated cost of \$82,800. (60 Stat. 649)

\* \* \* \* \*

BOISE RIVER BASIN

The project for the Lucky Peak Reservoir on Boise River, Idaho, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated May 13, 1946, at an estimated cost of \$10,684,000: *Provided*, That said dam and reservoir shall be so constructed as not substantially to damage the structure of the Arrow Rock Dam and shall be operated in such manner as not materially to interfere with the operation of said Arrow Rock Reservoir. (60 Stat. 650)

\* \* \* \* \*

**Sec. 18. [Increased authorizations for Missouri River Basin project.]**—In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$150,000,000 for the prosecution of the comprehensive plan adopted by section 9a of the Act approved December 22, 1944 (Public, Numbered 534, Seventy-eighth Congress), for continuing the works in the Missouri River Basin to be undertaken under said plans by the Secretary of the Interior. (60 Stat. 653)

EXPLANATORY NOTES

**Not Codified.** Extracts from this Act shown here are not codified in the U.S. Code.

**Presidential Statement.** The following statement was made by the President on July 24, 1946:

"I have today approved two bills, H.R. 6407 and H.R. 6597, authorizing the construction of river and harbor improvements. One of these bills is what is generally known as a River and Harbor Bill and authorizes projects primarily for the improvement of navigation, while the other is a Flood Control Bill. Both bills, however, authorize projects that would include other developments of rivers, including irrigation, water supply, and hydroelectric power development. The River and Harbor Bill authorizes projects which are estimated to have an ultimate cost of \$945,000,000. The Flood Control Bill authorizes works estimated to cost \$952,000,000, of which \$772,000,000 is for projects under the jurisdiction of the War Department. These two bills bring the authorized backlog of river improvement work under jurisdiction of the War Department to approximately five billion dollars. Assuming that this estimate of five billion dollars is accurate, and experience would indicate that it is probably low, and assum-

ing the new work can be prosecuted at the 1947 appropriation rate, it will take 35 years to bring to completion the river and harbor projects and 20 years to complete the flood control projects now authorized.

"In consonance with the intent of Congress as indicated in its consideration of these two bills, I take them to be primarily authorizations to enable the War Department to plan its future programs soundly, and I understand that there is no expectation of early appropriations. I do not intend to request funds for any of these projects during the current fiscal year. Financing, whenever made, must be based on budgetary requirements for that period.

"Furthermore there are many unanswered questions in connection with the projects authorized by the two bills I have just signed. These questions must be satisfactorily answered before the construction authorized is initiated. I do not intend to approve any requests for appropriations or allocations of funds for the construction of any of these projects until all the important questions concerning them have been satisfactorily resolved, and until all of the Federal agencies directly concerned are substantially agreed upon the technical features involved.

July 24, 1946

FLOOD CONTROL ACT OF 1946

"With a shelf of projects that will take us many years to complete, it is obvious that we must give careful consideration to which projects are undertaken first. Accordingly, in connection with the preparation of budget estimates, the program must be reexamined annually so as to determine the present estimated cost and the present economic merits of the projects proposed for inclusion in that year's program.

"For some years the majority of these authorized projects must be deferred. As to the more immediate future, I repeat what I said when the Director of the Office of War Mobilization and Reconversion

issued his seventh report, that Government expenditures will be reduced and deferrable construction and public works projects using Federal funds will be studied with a view to saving strategic materials and to diminishing inflationary pressures."

**Reference in the Text.** The Flood Control Act of December 22, 1944 (Public Law 534, Seventy-eighth Congress), referred to in the text, appears herein in chronological order.

**Legislative History.** H.R. 6597, Public Law 526 in the 79th Congress. H.R. Rept. No. 2165. S. Rept. No. 1624. H.R. Rept. No. 2474 (conference report).

July 24, 1946

835

## CONSENT TO NEGOTIATE BEAR RIVER COMPACT

An act granting the consent of Congress to the States of Utah, Idaho, and Wyoming to negotiate and enter into a compact for the division of the waters of the Bear River and its tributaries. (Act of July 24, 1946, ch. 609, 60 Stat. 658)

[**Consent of Congress to Compact.**]—The consent of Congress is hereby given to the States of Utah, Idaho, and Wyoming to negotiate and enter into a compact providing for an equitable division and apportionment among the said States of the waters of the Bear River and all of its tributaries in the three States, upon condition that one suitable person from the Department of the Interior, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact entered into: *Provided*, That any such compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of said States and approved by the Congress of the United States. (60 Stat. 658)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Bear River Compact.** The Act of March 17, 1958, 72 Stat. 38, granted the consent of Congress to the Bear River Compact negotiated between the

States of Utah, Idaho and Wyoming. The Act appears herein in chronological order.

**Legislative History.** H.R. 4701, Public Law 537 in the 79th Congress. H.R. Rept. No. 1994. S. Rept. No. 1697.

July 31, 1946

836

## LEWISTON ORCHARDS PROJECT

An act to authorize the Secretary of the Interior to construct the Lewiston Orchards project, Idaho, in accordance with the Federal reclamation laws. (Act of July 31, 1946, ch. 706, 60 Stat. 717)

[**Sec. 1. Project authorized.**]—For the purposes of irrigating lands and for purposes incidental thereto, there is hereby authorized to be constructed, operated, and maintained the Lewiston Orchards project, Idaho, substantially in accordance with the recommendations of the regional director of the Bureau of Reclamation, region numbered I, in his report dated December 3, 1945, as concurred in by the Commissioner of Reclamation and the Secretary of the Interior: *Provided*, That, notwithstanding any recommendations to the contrary contained in said report, all costs of said project allocated to irrigation and all costs of said project allocated to municipal water supply shall be reimbursable under the Federal reclamation laws but within repayment periods to be fixed by the Secretary of the Interior and not to exceed fifty years. (60 Stat. 717)

**Sec. 2. [Appropriation authorized.]**—There are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be required for the purposes of this Act. (60 Stat. 718)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 569 in the 79th Congress. S. Rept. No. the U.S. Code. 1675. H.R. Rept. No. 2497 (on H.R. 6876).  
**Legislative History.** S. 2372, Public Law

## DISCONTINUE REPORTS REQUIRED BY LAW

[Extracts from] An act to discontinue certain reports now required by law. (Act of August 7, 1946, ch. 770, 60 Stat. 866)

[Reports discontinued.]—The following reports or statements now required by law are hereby discontinued, and all acts or parts of acts herein cited as requiring the submission of such reports or statements are hereby repealed to the extent of such requirement:

\* \* \* \* \*

### REPORTS UNDER THE DEPARTMENT OF THE INTERIOR

6. [Clear Lake watershed.]—Investigation to determine whether any dams, water works, or other projects have been constructed in Clear Lake watershed, in the State of California, in violation of the water rights of the United States in California, and to render a report thereon (49 Stat. 1975). (60 Stat. 867)

7. [Annual report of reclamation surveys.]—Examinations and surveys, and to locate and construct irrigation works for storage, diversion, and development of waters, including artesian wells, and to report the results of such examinations and surveys, giving estimates of cost of all contemplated works, the quantity and location of the lands which can be irrigated therefrom, and all facts relative to the practicability of each irrigation project; also, the cost of works in process of construction, as well as those which have been completed (32 Stat. 388). (60 Stat. 867; 43 U.S.C. § 411, note)

\* \* \* \* \*

### EXPLANATORY NOTES

**Not Codified.** Item 6 extracted above is not codified in the U.S. Code.

**Cross Reference, Clear Lake Watershed Investigation.** The Act authorizing the Clear Lake Watershed investigation was approved June 26, 1936. The text of the Act in note form appears herein in chronological order.

**Cross Reference, Report to Congress on Examinations and Surveys.** The report to

Congress discontinued by this act on the examinations and surveys for, and to locate and construct, irrigation works, etc., was required by section 2 of the Reclamation Act of June 17, 1902. The Act appears herein in chronological order.

**Legislative History.** H.R. 2504, Public Law 615 in the 79th Congress. H.R. Rept. No. 311. S. Rept. No. 519.

August 7, 1946

838

## ADMINISTRATION OF AREAS BY NATIONAL PARK SERVICE

[Extracts from] An act to provide basic authority for the performance of certain functions and activities of the National Park Service. (Act of August 7, 1946, ch. 788, 60 Stat. 885)

[Sec. 1. Administration of areas by National Park Service pursuant to cooperative agreements.]—Appropriations for the National Park Service are authorized for—

\* \* \* \* \*

(b) Administration, protection, improvement, and maintenance of areas, under the jurisdiction of other agencies of the Government, devoted to recreational use pursuant to cooperative agreements. (60 Stat. 885; 16 U.S.C. § 17j-2(b))

### EXPLANATORY NOTE

**Legislative History.** H.R. 6629, Public Law 633 in the 79th Congress. H.R. Rept. No. 2459. S. Rept. No. 1569 (on S. 1839).

### NOTE OF OPINION

#### 1. Criminal Sanctions

Criminal sanctions may be imposed for violation of regulations applicable to acquired lands as well as public lands of an area administered by the National Park

Service pursuant to cooperative agreement with the Bureau of Reclamation. Deputy Solicitor Fisher Opinion, 68 I.D. 273 (1961), in re regulation of Shadow Mountain National Recreation Area.

**FISH AND WILDLIFE CONSERVATION****(FISH AND WILDLIFE COORDINATION ACT)**

An act to amend the Act of March 10, 1934, entitled "An Act to promote the conservation of wildlife, fish, and game, and for other purposes." (Act of August 14, 1946, ch. 965, 60 Stat. 1080)

**Editor's note:** Although the 1946 Act is written as an amendment to the Act of March 10, 1934, it is set forth below in the form of a separate act because it constitutes a substantial rearrangement and expansion of the earlier statute. The text includes the subsequent amendments through 1966. Section 2 of the Act of August 12, 1958, amended the first four sections, and section 1 of the 1958 Act gave the statute the short title of the "Fish and Wildlife Coordination Act." The 1934 and 1958 Acts appear herein in chronological order.

[**Sec. 1. Purpose—Cooperation with agencies—Surveys and investigations—Donations.**]—For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of this Act in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of this Act; (2) to make surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein acquired or controlled by any agency of the United States; and (3) to accept donations of land and contributions of funds in furtherance of the purposes of this Act. (60 Stat. 1080; § 2, Act of August 12, 1958, 72 Stat. 563; 16 U.S.C. § 661)

**EXPLANATORY NOTE**

**1958 Amendment.** Section 2 of the Act of August 12, 1958, 72 Stat. 563, added the introductory references to wildlife resources and conservation; added the references to

public fishing areas, including access easements across public lands; and added clause (3) relating to donations. The Act appears herein in chronological order.

**Sec. 2. (a) [Consultation required on all Federal and Federally-licensed water impoundments, diversions or other modifications.]**—Except as hereafter stated in subsection (h) of this section, whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any

August 14, 1946

840 FISH AND WILDLIFE COORDINATION ACT—SEC. 2

department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.

(b) [Reports of Secretary and State agency shall be included with and considered in reports on Federal water resource projects.]—In furtherance of such purposes, the reports and recommendations of the Secretary of the Interior on the wildlife aspects of such projects, and any report of the head of the State agency exercising administration over the wildlife resources of the State, based on surveys and investigations conducted by the United States Fish and Wildlife Service and such State agency for the purpose of determining the possible damage to wildlife resources and for the purpose of determining means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as provide concurrently for the development and improvement of such resources, shall be made an integral part of any report prepared or submitted by any agency of the Federal Government responsible for engineering surveys and construction of such projects when such reports are presented to the Congress or to any agency or person having the authority or the power, by administrative action or otherwise, (1) to authorize the construction of water-resource development projects or (2) to approve a report on the modification or supplementation of plans for previously authorized projects, to which this Act applies. Recommendations of the Secretary of the Interior shall be as specific as is practicable with respect to features recommended for wildlife conservation and development, lands to be utilized or acquired for such purposes, the results expected, and shall describe the damage to wildlife attributable to the project and the measures proposed for mitigating or compensating for these damages. The reporting officers in project reports of the Federal agencies shall give full consideration to the report and recommendations of the Secretary of the Interior and to any report of the State agency on the wildlife aspects of such projects, and the project plan shall include such justifiable means and measures for wildlife purposes as the reporting agency finds should be adopted to obtain maximum overall project benefits.

(c) [Modification of projects—Acquisition of lands.]—Federal agencies authorized to construct or operate water-control projects are hereby authorized to modify or add to the structures and operations of such projects, the construction of which has not been substantially completed on the date of enactment of the Fish and Wildlife Coordination Act, and to acquire lands in accordance with section 3 of this Act, in order to accommodate the means and measures for such conservation of wildlife resources as an integral part of such projects: *Provided*, That for projects authorized by a specific Act of Congress before the date

August 14, 1946

FISH AND WILDLIFE COORDINATION ACT—SEC. 2 841

of enactment of the Fish and Wildlife Coordination Act (1) such modification or land acquisition shall be compatible with the purposes for which the project was authorized; (2) the cost of such modifications or land acquisition, as means and measures to prevent loss of and damage to wildlife resources to the extent justifiable, shall be an integral part of the cost of such projects; and (3) the cost of such modifications or land acquisition for the development or improvement of wildlife resources may be included to the extent justifiable, and an appropriate share of the cost of any project may be allocated for this purpose with a finding as to the part of such allocated cost, if any, to be reimbursed by non-Federal interests.

(d) [Integral part of project cost—Limitations on enhancement measures.]—The cost of planning for and the construction or installation and maintenance of such means and measures adopted to carry out the conservation purposes of this section shall constitute an integral part of the cost of such projects: *Provided*, That such cost attributable to the development and improvement of wildlife shall not extend beyond that necessary for (1) land acquisition, (2) facilities as specifically recommended in resource project reports, (3) modification of the project, and (4) modification of project operations, but shall not include the operation of wildlife facilities.

(e) [Transfer of funds to Fish and Wildlife Service.]—In the case of construction by a Federal agency, that agency is authorized to transfer to the United States Fish and Wildlife Service, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of this section.

(f) [Estimation of wildlife benefits or losses and costs to be included in project reports.]—In addition to other requirements, there shall be included in any report submitted to Congress supporting a recommendation for authorization of any new project for the control or use of water as described herein (including any new division of such project or new supplemental works on such project) an estimation of the wildlife benefits or losses to be derived therefrom including benefits to be derived from measures recommended specifically for the development and improvement of wildlife resources, the cost of providing wildlife benefits (including the cost of additional facilities to be installed or lands to be acquired specifically for that particular phase of wildlife conservation relating to the development and improvement of wildlife), the part of the cost of joint-use facilities allocated to wildlife, and the part of such costs, if any, to be reimbursed by non-Federal interests.

(g) [Application to projects.]—The provisions of this section shall be applicable with respect to any project for the control or use of water as prescribed herein, or any unit of such project authorized before or after the date of enactment of the Fish and Wildlife Coordination Act for planning or construction, but shall not be applicable to any project or unit thereof authorized before the date of enactment of the Fish and Wildlife Coordination Act if the construction of the particular project or unit thereof has been substantially completed. A

August 14, 1946

842 FISH AND WILDLIFE COORDINATION ACT—SEC. 2

project or unit thereof shall be considered to be substantially completed when sixty percent or more of the estimated construction cost has been obligated for expenditure.

(h) [Exemption of small impoundments and land management activities.]—The provisions of this Act shall not be applicable to those projects for the impoundment of water where the maximum surface area of such impoundments is less than ten acres, nor to activities for or in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction. (60 Stat. 1080; § 2, Act of August 12, 1958, 72 Stat. 564–66; § 6(b), Act of July 9, 1965, 79 Stat. 216; 16 U.S.C. § 662)

EXPLANATORY NOTES

**1965 Amendment and Supplementary Provisions.** The Federal Water Project Recreation Act, approved July 9, 1965, deals generally with the subjects of development, cost allocation, and cost reimbursement for recreation and fish and wildlife purposes at Federal water resources projects, and it therefore must be regarded as modifying the Fish and Wildlife Coordination Act on these subjects. The 1965 Act includes a provision in section 6(b) specifically amending section 2(d) of the Coordination Act. Among other things, this amendment repeals the provision that costs of Federal reclamation projects allocated to the mitigation of loss to fish and wildlife resources were nonreimbursable. The 1965 Act appears herein in chronological order.

**1958 Amendment.** Section 2 of the Act of August 12, 1958, amended the section generally. The Act appears herein in chronological order.

**Original Text.** Section 2 as originally enacted in 1946 reads as follows: "SEC. 2. Whenever the waters of any stream or other body of water are authorized to be impounded, diverted, or otherwise controlled for any purpose whatever by any department or agency of the United States, or by any public or private agency under Federal permit, such department or agency first shall consult with the Fish and Wildlife Service and the head of the agency exercising administration over the wildlife resources of the State wherein the impoundment, diversion, or other control facility is to be constructed with a view to preventing loss of and damage to wildlife resources, and the reports and recommendations of the Secretary of the Interior and of the head of the agency exercising administration over the wildlife resources of the State, based on surveys and investigations conducted by

the Fish and Wildlife Service and by the said head of the agency exercising administration over the wildlife resources of the State, for the purpose of determining the possible damage to wildlife resources and of the means and measures that should be adopted to prevent loss of and damage to wildlife resources, shall be made an integral part of any report submitted by any agency of the Federal Government responsible for engineering surveys and construction of such projects.

"The cost of planning for and the construction or installation and maintenance of any such means and measures shall be included in and shall constitute an integral part of the costs of such projects: *Provided*, That, in the case of projects hereafter authorized to be constructed, operated, and maintained in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior shall, in addition to allocations to be made under section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187), make findings on the part of the estimated cost of the project which can properly be allocated to the preservation and propagation of fish and wildlife, and costs allocated pursuant to such findings shall not be reimbursable. In the case of construction by a Federal agency, that agency is authorized to transfer, out of appropriations or other funds made available for surveying, engineering, or construction to the Fish and Wildlife Service, such funds as may be necessary to conduct the investigations required by this section to be made by it."

**Popular Name.** The 1946 Act was popularly referred to as the Coordination Act.

## NOTES OF OPINIONS

Acquisition of lands 3

Consultation 5

Excess land laws 4

Non-federal structures 2

Projects covered 1

Transfer of funds 6

#### 1. Projects covered

The successive "re-authorizations" of the Central Valley project in 1949, 1950 and 1954, were intended, as a drafting technique, to add certain developments, features, or purposes to the then existing project but not, in effect, to post-date the authorizations for construction theretofore conferred. Consequently, the authority in section 2 of the Coordination Act of 1946 to make non-reimbursable cost allocations to fish and wildlife purposes for projects "hereafter authorized to be constructed" are applicable only to those portions of the Central Valley project the construction of which began after August 14, 1946. Memorandum of Acting Solicitor Armstrong, November 15, 1954.

#### 2. Non-federal structures

The item in the Interior Department Appropriation Act, 1953, which authorizes the Department to undertake on a reimbursable basis the emergency rehabilitation of an existing structure which is neither owned by nor under the control of the Federal Government is not an authorization to a Federal agency to impound, divert or otherwise control waters within the meaning of section 2 of the Act of August 14, 1946, and therefore an appropriation request for the construction of fish screens on a nonreimbursable basis as part of the rehabilitation work would be subject to a point of order. Solicitor Davis Opinion, M-36160 (October 13, 1953), in re Savage Rapids Dam, Oregon.

#### 3. Acquisition of lands

Under section 2 of the Act of August 14, 1946, the acquisition of compensatory lands to replace wildlife habitat that would be lost as the result of the construction of a proposed reservoir would be authorized if included by the construction agency as part of the project plan. Acting Solicitor Burke Opinion, 61 I.D. 305 (1954).

#### 4. Excess land laws

The excess land laws do not apply to lands owned and managed by a state for purposes of the conservation, development, and improvement of wildlife. Memorandum of Associate Solicitor Weinberg to Acting Regional Solicitor, Denver, September 25, 1961.

#### 5. Consultation

Consultation with the Fish and Wildlife Service regarding the effect which the impounding waters will have upon wildlife resources must take place at any early stage in the planning work on any reclamation project. Solicitor White Opinion, 59 I.D. 470 (1947).

#### 6. Transfer of funds

The authority to determine whether and to what extent funds shall be transferred from the Bureau of Reclamation to the Fish and Wildlife Service for making surveys and investigations is vested in the Secretary of the Interior. Solicitor White Opinion, 59 I.D. 470 (1947).

A transfer of funds by the Bureau of Reclamation to the Fish and Wildlife Service may properly be made under section 2 of the act of March 10, 1934, as amended, to finance investigations by the latter in connection with the construction of diversion works which had been authorized as of August 14, 1946, but on which construction had not yet begun. Solicitor White Opinion, M-36021 (January 4, 1950).

**Sec. 3. (a) [Use of land and waters for wildlife purposes in connection with Federal water impoundments, diversions, and other modifications.]**—Subject to the exceptions prescribed in section 2(h) of this Act, whenever the waters of any stream or other body of water are impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, adequate provision, consistent with the primary purposes of such impoundment, diversion, or other control, shall be made for the use thereof, together with any areas of land, water, or interests therein, acquired or administered by a Federal agency in connection therewith, for the conservation, maintenance, and management of wildlife resources thereof, and

August 14, 1946

844 FISH AND WILDLIFE COORDINATION ACT—SEC. 3

its habitat thereon, including the development and improvement of such wildlife resources pursuant to the provisions of section 2 of this Act.

(b) [Plans and administration.]—The use of such waters, lands, or interests therein for wildlife conservation purposes shall be in accordance with general plans approved jointly (1) by the head of the particular department or agency exercising primary administration in each instance, (2) by the Secretary of the Interior, and (3) by the head of the agency exercising the administration of the wildlife resources of the particular State wherein the waters and areas lie. Such waters and other interests shall be made available, without cost for administration, by such State agency, if the management of the properties relate to the conservation of wildlife other than migratory birds, or by the Secretary of the Interior, for administration in such manner as he may deem advisable, where the particular properties have value in carrying out the national migratory bird management program: *Provided*, That nothing in this section shall be construed as affecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

(c) [Acquisition of lands by Federal construction agencies—Report to Congress.]—When consistent with the purposes of this Act and the reports and findings of the Secretary of the Interior prepared in accordance with section 2, land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of this Act in connection with a project as reasonably needed to preserve and assure for the public benefit the wildlife potentials of the particular project area: *Provided*, That before properties are acquired for this purpose, the probable extent of such acquisition shall be set forth, along with other data necessary for project authorization, in a report submitted to the Congress, or in the case of a project previously authorized, no such properties shall be acquired unless specifically authorized by Congress, if specific authority for such acquisition is recommended by the construction agency.

(d) [Use of properties acquired.]—Properties acquired for the purposes of this section shall continue to be used for such purposes, and shall not become the subject of exchange or other transactions if such exchange or other transaction would defeat the initial purpose of their acquisition.

(e) [Availability of Federal lands.]—Federal lands acquired or withdrawn for Federal water-resource purposes and made available to the States or to the Secretary of the Interior for wildlife management purposes, shall be made available for such purposes in accordance with this Act, notwithstanding other provisions of law.

(f) [National forest lands.]—Any lands acquired pursuant to this section by any Federal agency within the exterior boundaries of a national forest shall, upon acquisition, be added to and become national forest lands, and shall be administered as a part of the forest within which they are situated, subject to all laws applicable to lands acquired under the provisions of the Act of March 1,

August 14, 1946

FISH AND WILDLIFE COORDINATION ACT—SEC. 5 845

1911 (36 Stat. 961), unless such lands are acquired to carry out the National Migratory Bird Management Program. (60 Stat. 1081; § 2, Act of August 12, 1958, 72 Stat. 566; 16 U.S.C. § 663)

EXPLANATORY NOTE

**1958 Amendment.** The 1958 Act expanded and amended the section generally. The Act appears herein in chronological order.

NOTE OF OPINION

**1. Acquisition of lands**

Section 3(c) of the Fish and Wildlife Coordination Act authorizes Federal construction agencies to acquire lands for fish and wildlife purposes in connection with previously authorized projects. The provision requiring special, additional Congressional authorization for such acqui-

tions applies only in the event the constructing agency determines to recommend the acquisition to Congress rather than to proceed to acquire the land without submitting its recommendations to Congress. Solicitor Barry Opinion, 69 I.D. 224 (1962).

**Sec. 4. [Administration of areas.]**—Such areas as are made available to the Secretary of the Interior for the purposes of this Act, pursuant to sections 1 and 3 or pursuant to any other authorization, shall be administered by him directly or in accordance with cooperative agreements entered into pursuant to the provisions of the first section of this Act and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon, as may be adopted by the Secretary in accordance with general plans approved jointly by the Secretary of the Interior and the head of the department or agency exercising primary administration of such areas: *Provided*, That such rules and regulations shall not be inconsistent with the laws for the protection of fish and game of the States in which such area is situated: *Provided further*, That lands having value to the National Migratory Bird Management Program may, pursuant to general plans, be made available without cost directly to the State agency having control over wildlife resources, if it is jointly determined by the Secretary of the Interior and such State agency that this would be in the public interest: *And provided further*, That the Secretary of the Interior shall have the right to assume the management and administration of such lands in behalf of the National Migratory Bird Management Program if the Secretary finds that the State agency has withdrawn from or otherwise relinquished such management and administration. (60 Stat. 1081; § 2, Act of August 12, 1958, 72 Stat. 567; 16 U.S.C. § 664)

EXPLANATORY NOTE

**1958 Amendment.** The 1958 Act added minor technical changes. The Act appears the last two provisos, in addition to making herein in chronological order.

**Sec. 5. [Investigations on pollution of waters—Report to Congress.]**—The Secretary of the Interior, through the Fish and Wildlife Service and the Bureau of Mines, is authorized to make such investigations as he deems necessary to determine the effects of domestic sewage, mine, petroleum, and industrial wastes, erosion silt, and other polluting substances on wildlife, and to make reports to

August 14, 1946

846 FISH AND WILDLIFE COORDINATION ACT—SEC. 5A

the Congress concerning such investigations and of recommendations for alleviating dangerous and undesirable effects of such pollution. These investigations shall include (1) the determination of standards of water quality for the maintenance of wildlife; (2) the study of methods of abating and preventing pollution, including methods for the recovery of useful or marketable products and byproducts of wastes; and (3) the collation and distribution of data on the progress and results of such investigations for the use of Federal, State, municipal, and private agencies, individuals, organizations, or enterprises. (60 Stat. 1081; 16 U.S.C. § 665)

**Sec. 5A. [Maintenance of adequate water levels in upper Mississippi River.]**—In the management of existing facilities (including locks, dams, and pools) in the Mississippi River between Rock Island, Illinois, and Minneapolis, Minnesota, administered by the United States Corps of Engineers of the Department of the Army, that Department is directed to give full consideration and recognition to the needs of fish and other wildlife resources and their habitat dependent on such waters, without increasing additional liability to the Government, and, to the maximum extent possible without causing damage to levee and drainage districts, adjacent railroads and highways, farm lands, and dam structures, shall generally operate and maintain pool levels as though navigation was carried on throughout the year. (Added by the Act of June 19, 1948, 62 Stat. 497; 16 U.S.C. § 665a)

**EXPLANATORY NOTE**

**1948 Amendment.** This section was added H.R. 2721, Public Law 697 in the 80th by the Act of June 19, 1948, 62 Stat. 497. Congress; H.R. Rept. No. 504; S. Rept. For legislative history of the 1948 Act see No. 1448.

**Sec. 6. [Appropriations authorized.]**—There is authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act and regulations made pursuant thereto, including the construction of such facilities, buildings, and other improvements necessary for economical administration of areas made available to the Secretary of the Interior under this Act, and the employment in the city of Washington and elsewhere of such persons and means as the Secretary of the Interior may deem necessary for such purposes. (60 Stat. 1082; 16 U.S.C. § 666)

**Sec. 7. [Penalty for violation of rule or regulation.]**—Any person who shall violate any rule or regulation promulgated in accordance with this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 or imprisoned for not more than one year, or both. (60 Stat. 1082; 16 U.S.C. § 666a)

**Sec. 8. [Definition of terms.]**—The terms “wildlife” and “wildlife resources” as used herein include birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent. (60 Stat. 1082; 16 U.S.C. § 666b)

**Sec. 9. [Not applicable to Tennessee Valley Authority.]**—The provisions of this Act shall not apply to the Tennessee Valley Authority. (60 Stat. 1082; 16 U.S.C. § 666c)

August 14, 1946

FISH AND WILDLIFE COORDINATION ACT

847

EXPLANATORY NOTES

**Editor's Note, Annotations.** Only selected annotations of opinions are included because this statute does not relate primarily to activities of the Bureau of Reclamation.

**Legislative History.** H.R. 6097, Public Law 732 in the 79th Congress. H.R. Rept. No. 1944. S. Rept. No. 1698. S. Rept. No. 1748.

April 30, 1947

## NAMING OF HOOVER DAM

An act to restore the name of Hoover Dam. (Act of April 30, 1947, ch. 46, 61 Stat. 56)

[**Dam on Colorado River in Black Canyon designated Hoover Dam.**]—The name of Hoover Dam is hereby restored to the dam on the Colorado River in Black Canyon constructed under the authority of the Boulder Canyon Project Act, approved December 21, 1928 (45 Stat. 1057), and referred to as Hoover Dam in the Act approved February 14, 1931 (46 Stat. 1146); in the Act approved April 22, 1932 (47 Stat. 118); in the Act approved July 1, 1932 (47 Stat. 535); in the Act approved July 21, 1932 (47 Stat. 717); and in the Act approved February 17, 1933 (47 Stat. 845). Any law, regulation, document, or record of the United States in which such dam is designated or referred to under the name of Boulder Dam shall be held to refer to such dam under and by the name of Hoover Dam. (61 Stat. 56; 43 U.S.C. § 617, note)

### EXPLANATORY NOTES

**Reference in the Text.** The Boulder Canyon Project Act, approved December 21, 1928 (45 Stat. 1057), referred to in the text, appears herein in chronological order.

**Background.** The dam on the Colorado River in Black Canyon had been designated "Boulder Dam" by order of the Secretary of the Interior dated May 8, 1933. Previously, it had been called "Hoover Dam" in accordance with the instructions of the Secretary dated September 17, 1930.

**References in the Text.** Each of the five statutes referred to in the text as referring

to Hoover Dam is an appropriate act. Extracts from each act, except that of July 21, 1932 (47 Stat. 717), the Emergency Relief and Construction Act of 1932, appear herein in chronological order. However, since only special substantive provisions of appropriation acts are included in the extracts, the references to Hoover Dam do not appear herein.

**Legislative History.** H.J. Res. 140, Public Law 43 in the 80th Congress. H.R. Rept. No. 87. H.R. Rept. No. 90 (on H. Res. 132). S. Rept. No. 55 (on S.J. Res. 45).

### W. C. AUSTIN PROJECT

An act to change the name of the Lugert-Altus irrigation project in the State of Oklahoma to the W. C. Austin project. (Act of May 16, 1947, ch. 75, 61 Stat. 99)

[Project name changed.]—In honor and recognition of the outstanding service of the late W. C. Austin in securing irrigation for the benefit of southwestern Oklahoma, the project in the State of Oklahoma known as the Lugert-Altus irrigation project shall hereafter be known and designated as the W. C. Austin project. Any law, regulation, document, or record of the United States in which such project is designated or referred to under the name of the Lugert-Altus irrigation project shall be held to refer to such project under and by the name of the W. C. Austin project. (61 Stat. 99)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 69 in the 80th Congress. S. Rept. No. 56.  
the U.S. Code. H.R. Rept. No. 156 (on H.R. 797).

**Legislative History.** S. 214, Public Law

May 19, 1947

850

## AMENDED CONTRACT WITH FARMERS' IRRIGATION DISTRICT

An act authorizing the reduction of certain accrued interest charges payable by the Farmers' Irrigation District, North Platte project. (Act of May 19, 1947, ch. 79, 61 Stat. 101)

[Secretary authorized to modify contract of July 15, 1927.]—The Secretary of the Interior is hereby authorized in administering the North Platte project, Nebraska-Wyoming, to enter into a contract modifying the contract of July 15, 1927, heretofore entered into pursuant to the Act of February 21, 1911 (36 Stat. 925), between The United States and the Farmers' Irrigation District, a corporation organized and existing under the laws of the State of Nebraska, whereby the said district shall be relieved and excused of the obligation to pay \$59,853, representing part of the accrued interest due the United States from the district pursuant to the terms of article 2(c) of said contract of July 15, 1927: *Provided*, That the district agrees, on terms satisfactory to the Secretary, to operate and maintain the several drain diversion works now or hereafter to be constructed emptying waste, seepage, and return flow waters into the district's canal. (61 Stat. 101)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of February 21, 1911 (36 Stat. 925), referred to in the text, is known as the Warren Act. The Act appears herein in chronological order.

**Cross References.** Northport Irrigation District. Water to the Northport Irrigation District is transported through an extension of the Farmers' Irrigation District canal. The Northport District has annually reim-

bursed the Farmers' District for this carriage of water. Earlier statutory provisions authorized the use of power revenues from the North Platte project for this purpose. These provisions are found herein in chronological order under the Act of June 19, 1934, 48 Stat. 1034; the Act of May 25, 1948, 62 Stat. 273; and the Act of September 6, 1950, 64 Stat. 689.

**Legislative History.** H.R. 804, Public Law 73 in the 80th Congress. H.R. Rept. No. 102. S. Rept. No. 115.

## AMEND MINERAL LEASING ACT

An act amending section 35 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 191), as amended. (Act of May 27, 1947, ch. 83, 61 Stat. 119)

[**Sec. 35 amended and reenacted—Disposition of moneys received.**]—Section 35 of the Act entitled “An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain”, approved February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 191), as amended, is amended and reenacted to read as follows:

“SEC. 35. All money received from sales, bonuses, royalties and rentals of public lands under the provisions of this Act shall be paid into the Treasury of the United States; 37½ per centum thereof shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State or the Territory of Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys to be used by such State, Territory, or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State or Territory may direct; and, excepting those from Alaska, 52½ per centum thereof shall be paid into, reserved and appropriated, as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act from lands within the naval petroleum reserves shall be deposited in the Treasury as “miscellaneous receipts”, as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252, 34 U.S.C., sec. 524). All moneys received under the provisions of this Act not otherwise disposed of by this section shall be credited to miscellaneous receipts. Nothing herein contained shall be construed to affect the disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska as provided for in the Act of March 4, 1915 (38 Stat. 1214, 1215; 48 U.S.C., sec. 353, as amended).” (61 Stat. 119; 30 U.S.C. § 191)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of February 25, 1920.

**Legislative History.** H.R. 193, Public Law 77 in the 80th Congress. H.R. Rept. No. 97. S. Rept. No. 118.

June 25, 1947

852

## AMEND CONTRACT WITH MANCOS WATER CONSERVANCY DISTRICT

An act to authorize the Secretary of the Interior to contract with the Mancos Water Conservancy District increasing the reimbursable construction cost obligation of the district to the United States for construction of the Mancos project and extending the repayment period. (Act of June 25, 1947, ch. 130, 61 Stat. 176)

[Secretary authorized to amend the contract of July 20, 1942.]—The Secretary of the Interior is authorized to enter into a contract amending that certain contract between the Mancos Water Conservancy District and the United States dated July 20, 1942, to provide that the reimbursable construction cost obligation of the district to the United States for construction of the Mancos project will be increased from \$600,000 to \$900,000, and that the period of repayment of this obligation will be extended from forty years to sixty years. (61 Stat. 176)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 109 in the 80th Congress. H. Rept. No. 402. S. Rept. No. 255.  
the U.S. Code.

**Legislative History.** H.R. 3197, Public

## PAONIA PROJECT

An act to authorize the construction, operation, and maintenance of the Paonia Federal reclamation project, Colorado. (Act of June 25, 1947, ch. 148, 61 Stat. 181)

[**Sec. 1. Authorized in accordance with project report.**]—The Secretary of the Interior through the Bureau of Reclamation is hereby authorized to construct, maintain, and operate, pursuant to the Federal reclamation laws, the Paonia project, Colorado, substantially in accordance with the report of the regional director of the Bureau of Reclamation, region IV, dated January 2, 1946, as concurred in by the Commissioner of Reclamation and the Secretary of the Interior: *Provided*, That, notwithstanding any recommendations to the contrary contained in said report, all costs allocated to irrigation shall be reimbursable under the Federal reclamation laws within repayment periods fixed by the Secretary of the Interior at not to exceed sixty-eight years. (61 Stat. 181)

[**Sec. 2. [Unexpended balance available for expenditure.]**—Unexpended balances of sums heretofore appropriated for the Paonia project, Colorado, authorized by finding of feasibility of the Secretary of the Interior approved by the President on March 18, 1939, are hereby made immediately available for expenditure on the Paonia project hereby authorized. (61 Stat. 181)

[**Sec. 3. [Additional appropriations.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such additional sums as may be required for the purposes of this Act. (61 Stat. 181)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Previous Authorization and Reauthorization.** The Paonia project was originally approved by the President on March 18, 1939, pursuant to the Acts of June 25, 1910, 36 Stat. 835, and December 5, 1924, 43 Stat. 701. However, the project was not constructed pursuant to that authorization and a revised plan was developed. The Act

appearing above authorized the revised plan. The project was reauthorized as a participating project under the Colorado River Storage Project Act of April 11, 1956. Each of the Acts referred to in this note appears herein in chronological order.

**Legislative History.** H.R. 3143, Public Law 117 in the 80th Congress. H.R. Rept. No. 371. S. Rept. No. 253.

June 26, 1947

## FLOOD CONTROL COSTS, COACHELLA VALLEY DISTRIBUTION SYSTEM

An act to declare the policy of the United States with respect to the allocation of costs of construction of the Coachella Division of the All-American Canal irrigation project, California. (Act of June 26, 1947, ch. 153, 61 Stat. 183)

[**Revision in appropriation language.**]—The language in the appropriation Act of July 1, 1946, of the Department of the Interior for the fiscal year ending June 30, 1947 (Public Law 478, Seventy-ninth Congress) for the Bureau of Reclamation under the caption:

“Boulder Canyon project (All-American Canal): For continuation of construction of a diversion dam, and main canal (and appurtenant structures including distribution and drainage systems) located entirely within the United States connecting the diversion dam with the Imperial and Coachella Valleys in California;”

is hereby revised to read:

“Boulder Canyon project (All-American Canal): For continuation of construction of a diversion dam, and main canal (and appurtenant structures) located entirely within the United States connecting the diversion dam with the Imperial and Coachella Valleys in California, and distribution and drainage systems;”

and this revision shall apply with equal force to all prior appropriation Acts for the Department of the Interior and to the Act for the fiscal year 1948 in which this same language appears for the Bureau of Reclamation. (61 Stat. 183)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Interior Department Appropriation Act, 1937, approved June 22, 1936, rather than under the Act of July 1, 1946, which this

Act amends. The reason for this is that a provision in an appropriation act that is repeated in subsequent acts appears herein only in that Act in which it first appears.

**Legislative History.** H.R. 3348, Public Law 121 in the 80th Congress. H.R. Rept. No. 404. S. Rept. No. 256.

## ADDITION OF LAND TO ANGOSTURA UNIT, MISSOURI RIVER BASIN PROJECT

An act to authorize the inclusion within the Angostura unit of the Missouri Basin project of certain lands owned by the United States. (Act of July 23, 1947, ch. 299, 61 Stat. 408)

[**Inclusion of lands within the Angostura unit.**]—The Secretary of Agriculture is authorized to add to and make a part of the Angostura unit of the Missouri Basin project, situated in Custer and Fall River Counties, South Dakota, and established pursuant to the provisions of the Act of August 11, 1939, as amended (16 U.S.C. (and Supp.) 590y-590z-11), any lands of the United States acquired under the provisions of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), or title III of the Bankhead-Jones Farm-Tenant Act, approved July 22, 1937 (7 U.S.C. 1010-1013), within the Bad Lands-Fall River land utilization project, administered by the Secretary of Agriculture, which are found to be suitable for such transfer. All lands so added to and made a part of the Angostura unit shall thereafter be subject to all laws applicable to agricultural lands acquired under the provisions of section 5(a) of the Act of August 11, 1939, as amended (16 U.S.C. 590z-3(a)); the costs incurred by the United States in acquiring such lands, as well as the costs incurred in the improvement thereof for irrigation purposes, shall be returned in the same manner as though such lands had been acquired under the provisions of said section 5(a). (61 Stat. 408)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of August 11, 1939, as amended (16 U.S.C. (and Supp.) 590y-590z-11), referred to in the text, is the Water Conservation and Utilization Act. The Act appears herein in chronological order.

**References in the Text.** The National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), and Title III of the Bankhead-Jones Farm-Tenant Act, approved July 22, 1937 (7 U.S.C. 1010-1013), referred to in the text, provided statutory authority for the acquisition by the United States of the lands which this Act authorizes to be included in the Angostura Unit, Mis-

souri River Basin Project. The 1933 Act authorized the acquisition, by purchase or the exercise of eminent domain, of any real or personal property in connection with the construction of any public works project, which included conservation and development of natural resources projects. The 1935 Act included an appropriation for rural rehabilitation and relief in stricken agricultural areas, and for water conservation, trans-mountain water diversion and irrigation and reclamation. Title III of the 1937 Act authorizes the Secretary of Agriculture to develop a program of land conservation and utilization.

**Legislative History.** H.R. 2167, Public Law 217 in the 80th Congress. H.R. Rept. No. 503. S. Rept. No. 448.

July 25, 1947

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1948

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1948, and for other purposes. (Act of July 25, 1947, ch. 337, 61 Stat. 460)

\* \* \* \* \*

### BONNEVILLE POWER ADMINISTRATION

Construction, operation and maintenance, Bonneville power transmission system: . . . *Provided further*, That interest heretofore collected by Bonneville Power Administration from sales of electric energy generated at Grand Coulee Dam on the unamortized balance of investment allocated to power in Grand Coulee Dam shall be covered into the reclamation fund forthwith: *Provided further*, That said interest shall not be allocated during the fiscal year 1948. (61 Stat. 462)

#### EXPLANATORY NOTES

**Provision Repeated.** The same provisos, except for the fiscal year reference at the end, are contained in the Interior Department Appropriation Act, 1949, Act of June 29, 1948, 62 Stat. 1114.

**Legislative History.** The above provisos were added in the House during consideration of the conference report. 93 Cong. Rec. 9623 (1947).

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

[Arnold project.]—Deschutes project, Oregon, \$1,626,000, of which \$100,000 shall be available toward emergency rehabilitation of the works of the Arnold Irrigation District, to be repaid in full under conditions satisfactory to the Secretary of the Interior. (61 Stat. 474)

#### EXPLANATORY NOTES

**Popular Name.** The Arnold project is known as a Cordon amendment project after Senator Guy Cordon of Oregon. The appropriations for the project constitute the authorization.

**Cross Reference.** Other appropriations

for the Arnold project are contained in the Act of December 23, 1947, 61 Stat. 944; the Act of October 12, 1949, 63 Stat. 780; and the Act of August 26, 1957, 71 Stat. 419.

#### NOTE OF OPINION

##### 1. Reclamation laws not applicable

Inasmuch as the irrigation system of the Arnold Irrigation District was privately developed, and limited Federal expenditures were authorized by specific items in appropriation acts, the Arnold project is

not a project governed by the Federal reclamation laws within the purview of the Rehabilitation and Betterment Act. Memorandum of Acting Associate Solicitor Fisher to Commissioner, March 12, 1956.

\* \* \* \* \*

July 25, 1947

INTERIOR DEPARTMENT APPROPRIATION ACT, 1948 857

[Yuma Army air base.]—For the purpose of effecting settlement of war veterans on public land reclamation projects and to provide facilities for veteran employment in construction and operation of reclamation projects, the property, buildings, equipment, material, and acquired lands heretofore or hereafter declared surplus at the Yuma Army air base, Yuma, Arizona, shall be transferred to the Bureau of Reclamation by any Federal agency having custody or ownership, without exchange of funds, and to be available for the same purpose and to be disposed of in the same manner as the war relocation centers and the prisoner-of-war camp transferred to the Bureau of Reclamation in the Interior Department Appropriation Act, 1947. (61 Stat. 477)

\* \* \* \* \*

[Short title.]—This Act may be cited as the “Interior Department Appropriation Act, 1948”. (61 Stat. 492)

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Interest Component.** The conference report states in part: “In making certain appropriations in this bill from the general fund for reclamation projects, the conferees do so with the recommendation that new legislation shall be passed at the earliest opportunity providing for the disposal of the interest collected on sums invested in power and municipal water features on reclamation projects, and with the understanding that interest heretofore or hereafter collected on such investment in power or municipal water features of any such re-

lamation project constructed or operated under the authority of the Reclamation Project Act of 1939 shall not be allocated during the fiscal year 1948.” House Report 1013, 80th Cong., 1st Sess. 15 (1947).

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 3123, Public Law 247 in the 80th Congress. H.R. Rept. No. 279. S. Rept. No. 278. H.R. Rept. No. 1013 (conference report).

July 30, 1947

858

## GILA PROJECT

An act to relocate the boundaries and reduce the area of the Gila Federal reclamation project, and for other purposes. (Act of July 30, 1947, ch. 382, 61 Stat. 628)

[**Sec. 1. Reduction in area—Substitution of land—Diversion of waters—Maximum acreage.**]—For the purpose of reclaiming and irrigating lands in the State of Arizona and other beneficial uses, the reclamation project known as Gila project, heretofore authorized and established under the provisions of the reclamation laws, the Act of June 16, 1933 (48 Stat. 195), and various appropriation Acts, is hereby reduced in area to approximately forty thousand irrigable acres of land (twenty-five thousand acres thereof situated on the Yuma Mesa and fifteen thousand acres thereof within the North and South Gila Valleys), or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, and as thus reduced is hereby reauthorized and redesignated the Yuma Mesa division, Gila project, and the Wellton-Mohawk division, Gila project, comprising approximately seventy-five thousand irrigable acres of land, or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, situate within the Wellton, Dome, Roll, Texas Hill, and Mohawk areas, is substituted for the land eliminated from the Yuma Mesa division and is hereby authorized: *Provided, however,* That the waters to be diverted and used thereby, and the lands and structures for the diversion, transportation, delivery, and storage thereof, shall be subject to the provisions of the Boulder Canyon Project Act of December 21, 1928, and subject to the provisions of the Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922: *And provided further,* That the above limitations contained in this section are for the sole purpose of fixing the maximum acreage of the project and shall not be construed as interpreting, affecting, or modifying any interstate compact or contract with the United States for the use of Colorado River water or any Federal or State statute limiting or defining the right to use Colorado River water of or in any State. (61 Stat. 628; 43 U.S.C. § 613)

### EXPLANATORY NOTES

**Reference in the Text.** The Act of June 16, 1933 (48 Stat. 195), referred to in the text, is the National Industrial Recovery Act. Extracts from the act appear herein in chronological order.

**References in the Text.** The Boulder

Canyon Project Act of December 21, 1928, and the Colorado River Compact, both referred to in the text, appear herein in chronological order under the date of the act.

July 30, 1947

GILA PROJECT

859

NOTE OF OPINION

**1. Water use limitation**

The limitation in section 1 of the 1947 Act on the beneficial consumptive use in the Yuma Mesa Division of no more than 300,000, acre feet of water per annum diverted from the Colorado River is implicit in the repayment contracts with the Well-

ton-Mohawk Irrigation and Drainage District and the North Gila Valley Irrigation District even though not explicitly referred to therein. Letters from Acting Secretary Rose to Messrs. McElhaney, Harrison and Dowd, November 26, 1951.

**Sec. 2. [Acquisition of property—Price limitation—Indebtedness liquidation.]**—The Secretary is hereby authorized to acquire in the name of the United States, at prices satisfactory to him, such lands, interests in lands, water rights, and other property within or adjacent to the Gila project, which belongs to the Gila Valley Power District or the Mohawk Municipal Water Conservation District, as he deems appropriate for the protection, development, or improvement of said project: *Provided, however,* That the prices to be paid for the lands owned by the Gila Valley Power District, of Arizona, and heretofore officially appraised at the direction of the Commissioner of Reclamation, for the existing facilities of said district and of the Mohawk Municipal Water Conservation District, of Arizona, heretofore officially appraised at his request and determined by him to be useful to said project, shall not, in the aggregate, exceed \$380,000, and no portion thereof shall be paid until said districts have made arrangements satisfactory to the Secretary for the liquidation of their respective bonded, warrant, and other outstanding indebtedness. (61 Stat. 628; 43 U.S.C. § 613a)

**Sec. 3. [Disposition of lands—Sales contracts—Credit to construction costs.]**—The Secretary is hereby authorized, to the extent, in the manner, and on such terms as he deems appropriate for the protection, development, or improvement of the Gila project, to sell, exchange, or otherwise dispose of the public lands of the United States within said project, the lands acquired under this Act, and any improvements on any such lands and to lease the same during the presettlement period only, provided such lands shall be disposed of to actual settlers and farmers as soon as practicable; to establish town sites on such lands; and to dedicate portions of such lands for public purposes. Contracts for the sale of such lands shall be on a basis that, in the Secretary's judgment, will provide the return in a reasonable period of years of not less than the appraised value of the land and the improvements thereon or thereto. Such lands may be disposed of in farm units of such sizes as the Secretary determines to be adequate, taking into consideration the character of soil, topography, location with respect to the irrigation system, and such other factors as the Secretary deems relevant: *Provided,* That the area disposed of to an individual shall, so far as practicable, not exceed one hundred and sixty acres. Sales to any individual shall be of not more than one farm unit. Any sums received by the United States from the disposition of said lands and improvements shall be covered into the reclamation fund, and credited to construction costs. (61 Stat. 629; 43 U.S.C. § 613b)

July 30, 1947

## GILA PROJECT

## NOTES OF OPINIONS

Charges	1
Other laws	3
Public purposes	2

**1. Charges**

A contract and mortgage covering pre-development charges executed in favor of the United States by an entryman who received a homestead on the Yuma Mesa division, Gila project, may be revised to reduce the amount of the charge to be paid by the entryman where it is shown that the public notice erroneously overstated the amount of the acreage in the entry. Dec. Comp. Gen. B-127709 (May 3, 1956).

**2. Public purposes**

Lands may be dedicated to a local hospital district under section 3 even though there is a possibility under Arizona law that the hospital might subsequently be leased to an organization operating it for a profit. Memorandum of Associate Solicitor Fisher, August 3, 1956.

**Sec. 4. [Regulations—Lands subject to assessment or taxation—Priority of Federal liens.]**—Beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations which the Secretary is hereby authorized to issue, any public lands within the Gila project and any lands acquired under this Act shall be, after disposition thereof by the United States by contract of sale and during the time such contract shall remain in effect, (i) subject to the provisions of the laws of the State of Arizona relating to the organization, government, and regulation of irrigation, electrical, power, and other similar districts, and (ii) subject to legal assessment or taxation by any such district and by said State or political subdivisions thereof, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands: *Provided, however,* That the United States does not assume any obligation for amounts so assessed or taxed: *And provided further,* That any proceedings to enforce said assessments or taxes shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land-sale contracts made under this Act, and to any obligation for any other charges accrued or unaccrued, for special improvements, construction, or operation and maintenance costs of said project. (61 Stat. 629; 43 U.S.C. § 613c)

**Sec. 5. [Repayment within 60 years—Apportionment of repayment obligation—Variable payments.]**—Notwithstanding any other provision of law, the general repayment obligation of any organization which may hereafter enter into a contract with the United States covering the repayment of any portion of the costs of construction of the Gila project may be spread in annual installments over such reasonable period, not exceeding sixty years, as the Secretary may determine. For the purpose of predicated the repayment obligations of the various lands within said project on their respective ability, as determined by the Secretary, to

**3. Other laws**

Certain temporary Government housing facilities on reclamation withdrawn land within the Gila project may be disposed of by the Housing and Home Finance Administrator under section 601(b) of the Lanham Act, as amended (Act of April 20, 1950; 64 Stat. 44, 59; 42 U.S.C. § 1581); and the restrictions of section 3 of the Gila Project Act are not governing. Memorandum of Acting Associate Solicitor Fisher, September 9, 1955.

Lands dedicated for public park purposes under section 3 of the Gila Project Act of July 30, 1947, subject to a mineral reservation to the United States, remain subject to the reclamation withdrawal, and the Department may properly decline, under the Act of April 23, 1932, to open them to mineral location. *M. W. Bobo, et al., A-26613* (July 13, 1953).

share the burdens thereof, he may provide for the equitable apportionment of said general repayment obligation to the lands benefited on a unit basis in accordance with the extent of the benefit derived from the project, the character of soil, topography, and such other factors as he deems relevant, and he may provide for a system of variable payments under which larger annual payments will be required during periods of above-normal production or income and lesser annual payments will be required during periods of subnormal production or income. (61 Stat. 629; 43 U.S.C. § 613d)

**Sec. 6. [Appropriations authorized.]**—There are hereby authorized to be appropriated, from time to time, out of any money in the Treasury not otherwise appropriated, such moneys as may be necessary to carry out the provisions of this Act. (61 Stat. 630; 43 U.S.C. § 613, note)

**Sec. 7. [Powers of Secretary.]**—The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in contracts made under the authority of this Act such provisions as he deems proper for carrying out the provisions of this Act; and in connection with sales or exchanges under this Act, he is authorized to effect conveyances without regard to the laws governing the patenting of public lands. Wherever in this Act functions, powers, or duties are conferred upon the Secretary, said functions, powers, or duties may be performed, exercised, or discharged by his duly authorized representatives. (61 Stat. 630; 43 U.S.C. § 613e)

**Sec. 8. [Supplement to reclamation law—Boulder Canyon project acts not amended.]**—This Act shall be deemed a supplement to and part of the reclamation law. Nothing in this Act shall be construed to amend the Boulder Canyon Project Act of December 21, 1928, as amended by the Boulder Canyon Project Adjustment Act of July 19, 1940. (61 Stat. 630; 43 U.S.C. § 613, note)

#### EXPLANATORY NOTES

**References in the Text.** The Boulder Canyon Project Act of December 21, 1928, and the Boulder Canyon Project Adjustment Act of July 19, 1940, appear herein in chronological order. **Legislative History.** S. 483, Public Law 272 in the 80th Congress. S. Rept. No. 281. H.R. Rept. No. 910 (on H.R. 1597).

February 5, 1948

## RIGHTS-OF-WAY ON INDIAN LANDS

An act to empower the Secretary of the Interior to grant rights of way for various purposes across lands of individual Indians or Indian tribes, communities, bands or nations. (Act of February 5, 1948, ch. 45, 62 Stat. 17)

[**Sec. 1. Rights-of-way for all purposes across Indian lands authorized.**]—The Secretary of the Interior is hereby empowered to grant rights-of-way for all purposes, subject to such conditions as he may prescribe, over and across any lands now or hereafter held in trust by the United States for individual Indians or Indian tribes, communities, bands, or nations, or any lands now or hereafter owned, subject to restrictions against alienation, by individual Indians or Indian tribes, communities, bands, or nations, including the lands belonging to the Pueblo Indians in New Mexico, and any other lands heretofore or hereafter acquired or set aside for the use and benefit of the Indians. (62 Stat. 17; 25 U.S.C. § 323)

### NOTE OF OPINION

#### 1. Scope of rights-of-way

The authority given the Secretary under section 1 to grant rights-of-way "for all purposes" includes all lands needed for constructing, operating and maintaining a

water control project. Deputy Solicitor Fritz Opinion, 64 I.D. 70 (1957), reversing Acting Solicitor Flanery Opinion, M-36015 (October 7, 1949) and Solicitor White Opinion, M-35093 (March 28, 1949).

**Sec. 2. [Consent of tribal officials for tribal lands—Conditions for waiver of consent of individual Indians.]**—No grant of a right-of-way over and across any lands belonging to a tribe organized under the Act of June 18, 1934 (48 Stat. 984), as amended; the Act of May 1, 1936 (49 Stat. 1250); or the Act of June 26, 1936 (49 Stat. 1967), shall be made without the consent of the proper tribal officials. Rights-of-way over and across lands of individual Indians may be granted without the consent of the individual Indian owners if (1) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (2) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (3) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary of the Interior finds that the grant will cause no substantial injury to the land or any owner thereof; or (4) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof. (62 Stat. 18; 25 U.S.C. § 324)

### EXPLANATORY NOTE

**References in the Text.** The Act of June 18, 1934 (48 Stat. 984), referred to in the text, commonly known as the Wheeler-Howard Act, among other things provides for the conservation and development of Indian lands and resources and authorizes

the Secretary of the Interior to proclaim new Indian reservations. The act further authorizes any Indian tribe or tribes residing on the same reservation to organize for its common welfare and adopt an appropriate constitution and bylaws. The Act of

February 5, 1948

## RIGHTS-OF-WAY ON INDIAN LANDS

863

May 1, 1936 (49 Stat. 1250), referred to in the text, extends the provisions of the 1934 act to the then Territory of Alaska, territories having been excluded from the provisions of the 1934 Act. The Act of June 26, 1936 (49 Stat. 1967), also referred to in the text, deals with the general welfare of the Indians of Oklahoma. Among other things, it authorizes the Secretary of

the Interior to acquire any interest in land, water rights, or surface rights to lands, within or without then existing Indian reservations, to be held in trust for the Indians for whose benefit such land is acquired. The Act further authorizes any recognized tribe or band of Indians to organize for its common welfare and to adopt a constitution and bylaws.

### NOTE OF OPINION

#### 1. Consent

The consent of the Crow Tribe is not necessary before a right-of-way for a transmission line to the Yellowtail dam site can be granted under the Act of February 5,

1948, since that act requires the consent of the tribe only if it is organized under the Indian Reorganization Act of June 18, 1934. Memorandum of Acting Solicitor Flanery, September 10, 1952.

**Sec. 3. [Just compensation.]**—No grant of a right-of-way shall be made without the payment of such compensation as the Secretary of the Interior shall determine to be just. The compensation received on behalf of the Indian owners shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior. (62 Stat. 18; 25 U.S.C. § 325)

**Sec. 4. [Savings provision.]**—This Act shall not in any manner amend or repeal the provisions of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended by the Act of August 26, 1935 (49 Stat. 838), nor shall any existing statutory authority empowering the Secretary of the Interior to grant rights-of-way over Indian lands be repealed hereby. (62 Stat. 18; 25 U.S.C. § 326)

### EXPLANATORY NOTE

**Reference in the Text.** The Federal Water Power Act of June 10, 1920 (41 Stat. 1063) as amended by the Act of August 26, 1935 (49 Stat. 838), referred to in

the text, was renamed the Federal Power Act by the 1935 Act. Extracts from the 1920 and 1935 Acts appear herein in chronological order.

**Sec. 5. [Rights-of-way for use of United States.]**—Rights-of-way for the use of the United States may be granted under this Act upon application by the department or agency having jurisdiction over the activity for which the right-of-way is to be used. (62 Stat. 18; 25 U.S.C. § 327)

### NOTE OF OPINION

#### 1. Glen Canyon project

The Secretary has authority under the Act of February 5, 1948, to make available lands in the Navajo Indian Reservation for use in connection with the construction,

operation, and maintenance of the Glen Canyon Dam, powerplant and reservoir. Deputy Solicitor Fritz Opinion, 64 I.D. 70 (1957).

**Sec. 6. [Regulations.]**—The Secretary of the Interior is hereby authorized to prescribe any necessary regulations for the purpose of administering the provisions of this Act. (62 Stat. 18; 25 U.S.C. § 328)

**Sec. 7. [Effective date.]**—This Act shall not become operative until thirty days after its approval. (62 Stat. 18; 25 U.S.C. § 323, note)

### EXPLANATORY NOTE

**Legislative History.** H.R. 3322, Public No. 823. Law 407 in the 80th Congress. S. Rept.

February 27, 1948

## INDIAN POWER FACILITIES, FORT PECK PROJECT

An act to transfer certain transmission lines, substations, appurtenances, and equipment in connection with the sale and disposition of electric energy generated at the Fort Peck project, Montana, and for other purposes. (Act of February 27, 1948, ch. 75, 62 Stat. 36)

[**Sec. 1. Transfer of transmission lines, etc.**]—In aid of the administration of the Fort Peck project, there is hereby granted to the United States, for use by the Bureau of Reclamation, Department of the Interior (hereinafter referred to as the “Bureau”), in the discharge of its duties pursuant to the Act of May 18, 1938 (52 Stat. 403), the electric-transmission lines, substations, rights-of-way, and other property described in section 7 of that certain permit and memorandum of understanding, dated November 2, 1945, between the Bureau and the Office of Indian Affairs, Department of the Interior (hereinafter referred to as the “Indian Office”): *Provided, however,* That the Bureau shall continue to furnish electric service for the uses and purposes of the Indian Office on the Fort Peck Indian Reservation pursuant to the terms and conditions of said permit and memorandum of understanding, except as the same may be modified by the Secretary of the Interior. (62 Stat. 36; 16 U.S.C. § 833a, note)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of May 18, 1938 (52 Stat. 403), referred to in the text, authorized the completion of the Fort Peck project under the direction of the Secretary of War (Army), and provides for the sale and distribution of electric energy generated by the project under the supervision and direction of the Secretary of the Interior. The Act appears herein in chronological order.

**Sec. 2. [Payment for transfer.]**—That the amount of money to be paid for said property shall be \$58,577.52, or so much thereof as the Secretary of the Interior shall determine to be needed pursuant to the provisions of said permit and memorandum of understanding. Such sum shall be paid, from funds now or hereafter made available to the Department of the Interior for the construction of transmission lines and substations of the Fort Peck project, to the Commissioner of Indian Affairs, who shall deposit such sum in the Treasury of the United States as a credit on expenditures made for irrigation and power construction on the Fort Peck Indian irrigation project. (62 Stat. 36; 16 U.S.C. § 833a, note)

**Sec. 3. [Authority of Secretary.]**—The Secretary of the Interior is authorized to perform any and all acts as may be deemed necessary to carry out the provisions of this Act. (62 Stat. 37; 16 U.S.C. § 833a, note)

### EXPLANATORY NOTE

**Legislative History.** S. 1591, Public Law 420 in the 80th Congress. H.R. Rept. No. 1301 (on H.R. 4027). S. Rept. No. 812.

## EXTENSION OF SHASTA NATIONAL FOREST

An act to add certain public and other lands to the Shasta National Forest, California.  
(Act of March 19, 1948, ch. 139, 62 Stat. 83)

[**Sec. 1. Lands added to Shasta National Forest.**]—Subject to any valid claim or entry now existing and hereafter legally maintained, and for the purposes of protecting, improving, and utilizing their forests, watershed, recreational and other resources, all lands of the United States within the following-described areas are hereby added to and made parts of the Shasta National Forest and hereafter shall be subject to all laws and regulations applicable to the national forests:

\* \* \* \* \*

(Legal description omitted, 62 Stat. 83)

\* \* \* \* \*

*Provided*, That lands within the flow lines of reservoirs operated or maintained as parts of the Central Valley reclamation project or otherwise occupied and used for the operation of said project shall continue to be administered by the Bureau of Reclamation of the Department of the Interior. (62 Stat. 83)

**Sec. 2. [Forest Exchange Act applicable.]**—The provisions of the Forest Exchange Act of March 20, 1922, as amended (42 Stat. 465; U.S.C., Title 16, secs. 485, 486), are hereby made applicable to the areas described herein. (62 Stat. 83)

**Sec. 3. [Effective date.]**—This Act shall become effective July 1, 1948. (62 Stat. 83)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code; however, sections 486a-w of Title 16 of the U.S. Code are a listing of exchanges of lands in or adjacent to national forests where authorized by Congress.

**Reference in the Text.** The Forest Exchange Act of March 20, 1922, as amended (42 Stat. 465; U.S.C., Title 16, secs. 485, 486), referred to in section 2 of the text, authorizes the Secretary of the Interior to accept title to any lands within the exterior boundaries of the national forests

which, in the opinion of the Secretary of Agriculture, are chiefly valuable for national forest purposes, and in exchange therefor patent in the same State lands that are surveyed and non-mineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber from the national forests in the same state.

**Legislative History.** H.R. 3175, Public Law 449 in the 80th Congress. H.R. Rept. No. 680. S. Rept. No. 928.

March 29, 1948

## DEER CREEK AND AQUEDUCT DIVISIONS, PROVO RIVER PROJECT

An act to provide a means for the orderly continuation and completion of the Deer Creek and Aqueduct divisions of the Provo River project, Utah. (Act of March 29, 1948, ch. 159, 62 Stat. 92)

[**Interim construction cost charges—Postponement of contract payments.**]—In order to provide a means for the orderly continuation and completion of the Deer Creek and Aqueduct divisions of the Provo River project, Utah, and for the recovery by the United States of the actual construction cost thereof, the Secretary of the Interior in proceeding with the construction, completion, and administration of said divisions heretofore authorized, subject to the execution of such contracts as the Secretary may deem necessary to maintain existing repayment contracts between the United States, the Provo River Water Users Association and the Metropolitan Water District of Salt Lake City consistent with the interim construction cost recovery plan herein provided, is authorized (a) to deliver water or make project works available therefor, as the case may be, on terms and at annual rates or other annual charges to be fixed by the Secretary from year to year, calculated to return to the United States (in addition to the cost of operation and maintenance) the actual cost in excess of existing repayment, contract liability that may be incurred by the United States in completing said divisions of the Provo River project; and (b) to postpone the commencement of annual construction charge installments under existing repayment contracts: *Provided*, That any such postponement of annual construction charge installments shall in no event operate to delay the commencement of construction charges, as provided by existing repayment contracts, beyond the time when costs that may be incurred by the United States in excess of existing contract liability have been returned to the United States. (62 Stat. 92)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Provo River project was found feasible by the Secretary of the Interior on November 13, 1935, and approved by the President on November 16, 1935, pursuant to section 4 of the Act of June 25, 1910, 36 Stat. 836, and subsection B of section 4 of the Act of December 5,

1924, 43 Stat. 702. The Salt Lake Aqueduct was found feasible by the Secretary on October 21, 1938, and approved by the President on October 24, 1938, pursuant to the above Acts. Both Acts appear herein in chronological order.

**Legislative History.** S. 1990, Public Law 462 in the 80th Congress. S. Rept. No. 878. H.R. Rept. No. 1492.

## SAN DIEGO AQUEDUCT

An act relating to the construction and disposition of the San Jacinto-San Vicente aqueduct. (Act of April 15, 1948, ch. 186, 62 Stat. 171)

[Executive agencies action ratified—Completion of aqueduct.]—The Congress hereby (1) ratifies the action taken by various departments and agencies in the executive branch of the Government in planning for and proceeding with the construction of an aqueduct running from a connection with the Colorado River aqueduct of the Metropolitan Water District of Southern California near the west portal of San Jacinto tunnel in Riverside County, California, to San Vicente Reservoir in San Diego County, California; (2) authorizes the completion of such aqueduct in accordance with existing Government plans for the completion thereof; and (3) ratifies the action of the Navy Department in disposing of the aqueduct to the city of San Diego, California, pursuant to contract NOy-13300 which provides, among other things, for the leasing of such aqueduct to such city. (62 Stat. 171)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Second Barrel Construction Authorization.** This act relates to the so-called First Barrel or pipeline of the San Diego Aqueduct. Construction of the Second Barrel was authorized by the Act of October 11, 1951, 65 Stat. 404, which appears herein in chronological order.

**Background.** In a report of January 27, 1947, B-48120 (S. Doc. No. 7, 80th Cong.), the Comptroller General questioned the

adequacy of the legal authority for construction of the aqueduct. Following extensive hearings into the matter, the Senate Committee on Expenditures in the Executive Departments recommended the enactment of legislation providing retroactive ratification. Senate Report 149, 80th Cong., 1st Sess. (1947).

**Legislative History.** S. 1306, Public Law 482 in the 80th Congress. S. Rept. No. 257. H.R. Rept. No. 1548.

May 14, 1948

## PAYMENT TO BOULDER CITY SCHOOL DISTRICT

An act to amend the act entitled "Boulder Canyon Project Adjustment Act," approved July 19, 1940. (Act of May 14, 1948, ch. 292, 62 Stat. 235)

[**Act of July 19, 1940, amended.**]—The Act of July 19, 1940, entitled "Boulder Canyon Project Adjustment Act" (54 Stat. 774), is amended by adding the following new paragraph to section 2:

"**Sec. 2. (e) [Payment to Boulder City School District.]**—Annual appropriation for the fiscal years 1948, 1949, 1950, and 1951 for payment to the Boulder City School District, as reimbursement for the actual cost of instruction, during each school year, in the schools operated by said district, of pupils who are dependents of any employee or employees of the United States living in or in the immediate vicinity of Boulder City, such reimbursement not to exceed the sum of \$65 per semester per pupil and to be payable semiannually, after the term of instruction in each semester has been completed, under regulation to be prescribed by the Secretary." (62 Stat. 235; 43 U.S.C. § 618a, note)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Boulder Canyon Project Adjustment Act of July 19, 1940.

**Legislative History.** S. 1985, Public Law 528 in the 80th Congress. S. Rept. No. 1011. H.R. Rept. No. 1779.

## SALE OF BOULDER CITY HOUSES

An act directing the Secretary of the Interior to sell and lease certain houses, apartments, and lands in Boulder City, Nevada. (Act of May 25, 1948, ch. 339, 62 Stat. 268)

[**Sale of houses to qualified occupants.**]—The Secretary of the Interior is hereby authorized and directed to sell each house, including furniture, fixtures, and appurtenances, acquired from the Defense Homes Corporation and situated on land in Boulder City, Nevada, to the lessee occupant thereof, if such occupant desires to purchase the house and to lease the land upon which it is situated, and is (1) an employee of an agency of the Department of Interior who occupied a house on July 1, 1947, and occupies one at the time of sale or (2) is a person regularly employed or conducting a business or profession in Boulder City, Nevada, who occupied a Defense Homes Corporation housing unit or house prior to April 1, 1947, and occupies a house at the time of sale. The offer of sale to any such occupant shall be made within one hundred and eighty days after enactment of this Act and the sale shall be completed within a reasonable time after such offer. The sale price shall not exceed the amount at which the house was carried on the books of the Defense Homes Corporation at the date of transfer to the Secretary. The sale contract and documents of title shall contain (1) a provision prohibiting resale within three years at a price exceeding the price paid the Secretary and (2) a provision prohibiting resale on any terms during such period unless resale on such terms shall first have been offered to, and refused by, the Secretary. The Secretary is authorized and directed to lease the lot on which each house so sold is situated to the purchaser of such house in accordance with the provisions set out under the heading "Boulder Canyon Project" in the Interior Department Appropriation Act, 1941 (54 Stat. 406, 437). (62 Stat. 268)

[**Authority to repossess house from those ineligible to purchase—Lease of apartment.**]—The Secretary is authorized to repossess the houses now occupied by persons who are ineligible to purchase under the provisions of this Act, and to lease all apartments acquired from Defense Homes Corporation and all houses so acquired and not sold pursuant to this Act, together with the lands upon which situated, upon such terms and conditions as he may see fit in accordance with existing law. (62 Stat. 269)

[**Disposition of proceeds.**]—All proceeds from the sale and lease of houses and apartments by the Secretary pursuant to this Act shall be deposited in the Treasury and credited to the Colorado River Dam fund established by section 2 of the Boulder Canyon Project Act (45 Stat. 1057). (62 Stat. 269)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Interior Department Appropriation Act, 1941 (54 Stat. 406, 437), referred to in the text, was

enacted June 18, 1940. Extracts from the Act, including the item referred to, which authorizes the Secretary of the Interior to establish rental rates for the lease of reserved lands of the United States situated

May 25, 1948

SALE OF BOULDER CITY HOUSES

within the exterior boundaries of Boulder City, appear herein in chronological order.

**Reference in the Text.** The Boulder Canyon Project Act (45 Stat. 1057), referred to in the text, was enacted December 21,

1928. The Act appears herein in chronological order.

**Legislative History.** H.R. 4966, Public Law 553 in the 80th Congress. H.R. Rept. No. 1683. S. Rept. No. 1146 (on S. 1448).

NOTE OF OPINION

**1. Eligibility to purchase**

One who performs some professional services in Boulder City on only a part-time basis is not a person "regularly . . . conducting a business or profession" in the city

within the meaning of this act. Solicitor White Opinion, M-36010 (June 28, 1950), in re eligibility of T. L. War to purchase a house in Boulder City.

## AMENDED CONTRACT WITH NORTHPORT IRRIGATION DISTRICT

An act authorizing the execution of an amendatory repayment contract with the Northport Irrigation District, and for other purposes. (Act of May 25, 1948, ch. 341, 62 Stat. 273)

[**Sec. 1. Modification of contract upon finding by Secretary—Application of net profits—Repeal of provision in act of March 3, 1925.**]—The Secretary of the Interior, upon finding specifically that existing repayment contracts between the United States and the Northport Irrigation District cannot reasonably be carried out by the said district, is authorized to enter into such contracts as he shall determine appropriate to amend or modify the terms and provisions of such repayment contracts to accomplish the following general repayment plan: (a) application annually of such net profits as are allocable to the district from the sources specified in subsections I and J of section 4 of the Act of December 5, 1924 (43 Stat. 703), to the extent necessary to meet the annual costs to the district for water carriage through the Farmers' Irrigation District Canal, with any net profits in excess of such annual carriage costs being applied in reduction of the district's total repayment contract construction charge obligation to the United States; (b) payment by the district to the United States of \$3,500 as an annual construction charge installment: *Provided*, That in the event the annual net profits for application under (a) hereof are not sufficient in any given year to meet that year's cost of water carriage through the Farmers' Irrigation District Canal, all or any part of the said \$3,500 may be applied to pay the portion of the carriage charge not so met, and the construction charge installment for payment to the United States for that year shall be reduced accordingly: *Provided further*, That the proviso respecting application of net revenues from power plants connected with the North Platte Federal Reclamation project contained in the Act of March 3, 1925 (43 Stat. 1141, 1167), is hereby repealed. (62 Stat. 273)

**Sec. 2. [Authority of Secretary.]**—The Secretary is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this Act and any contracts made pursuant thereto. (62 Stat. 274)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** Subsections I and J of section 4 of the Act of December 5, 1924 (43 Stat. 672, 703), referred to in section 1 of the text, provide, respectively, for (1) the distribution of the profits from projects whose care, operation and maintenance have been taken over by the water users, and (2) the profits from the sale or rental of surplus water under the Warren Act of February 11, 1911, or from the connection of a new project with an existing

project shall be credited to the project or division of the project to which the construction cost has been charged. The Act is the Fact Finders' Act which appears herein in chronological order.

**Reference in the Text.** The Act of March 3, 1925 (43 Stat. 1141, 1167), referred to in the text, is the Interior Department Appropriation Act, 1926. Extracts from the Act, including a note on the proviso repealed by this act, appear herein in chronological order.

**Cross References.** Northport Irrigation

May 25, 1948

872

## NORTHPORT IRRIGATION DISTRICT

**District.** Water to the Northport Irrigation District is transported through an extension of the Farmers' Irrigation District Canal. The Northport District has annually reimbursed the Farmers' District for this carriage of water. Earlier statutory provisions authorized the use of power revenues from the North Platte project for this purpose.

These provisions are found herein in chronological order under the Act of June 19, 1934, 48 Stat. 1034; the Act of September 6, 1950, 64 Stat. 689; and the Act of August 13, 1957, 71 Stat. 342.

**Legislative History.** H.R. 6067, Public Law 555 in the 80th Congress. H.R. Rept. No. 1785. S. Rept. No. 1243.

### NOTE OF OPINION

#### 1. Unproductive lands

The contract of August 19, 1948, with the Northport Irrigation District, made pursuant to the Act of May 25, 1948, fixed the construction charge obligation of the district at \$952,045.57, thus superseding earlier contracts which reduced the obligation by the amount of the construction charge applicable to temporarily unproductive or suspended lands. Consequently, the

Secretary is without authority to declare 2,555 acres of land (construction charges against these lands were suspended by section 26 of the Omnibus Adjustment Act) permanently unproductive and to write off as a loss to the reclamation fund the amount of the construction charge allocated to such lands, as provided in section 43 of the Omnibus Adjustment Act. Solicitor Davis Opinion, 61 I.D. 154 (1953).

## AMEND BOULDER CANYON PROJECT ADJUSTMENT ACT

An act to provide for the distribution among the States of Colorado, New Mexico, Utah, and Wyoming of the receipts of the Colorado River Development Fund for use in the fiscal years 1949 to 1955, inclusive, on a basis which is as nearly equal as practicable and to make available other funds for the investigation and construction of projects in any of the States of the Colorado River Basin in addition to appropriations for said purposes from the Colorado River Development Fund. (Act of June 1, 1948, ch. 364, 62 Stat. 284)

[Sec. 1. Sec. 2(d) of the Act of July 19, 1940, amended.]—Section 2(d) of the Boulder Canyon Project Adjustment Act (U.S.C., 1940 edition, title 43, sec. 618a(d)) is hereby amended to read as follows:

“(d) [Transfer of sums to Colorado River Development Fund—Expenditure of fund.]—Transfer, subject to the provisions of section 3 hereof, from the Colorado River Dam Fund to a special fund in the Treasury, hereby established and designated the “Colorado River Development Fund”, of the sum of \$500,000 for the year of operation ending May 31, 1938, and the like sum of \$500,000 for each year of operation thereafter, until and including the year of operation ending May 31, 1987. The transfer of the said sum of \$500,000 for each year of operation shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided*, That any such transfer for any year of operation which shall have ended at the time this section 2(d) shall become effective shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this Act will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 3 hereof, then the first receipts of said fund up to \$1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however*, That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, inclusive, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1987, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States

June 1, 1948

874 AMEND BOULDER CANYON ADJUSTMENT ACT

of the lower division. The terms 'Colorado River system', 'States of the upper division', and 'States of the lower division' as so used shall have the respective meanings defined in the Colorado River compact mentioned in the Project Act. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in this Act shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall this Act be construed as affecting the right of any State to proceed independently of this Act or its provisions with the investigation or construction of any project or projects. Transfers under this section 2(d) shall be deemed contractual obligations of the United States, subject to the provisions of section 3 of this Act." (62 Stat. 284; 43 U.S.C. § 618a)

EXPLANATORY NOTES

**Reference in the Text.** The Boulder Canyon Project Adjustment Act (U.S.C., 1940 edition, title 43, sec. 618a(d)), which is amended by this Act, is the Act of July 19, 1940. The Act appears herein in chrono-

logical order.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under section 2(d) of the Act of July 19, 1940.

**Sec. 2. [Availability of funds for investigation and construction purposes.]**—The availability of appropriations from the Colorado River Development Fund for the investigation and construction of projects in any of the States of the Colorado River Basin shall not be held to forbid the expenditure of other funds for those purposes in any of those States where such funds are otherwise available therefor. (62 Stat. 285; 43 U.S.C. § 618a-1)

EXPLANATORY NOTE

**Legislative History.** H.R. 5901, Public Law 570 in the 80th Congress. H.R. Rept. No. 1783. S. Rept. No. 1270 (on S. 2346).

## CONSENT TO NEGOTIATE SNAKE RIVER COMPACT

An act granting the consent of Congress to the States of Idaho and Wyoming to negotiate and enter into a compact for the division of the waters of the Snake River and its tributaries originating in either of the two States and flowing into the other. (Act of June 3, 1948, ch. 283, 62 Stat. 294)

[**Sec. 1. Consent to compact.**]—Consent of Congress is hereby given to the States of Idaho and Wyoming to negotiate and enter into a compact providing for an equitable division and apportionment among the said States of the waters of the Snake River and all of its tributaries originating in either of the two States and flowing into the other, upon condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact entered into: *Provided*, That any such compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of said States and approved by the Congress of the United States: *Provided further*, That nothing in this Act shall apply to any waters within the Yellowstone National Park or Grand Teton National Park or shall establish any right or interest in or to any lands within the boundaries thereof or in subsequent additions thereto. (62 Stat. 294)

**Sec. 2. [Appropriation authorized for representative of United States.]**—There is hereby authorized to be appropriated a sufficient sum to pay the salary and expenses of the representative of the United States appointed hereunder: *Provided*, That such representative, if otherwise employed by the United States, while so employed shall not receive additional salary in the appointment hereunder. (62 Stat. 294)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Consent of Congress to Compact.** The Act of March 21, 1950, 64 Stat. 29, granted the Consent of Congress to the Compact authorized to be negotiated

and entered into by this Act. The 1950 Act appears herein in chronological order.

**Legislative History.** H.R. 3603, Public Law 580 in the 80th Congress. H.R. Rept. No. 1296. S. Rept. No. 1269 (on S. 1445).

June 3, 1948

## ASSISTANCE TO SCHOOL DISTRICTS, FORT PECK PROJECT

An act to authorize payments to the public school district or districts serving the Fort Peck project, Montana, for the education of dependents of persons engaged on that project. (Act of June 3, 1948, ch. 389, 62 Stat. 297)

[Payments to school districts under regulations by Secretary of the Army—Reimbursement by Bureau of Reclamation.]—Under regulations prescribed by the Secretary of the Army, payments may be made, in advance or otherwise, from any funds available for the Fort Peck project, Montana, to the school district or districts serving that project as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the construction, operation, and maintenance of the project and living at or near Fort Peck upon real property of the United States not subject to taxation by State or local agencies and upon which payments in lieu of taxes are not made by the United States, which payments for any school year shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils aforesaid in average daily attendance during that year bears to the whole number of pupils in average daily attendance at those schools during that year: *Provided*, That of the whole amount so paid in any fiscal year, the Bureau of Reclamation, Department of the Interior, shall reimburse the Secretary of the Army from the continuing fund provided in Section 10 of the Act of May 18, 1938 (52 Stat. 403), that part which is properly chargeable as an operation expense incident to the generation and transmission of power delivered to the Bureau under that Act. (62 Stat. 297; 16 U.S.C. § 833q)

### EXPLANATORY NOTES

**Reference in the Text.** Section 10 of the Act of May 18, 1938 (52 Stat. 403), referred to in the text, provides that all receipts from transmission and sale of electric energy generated at the Fort Peck project shall be covered into the Treasury as miscellaneous receipts, except that the Treasury shall maintain a continuing fund of \$500,000 to the credit of the Bureau of Reclamation to defray the operating ex-

pense of generation and transmission of power delivered to the Bureau for disposal, to defray emergency expenses and to insure continuous operation. The Act authorizes the completion, maintenance and operation of the Fort Peck project and appears herein in chronological order.

**Legislative History.** H.R. 4201, Public Law 586 in the 80th Congress. H.R. Rept. No. 1677. S. Rept. No. 1307.

## AMENDED CONTRACTS, LOWER YELLOWSTONE IRRIGATION DISTRICTS

An act authorizing modifications in the repayment contracts with the Lower Yellowstone Irrigation District Numbered 1 and the Lower Yellowstone Irrigation District Numbered 2. (Act of June 4, 1948, ch. 415, 62 Stat. 336)

[Sec. 1. Amendatory contracts pursuant to section 8 of the Reclamation Project Act of 1939.]—The Secretary of the Interior, pursuant to section 8 of the Act of August 4, 1939 (53 Stat. 1187), is authorized (a) to enter into appropriate amendatory repayment contracts with Lower Yellowstone Irrigation District Numbered 1 and Lower Yellowstone Irrigation District Numbered 2 for the purpose of effecting changes, modifications, and financial adjustments in the existing district repayment contracts and (b) to make appropriate adjustment of project accounts, all consistent with the provisions of this Act. (62 Stat. 336)

### EXPLANATORY NOTE

Reference in the Text. The Act of August 4, 1939 (53 Stat. 1187), referred to in the text, is the Reclamation Project Act of 1939. The Act appears herein in chronological order.

Sec. 2. [Provisions with respect to Lower Yellowstone Irrigation District Numbered 1.]—With respect to the Lower Yellowstone Irrigation District Numbered 1:

(a) Payment of construction charges against one thousand three hundred and forty and four one-hundredths acres of lands classified under the Act of May 25, 1926, as productive and found to be possessed of insufficient productive power to be continued in a paying class shall be suspended until the Secretary of the Interior shall declare them to be possessed of sufficient productive power properly to be placed in the paying class, whereupon payment of construction charges against such areas shall be resumed. While said lands are so classified as temporarily unproductive, and the construction charges against them are suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges or such other charges as may be fixed by the Secretary of the Interior, the advance payment of which may be required in the discretion of the said Secretary. Should said lands temporarily classed as unproductive, or any of them in the future, be found by the Secretary of the Interior to be permanently unproductive, the charges against them shall be charged off as a permanent loss to the reclamation fund;

(b) The charges in the amount of \$12,166 against two hundred and twenty and thirty-six one-hundredths acres of lands classified in a paying class under the Act of May 25, 1926, and found to be permanently unproductive shall be deducted from the contractual obligation of said Lower Yellowstone Irrigation District Numbered 1;

(c) The contractual obligation of Lower Yellowstone Irrigation District Numbered 1 shall, by reason of a finding that four hundred and fifty-two and

June 4, 1948

878 LOWER YELLOWSTONE IRRIGATION DISTRICTS

ninety-six one-hundredths acres of lands previously classed as permanently unproductive, possess sufficient productive power properly to be placed in a paying class, be increased in the sum of \$25,008; and

(d) The construction charges against four hundred and sixty-two and eighty-seven one-hundredths acres of lands included in drain and lateral right-of-way and found to be excluded from the irrigable area of the project shall be included in the principal obligation of the district, but said lands are to be relieved of future assessment by the district. (62 Stat. 336)

EXPLANATORY NOTE

Reference in the Text. The Act of Omnibus Adjustment Act. The Act appears May 25, 1926, referred to in the text, is the herein in chronological order.

Sec. 3. [Provisions with respect to Lower Yellowstone Irrigation District Numbered 2.]—With respect to the Lower Yellowstone Irrigation District Numbered 2:

(a) Payment of construction charges against six hundred and sixty-two and ninety one-hundredths acres of lands classified under the Act of May 25, 1926, as productive and found to be possessed of insufficient productive power to be continued in a paying class shall be suspended until the Secretary of the Interior shall declare them to be possessed of sufficient productive power properly to be placed in the paying class, whereupon payment of construction charges against such areas shall be resumed. While said lands are so classified as temporarily unproductive, and the construction charges against them are suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges or such other charges as may be fixed by the Secretary of the Interior, the advance payment of which may be required in the discretion of the said Secretary. Should said lands temporarily classed as unproductive, or any of them in the future, be found by the Secretary of the Interior to be permanently unproductive, the charges against them shall be charged off as a permanent loss to the Reclamation Fund;

(b) The charges in the amount of \$911 against sixteen and fifty one-hundredths acres of lands classified in a paying class under the Act of May 25, 1926, and found to be permanently unproductive shall be deducted from the contractual obligation of said Lower Yellowstone Irrigation District Numbered 2;

(c) The contractual obligation of Lower Yellowstone Irrigation District Numbered 2 shall, by reason of a finding that one hundred and eighty-two and twenty-two one-hundredths acres of lands previously classed as permanently unproductive, possess sufficient productive power properly to be placed in a paying class, be increased in the sum of \$10,060; and

(d) The construction charges against four hundred and thirty-one and thirty-eight one-hundredths acres of lands included in drain and lateral right-of-way and found to be excluded from the irrigable area of the project shall be included in the principal obligation of the district, but said lands shall be relieved of future assessment by the district. (62 Stat. 336)

EXPLANATORY NOTE

Reference in the Text. The Act of the Omnibus Adjustment Act. The Act appears May 25, 1926, referred to in the text, is herein in chronological order.

June 4, 1948

LOWER YELLOWSTONE IRRIGATION DISTRICTS 879

**Sec. 4. [Effective date of amendatory contracts.]**—The contractual modifications provided for in this Act shall be effective, as to Lower Yellowstone Irrigation District Numbered 1, as of September 19, 1945, and, as to Lower Yellowstone Irrigation District Numbered 2, as of October 31, 1945. (62 Stat. 337)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 602 in the 80th Congress, H.R. Rept. No. 1780. S. Rept. No. 1277 (on S. 1386).

**Legislative History.** H.R. 3731, Public

June 9, 1948

## TRANSFER OF LANDS TO V.F.W. POST, TOWN OF POWELL

An act authorizing the Secretary of the Interior to convey certain lands in Powell Townsite, Wyoming, Shoshone reclamation project, Wyoming, to the James S. McDonald Post 5054, Veterans of Foreign Wars, Powell, Wyoming. (Act of June 9, 1948, ch. 430, 62 Stat. 1370)

[Sec. 1. **Secretary authorized to convey lands—Reservations.**]—The Secretary of the Interior be, and he is hereby, authorized and directed to cause a patent to issue conveying that portion of the townsite of Powell, Wyoming, on the Shoshone reclamation project, particularly described as block one hundred and thirty-three of Powell Townsite, township 55 north, range 99 west, sixth principal meridian, to the James S. McDonald Post 5054, Veterans of Foreign Wars, Powell, Wyoming, in trust for use as a Veterans of Foreign Wars clubhouse and sports center; but in said patent there shall be reserved to the United States all oil, coal, and other mineral deposits within said lands and the right to prospect for, mine, and remove the same. (62 Stat. 1370)

Sec. 2. [Report to Secretary on use of land—Grant forfeited and title to revert to U.S. for failure to report or comply with terms of grant.]—The conveyance herein authorized shall be made upon the express conditions that any use to which the area is put shall comply with all town ordinances and State laws; that within thirty days of the receipt of any request therefor from the Secretary of the Interior, the Commander of the James S. McDonald Post 5054, Veterans of Foreign Wars, shall submit a report on the use made of the land herein granted the James S. McDonald Post 5054 during the period named in such request; and that in the event of his failure so to report or in the event of a finding by the Secretary, which finding shall be final and conclusive, that the terms of the grant have not been complied with, the grant shall be forfeited and the title shall revert to the United States. The Secretary of the Interior is hereby authorized and empowered to determine the facts and declare the forfeiture and reversion aforesaid and restore said land to the public domain, and such order of the Secretary shall be final and conclusive. (62 Stat. 1370)

### EXPLANATORY NOTE

Legislative History. S. 1771, Private Law H.R. Rept. No. 1857.  
341 in the 80th Congress. S. Rept. No. 1010.

## KENNEWICK DIVISION, YAKIMA PROJECT

An act to authorize the construction, operation and maintenance, under Federal reclamation laws, of the Kennewick division of the Yakima project, Washington. (Act of June 12, 1948, ch. 453, 62 Stat. 382)

[**Sec. 1. Kennewick Division authorized—Principal units.**]—For the purposes of irrigating lands; of generating, transmitting, and marketing hydroelectric energy; for the preservation and propagation of fish and wildlife; and looking to the completion of the Yakima project, there is hereby authorized to be constructed, operated, and maintained, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) the Kennewick division of the Yakima project, composed of the following principal units, to wit:

Prosser-Chandler power canal.

Chandler hydroelectric power and hydraulic pumping plant.

Main canal.

Kiona wastewater.

Amon siphon and hydraulic pumping plant.

Amon wastewater.

Lateral system.

Improvements for fish and wildlife. (62 Stat. 382)

**Sec. 2. [Allocation to fish and wildlife nonreimbursable.]**—Construction costs allocated to the conservation and propagation of fish and wildlife by the Secretary of the Interior in accordance with the provisions of the Act of August 14, 1946 (Public Law 732, Seventy-ninth Congress), and operation and maintenance costs attributable to operations for the preservation and propagation of fish and wildlife shall be nonreimbursable. (62 Stat. 382)

### EXPLANATORY NOTE

Reference in the Text. The Act of August 14, 1946 (Public Law 732, Seventy-ninth Congress), referred to in the text, as amended is the Fish and Wildlife Coordination Act. The Act appears herein in chronological order.

**Sec. 3. [Sale of power—Rates.]**—The Secretary of the Interior is authorized to enter into contracts for the sale of electric power and energy not required for project uses, hereinafter termed commercial power and energy, at such rates as in his judgment will produce power revenues which, together with power revenues from all other sales of power and energy, will be at least sufficient to cover (1) an appropriate share of the annual operation and maintenance cost, including reasonable provision for replacements; (2) the return, within not exceeding sixty-six years from the date upon which each feature becomes revenue producing, of an appropriate share of the construction investment properly allocable by the Secretary to commercial power and energy together with interest on the unpaid balance at a rate of not less than  $2\frac{1}{2}$  per centum per annum; (3) the return, without interest, within a period not exceeding sixty-six years, and, with respect

June 12, 1948

to each irrigation block, within a period conforming so far as practicable to the period within which water users are required to repay their share of the irrigation costs of that share of the investment found by the Secretary to be properly allocable to irrigation but assigned by return from net power revenues. (62 Stat. 382)

Sec. 4. [Contract for repayment of costs assigned to water users may distribute charges to take into account productivity of lands and preparing land for irrigation—Charges to provide for payment of (1) O & M costs including replacements, (2) repayment within sixty-six years.]—The Secretary of the Interior is authorized to enter into contracts for repayment of those construction costs of the development assigned to be repaid by the project water users, which, in the discretion of the Secretary, may require, among other things, that those charges be distributed between the presently irrigated lands and the new lands and among farm units in a manner that takes into account the productivity of the land and in the case of new lands the estimated cost of preparing the land for irrigation, all in the manner and to the extent that the Secretary shall find to be proper: *Provided*, That these charges shall be such as will provide for the payment of (1) an appropriate share of the annual operation and maintenance cost, including reasonable provisions for replacements, and (2) repayment within a period not exceeding sixty-six years without interest of an appropriate share of that part of the construction cost which can properly be allocated to irrigation and probably be repaid by the water users. (62 Stat. 383)

Sec. 5. [Application of one-fifth of interest component revenues.]—The power and energy revenues to be applied toward the fulfillment of the obligation to return that share of the investment found by the Secretary to be properly allocable to irrigation but assigned for return from net power and energy revenues may include one-fifth of the revenues derived from the interest component of power rates in addition to any and all sums otherwise assigned for such purposes from power revenues. (62 Stat. 383)

Sec. 6. [Extra capacity in main canal for future irrigation—Costs deferred.]—The Secretary of the Interior is hereby authorized to construct extra capacity in the main canal for the future irrigation of approximately seven thousand acres of land, in addition to the presently proposed development, and to recognize the cost of providing such extra capacity as a deferred obligation to be paid at such time as the additional area may be brought into the project. (62 Stat. 383)

Sec. 7. [Appropriations authorized.]—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required for the purposes of this Act. (62 Stat. 383)

#### EXPLANATORY NOTES

Not Codified. This Act is not codified in Law 629 in the 80th Congress. H.R. Rept. No. 1507. S. Rept. No. 1404. H.R. Rept. No. 1797 (on H.R. Res. 550).

## PRESTON BENCH PROJECT

An act to authorize the Secretary of the Interior to construct the Preston Bench project, Idaho, in accordance with the Federal reclamation laws. (Act of June 15, 1948, ch. 470, 62 Stat. 442)

[**Sec. 1. Project authorized—Repayment period not to exceed seventy-four years.**]—The Secretary of the Interior through the Bureau of Reclamation is hereby authorized to construct, maintain, and operate, pursuant to the Federal reclamation laws, the Preston Bench project, Idaho, substantially in accordance with the report of the regional director of the Bureau of Reclamation, region IV, dated September 15, 1947, as concurred in by the Commissioner of Reclamation and the Secretary of the Interior: *Provided*, That the total cost of the project shall be reimbursable under the Federal reclamation laws within repayment periods fixed by the Secretary of the Interior at not to exceed seventy-four years. (62 Stat. 442)

[**Sec. 2. [Appropriations authorized.]**]—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required for the purposes of this Act. (62 Stat. 442)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 644 in the 80th Congress. S. Rept. 1274. the U.S. Code. H.R. Rept. No. 2028 (on H.R. 5313).

**Legislative History.** S. 1987, Public Law

June 25, 1948

## FEDERAL TORT CLAIMS ACT

An act to revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary". (Act of June 25, 1948, ch. 646, 62 Stat. 869)

### TITLE 28, JUDICIARY AND JUDICIAL PROCEDURE

\* \* \* \* \*

#### CHAPTER 85—DISTRICT COURTS; JURISDICTION

\* \* \* \* \*

##### § 1346. [United States as defendant.]—

\* \* \* \* \*

(b) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. (62 Stat. 933; Act of April 25, 1949, 63 Stat. 62; Act of May 24, 1949, 63 Stat. 101; Act of July 7, 1958, 72 Stat. 348; 28 U.S.C. § 1346(b))

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#### CHAPTER 161—UNITED STATES AS PARTY GENERALLY

\* \* \* \* \*

##### § 2401. [Time for commencing action against United States.]—

\* \* \* \* \*

(b) A tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. (62 Stat. 971; Act of April 25, 1949, 63 Stat. 62; Act of September 8, 1959, 73 Stat. 471, 472; Act of July 18, 1966, 80 Stat. 307; 28 U.S.C. § 2401)

##### § 2402. [Jury trial denied in actions against United States.]—

Any action against the United States under section 1346 shall be tried by the court without a jury, except that any action against the United States under section 1346(a) (1) shall, at the request of either party to such action, be tried

by the court with a jury. (62 Stat. 971; Act of July 30, 1954, 68 Stat. 589; 28 U.S.C. § 2402)

\* \* \* \* \*

## CHAPTER 171—TORT CLAIMS PROCEDURE

\* \* \* \* \*

### § 2671. [Definitions.]—

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term—

“Federal agency” includes the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

“Employee of the government” includes officers or employees of any federal agency, members of the military or naval forces of the United States, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

“Acting within the scope of his office or employment”, in the case of a member of the military or naval forces of the United States, means acting in line of duty. (62 Stat. 982; Act of May 24, 1949, 63 Stat. 106; Act of July 18, 1966, 80 Stat. 306; 28 U.S.C. § 2671)

### § 2672. [Administrative adjustment of claims.]—

(a) The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: *Provided*, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee.

(b) Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

(c) Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments

June 25, 1948

and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter. (62 Stat. 983; Act of April 25, 1949, 63 Stat. 62; Act of May 24, 1949, 63 Stat. 106; Act of September 23, 1950, 64 Stat. 987; Act of September 8, 1959, 73 Stat. 471; Act of July 18, 1966, 80 Stat. 306, 308; 28 U.S.C. § 2672)

\* \* \* \* \*

**§ 2674. [Liability of United States.]—**

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof. (62 Stat. 983; 28 U.S.C. § 2674)

**EXPLANATORY NOTES**

**Cross Reference, Payment of Non-negligent Claims.** Provisions in annual appropriations acts authorize the payment of damages caused by operations of the United States. Selected cases are annotated under the Sundry Civil Expenses Appropriation Act for 1916, approved March 3, 1915,

an extract from which appears herein in chronological order.

**Editor's Note, Annotations.** The annotations of cases which follow should not be considered an exhaustive treatment, as the proceedings in this field are voluminous. An attempt has been made to select illustrative cases spanning the range of litigation.

**NOTES OF**

Absolute liability theories	2
Attractive nuisance doctrine	3
Reasonable care standards	1

**1. Reasonable care standards**

Customary methods of construction and inspection of a canal, soil inspections during and after construction, and eleven years of successful operation of the canal before a break occurred, were sufficient to satisfy the duty of reasonable care owed by the United States. *United States v. Ure*, 225 F. 2d 709 (9th Cir. 1955), reversing *Ure v. United States*, 93 F. Supp. 779 (D. Oregon 1950).

In an action for crop damages caused by failure to deliver water when a Bureau canal broke, no liability was found when the United States employed standard construction and inspection methods, and under state law *res ipsa loquitur* gave rise to a permissible, rather than mandatory, inference of negligence. *White v. United States*, 193 F. 2d 505 (9th Cir. 1951).

The United States had used more than ordinary care in fencing and posting warn-

ing signs on a Bureau canal, offsetting any possible application of the attractive nuisance doctrine, and was thus not liable for the drowning of an eight year old child in the canal. *Avina v. United States*, 115 F. Supp. 579 (W.D. Texas 1953).

**2. Absolute liability theories**

An absolute liability theory of engaging in extra hazardous activity may not be applied to the United States when a canal broke and flooding resulted, for the statute requires a negligent act. *United States v. Ure*, 225 F. 2d 709 (9th Cir. 1955), reversing *Ure v. United States*, 93 F. Supp. 779 (D. Oregon 1950).

**3. Attractive nuisance doctrine**

In the absence of evidence to show how the children entered the water, in a jurisdiction which did not accept the attractive nuisance doctrine, no liability attached to the United States when two children aged four and seven drowned in an unfenced Bureau canal near a bridge without hand-

rails. *Foster v. United States*, 183 F. Supp. 524 (D. N. Mex. 1959), *aff'd*, 280 F. 2d 431 (10th Cir. 1960) (*per curiam*).

The United States was liable when state law accepted the attractive nuisance doc-

trine, and a three year old child drowned in a Bureau canal where previous drownings had occurred and the canal fence was in poor repair. *Anderson v. United States*, 138 F. Supp. 332 (N.D. Cal. 1956).

#### § 2675. [Disposition by federal agency as prerequisite; evidence.]—

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(b) Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages. (62 Stat. 983; Act of May 24, 1949, 63 Stat. 107; Act of July 18, 1966, 80 Stat. 306; 28 U.S.C. § 2675)

#### § 2676. [Judgment as bar.]—

The judgment in an action under section 1346 (b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim. (62 Stat. 984; 28 U.S.C. § 2676)

\* \* \* \* \*

#### § 2679. [Exclusiveness of remedy.]—

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(b) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property or personal injury or death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. (62 Stat. 984; Act of September 21, 1961, 75 Stat. 539; Act of July 18, 1966, 80 Stat. 307; 28 U.S.C. § 2679)

June 25, 1948

**§ 2680. [Exceptions.]—**

The provisions of this chapter and section 1346 (b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

\* \* \* \* \*

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority. (62 Stat. 984-85; 28 U.S.C. § 2680)

\* \* \* \* \*

**EXPLANATORY NOTES**

**Cross Reference, Flood Damage Exclusion.** Section 3 of the Act of May 15, 1928, 45 Stat. 535, 33 U.S.C. § 702c, provides in part: "No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place..."

**Editor's Note, Annotations.** The annotations of cases which follow should not be considered an exhaustive treatment as the proceedings in this field are voluminous. An attempt has been made to select illustrative cases spanning the range of litigation.

**NOTES OF OPINIONS**

Discretionary function exemption	1
Flood damage exclusion	3
Misrepresentation exemption	2

**1. Discretionary function exemption**

The Bureau's decision to renovate canals is within the discretionary function exemption, consequently no liability to the United States will result when private lakes near the canal are drained shortly after dredging of the canal. *United States v. Gregory*, 300 F. 2d 11 (10th Cir. 1962).

The decision of the Bureau not to line a canal throughout its length, but only where particular conditions obtain, was within the discretionary function exemption of the statute. *United States v. Ure*, 225 F. 2d 709 (9th Cir. 1955), reversing *Ure v. United States*, 93 F. Supp. 779 (D. Oregon 1950).

The Secretary of the Interior's duty to submit to Congress a finding of feasibility on a reclamation project before the project is constructed is within the discretionary function exemption; consequently, no action can be brought against the United States as

a result of failure to submit the report. *Smith v. United States*, 224 F. Supp. 402 (D. Wyo. 1963), *aff'd*, 333 F. 2d 70 (10th Cir. 1964).

The discretionary function exemption relieved the United States of liability when the construction of canals and reservoirs so altered the natural drainage of water that it no longer passed under a state highway through culverts and ditches, but damaged the roadbed. *California v. United States*, 146 F. Supp. 341 (S.D. Cal. 1956).

A complaint alleging the negligent operation and maintenance of a Bureau canal through failure to make necessary repairs will not be dismissed as falling within the discretionary function exemption. *Desert Beach Corp. v. United States*, 128 F. Supp. 581 (S.D. Cal. 1955).

Damages caused by a rising water table near a Reclamation Bureau reservoir are not recoverable from the United States, as the decision to construct such a project is one made within the discretionary function exemption of liability. *North v. United States*, 94 F. Supp. 824 (D. Utah 1950).

The United States is not liable, under the statute, for damage caused to crops by a flood diverted to claimant's land by the existence of a Bureau canal. The decision not to place culverts under the canal was the exercise of a discretionary function exempted by the act. *Bill Powers*, TA-271 (Ir.) (June 8, 1964), 71 I.D. 237.

In order to fall within the "discretionary function" exemption to liability for negligence under the Federal Tort Claims Act, the act complained of must involve exercise of discretion on the planning or policy making level, as distinguished from the operational level. *State of California v. United States*, 151 F. Supp. 570 (N.D. Calif., 1957).

## 2. Misrepresentation exemption

Publication of a misleading report regarding farming opportunities on a project will not support a cause of action against the United States by farmers who rely upon the report, as the exemption for misrepresentation and deceit will relieve the Government of liability. *Smith v. United States*, 224 F. Supp. 402 (D. Wyo. 1963), *aff'd*, 333 F. 2d 70 (10th Cir. 1964).

## 3. Flood damage exclusion

In action, under Federal Tort Claims Act, for damages claimed to have been caused by negligence by the Bureau of Reclamation, plaintiff's evidence was insufficient to establish that water which flooded his premises was irrigation water, but indicated that water was flood water so as to be within statute (33 U.S.C. § 702c) providing that no liability shall attach to the United States for damage from flood water. *Hedrick v. United States*, 184 F. Supp. 927 (D.N.M. 1960).

June 25, 1948

To provide for making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1948, and for other purposes. (Act of June 25, 1948, ch. 648, 62 Stat. 1027)

## SECOND DEFICIENCY APPROPRIATION ACT, 1948

[Extracts from] An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1948, and for other purposes. (Act of June 25, 1948, ch. 648, 62 Stat. 1027)

\* \* \* \* \*

### DEPARTMENT OF THE INTERIOR

#### OFFICE OF THE SECRETARY

[Columbia Basin flood repair.]—Columbia Basin flood repair: To enable the Secretary of the Interior, through such bureaus of the Department of the Interior as he may designate, and in such manner as he shall determine, to reimburse applicable appropriations for costs of manpower and equipment diverted for flood work and to repair, reconstruct, rehabilitate, and replace structures, buildings, and other facilities (including equipment), under the jurisdiction of the Department damaged or destroyed by the flood in the Columbia Basin area, \$2,000,000, to remain available until June 30, 1949. (62 Stat. 1040)

\* \* \* \* \*

#### BUREAU OF RECLAMATION

[Fort Sumner irrigation district—Flood damage protection.]—Fort Sumner irrigation district, New Mexico: For the purpose of aiding and assisting the Fort Sumner irrigation district in New Mexico to protect its diversion dam and the existing works of said irrigation district from flood damage, in the event the Secretary of the Interior determines that flood damage is or appears to be imminent, \$60,000, to be reimbursable and to remain available until expended. (62 Stat. 1040)

\* \* \* \* \*

**Sec. 403. [Short title.]**—This Act may be cited as the “Second Deficiency Appropriation Act, 1948.” (62 Stat. 1050)

#### EXPLANATORY NOTES

Not Codified. Extracts of this Act shown here are not codified in the U.S. Code. Legislative History. H.R. 6935, Public Law 785 in the 80th Congress. H.R. Rept. No. 2348. S. Rept. No. 1769. H.R. Rept. No. 2442 (conference report).

## EMERGENCY FUND

An act to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems. (Act of June 26, 1948, ch. 676, 62 Stat. 1052)

**[Sec. 1. Emergency fund to assure continuous operation of irrigation and power systems.]**—In order to assure continuous operation of irrigation or power systems operated and maintained by the Bureau of Reclamation, Department of the Interior, there is hereby authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions. (62 Stat. 1052; 43 U.S.C. § 502)

**Sec. 2. [Definition of "unusual or emergency conditions."]**—The term "unusual or emergency conditions", as used in this Act, shall be construed to mean canal bank failures, generator failures, damage to transmission lines; or other physical failures or damage, or acts of God, or of the public enemy, fires, floods, drought, epidemics, strikes, or freight embargoes, or conditions, causing or threatening to cause interruption in water or power service. (62 Stat. 1052; 43 U.S.C. § 503)

### EXPLANATORY NOTE

**Legislative History.** H.R. 3218, Public Law 790 in the 80th Congress. No. 860. S. Rept. No. 1493. H.R. Rept.

### NOTES OF OPINIONS

**Alaska** 2  
**Purpose** 1  
**Reimbursement** 3

#### 1. Purpose

The primary purpose of the continuing fund for the Bonneville Power Administration, as of the continuing fund first established for the Southwestern Power Administration and the emergency fund created by the Act of June 26, 1948, for the Bureau of Reclamation, is to insure continuous operation of transmission facilities in the face of emergencies that cause or threaten interruption (as distinguished from curtailment) in power service. Dec. Comp. Gen. B-105397 (September 21, 1951).

#### 2. Alaska

The Emergency Fund authorized by the Act of June 26, 1948, is not available to the Eklutna project both because the Eklutna project is not a reclamation project and because the provision of a separate emergency fund for the project in section 2 of the Act of July 31, 1950, precludes the use of the general fund. Memorandum of Assistant Commissioner Crosthwait, July 19, 1954.

Emergency funds are immediately available to the Bureau of Reclamation in Alaska under the emergency provision in the appro-

priation act; the proviso therein is not applicable because the emergency fund established by the Act of June 26, 1948, does not apply in Alaska. Memorandum of Deputy Solicitor Weinberg, April 14, 1964.

Because the emergency fund, established by the Act of June 26, 1948, is derived from the reclamation fund, it is limited in its application to the states named in section 1 of the Reclamation Act. Consequently, it is not available for use in Alaska. Memorandum of Deputy Solicitor Weinberg, April 14, 1964.

#### 3. Reimbursement

The fact that expenditures are made from the emergency fund has no bearing on the reimbursability or non-reimbursability of the funds so expended. Rather, the purpose for which the expenditures are made will govern with respect to reimbursability under the applicable law and contractual arrangements. Acting Solicitor Burke Opinion, M-36210 (February 15, 1954).

Expenditures from the emergency fund are reimbursable or returnable to the extent they are made for operation and maintenance purposes that are reimbursable or returnable under reclamation law. Memorandum of Chief Counsel Fisher, July 6, 1953.

June 29, 1948

892

## O'SULLIVAN DAM

An act to change the name of the Potholes Dam in the Columbia Basin project to O'Sullivan Dam. (Act of June 29, 1948, ch. 712, 62 Stat. 1092)

[Designation of "Potholes Dam" as "O'Sullivan Dam."]—The dam known as Potholes Dam in the Columbia Basin project shall hereafter be known as O'Sullivan Dam, and any law, regulation, document, or record of the United States in which such dam is designated or referred to under the name of Potholes Dam shall be held to refer to such dam under and by the name O'Sullivan Dam. (62 Stat. 1092)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 814 in the 80th Congress. S. Rept. No. 1420. H.R. Rept. No. 2335.

**Legislative History.** S.J. Res. 202, Public

## ASSISTANCE TO SCHOOL DISTRICTS

An act authorizing appropriations for the Bureau of Reclamation for payments to school districts on certain projects during their construction status. (Act of June 29, 1948, ch. 733, 62 Stat. 1108)

[**Sec. 1. Assistance to school districts for education of dependents of construction personnel—Cooperative arrangements—Costs chargeable to project.**]—The Secretary of the Interior, giving due consideration to the temporary nature of the requirements therefor, is authorized to make such provision as he deems to be necessary and in the public interest for the education of dependents of persons employed on the actual construction of projects or features of projects, by the Bureau of Reclamation, in any cases in which he finds that by reason of such construction activity, an undue burden is, or will be cast upon the facilities of the public-school districts serving the areas in which construction is being undertaken, and to pay for the same from any funds available for the construction of said projects: *Provided*, That the Secretary of the Interior shall enter into cooperative arrangements with local school districts wherein such features are situated to contribute toward covering the cost of furnishing the educational services required for such dependents, or for the operation by those school districts of Government facilities, or for the expansion of local school facilities. Such cost incurred hereunder shall be charged to the project concerned and shall be repayable in the same manner and to the same extent as are its other costs of construction. (62 Stat. 1108; 43 U.S.C. § 385a)

**Sec. 2. [Reports and recommendations to Congress.]—Repealed.**

### EXPLANATORY NOTES

**1960 Amendment.** The Act of June 29, 1960, 74 Stat. 245, repealed section 2, which read: "The Secretary of the Interior shall furnish to the Congress each year, on or before the 3d day of January, a report on all activities undertaken during the preceding fiscal year pursuant to the provisions of this Act, together with such recommendations with respect to problems relating to

it as he shall think appropriate." The 1960 Act appears herein in chronological order.

**Cross Reference.** For general provisions of law relating to assistance to school districts affected by Federal activities, see 20 U.S.C. §§ 236–244, 631–645.

**Legislative History.** H.R. 6028, Public Law 835 in the 80th Congress. H.R. Rept. No. 2029. S. Rept. No. 1492 (on S. 2638).

### NOTE OF OPINION

#### 1. Relation to other laws.

In view of the provisions of section 209(e) of the School Construction Act of 1950, Public Law 815, 64 Stat. 975, U.S.C. § 643(c), appropriations to the Bureau of

Reclamation may not be expended for assistance to local school districts for school construction under the authority of the Act of June 29, 1948. Dec. Comp. Gen. B-103904 (June 26, 1951).

June 29, 1948

894

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1949

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1949, and for other purposes. (Act of June 29, 1948, ch. 754, 62 Stat. 1112)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

#### GENERAL OFFICES

[Straus-Boke rider.]—Salaries and expenses . . . *Provided further*, That after January 31, 1949, no part of any appropriation for the Bureau of Reclamation contained in this Act shall be used for the salaries and expenses of a person in any of the following positions in the Bureau of Reclamation, or of any person who performs the duties of any such position, who is not a qualified engineer with at least five years engineering and administrative experience: (1) Commissioner of Reclamation; (2) Assistant Commissioner of Reclamation; and (3) Regional Director of Reclamation: . . . (62 Stat. 1126)

#### EXPLANATORY NOTES

**Individuals Affected.** The two men affected by this proviso were Michael W. Straus, Commissioner of Reclamation, and Richard L. Boke, Regional Director, Sacramento. They were retained in their positions by Secretary Ickes and their back salaries for the period February 1 through June 30, 1949, in the amount of \$8,581.68, were paid

pursuant to the appropriation for this purpose in the Second Supplemental Appropriation Act, 1950, Act of October 28, 1949, 63 Stat. 980.

**Provision Repeated.** A similar proviso is contained in the Temporary Deficiency Appropriation Act, 1949, Act of May 12, 1949, 63 Stat. 67.

\* \* \* \* \*

### CONSTRUCTION

\* \* \* \* \*

[Ochoco Dam.]—Deschutes project, Oregon, \$580,000, of which \$350,000 shall be available toward emergency reconstruction of Ochoco Dam subject to allocations under section 7 of the Reclamation Project Act of 1939, and repayment of reimbursable amounts under terms satisfactory to the water users and the Bureau of Reclamation; (62 Stat. 1127)

#### EXPLANATORY NOTES

**Popular Name.** The Ochoco Dam project is known as a Cordon amendment project after Senator Guy Cordon of Oregon. The appropriations for the project constitute the authorization.

**Cross Reference.** A later appropriation for Ochoco Dam is contained in the Act

of October 12, 1949, 63 Stat. 780. Ochoco Dam was made a part of the Crooked River project by the Act of August 6, 1956, 70 Stat. 1058. The 1949 provision and the 1956 Act appear herein in chronological order.

June 29, 1948

INTERIOR DEPARTMENT APPROPRIATION ACT, 1949 895

NOTE OF OPINION

1. Flood control.

The Secretary is required by section 9(b) of the Reclamation Project Act of 1939 to consult with the Chief of Engineers and the Secretary of the Army with regard to the allocation of costs of the emergency reconstruction of Ochoco Dam to flood

control; but because this work was authorized by the Interior appropriation act for 1949, it is not legally necessary to submit a report on such allocation to Congress. Memorandum of Acting Chief Counsel Devries, August 4, 1949.

\* \* \* \* \*

MISSOURI RIVER BASIN

[Canyon Ferry project—Reservoir level.]—Missouri River Basin . . . *Provided further*, That no part of this appropriation shall be available or used to maintain or operate Canyon Ferry Reservoir at a higher maximum normal pool elevation than three thousand seven hundred and sixty-six feet, unless and until new land in Broadwater County, Montana, equal in acreage to the irrigated land to be inundated in Canyon Ferry Reservoir above elevation of 3,766 feet is provided with facilities for irrigation; . . . (62 Stat. 1129)

EXPLANATORY NOTE

**Provision Repeated.** The same provision is contained in the Interior Department Appropriation Act, 1950, Act of October 12, 1949, 63 Stat. 784.

[Glendo project—Limited to project as reported.]—*Provided further*, That no part of this appropriation may be used for surveys, design, or construction of the Glendo project, Wyoming, or any feature thereof to a greater capacity or for other purposes than set forth in Senate Document Numbered 191, Seventy-eighth Congress, Second Session, without the specific authorization of Congress. (62 Stat. 1130)

\* \* \* \* \*

COLORADO RIVER DAM FUND

[Boulder Canyon project—Payments to school district—Reports to Appropriations Committees—Determination of nonproject costs—Interest on advances to Colorado River dam fund.]—Boulder Canyon project: For operation, maintenance, and replacements of the dam, power plant, and other facilities, of the Boulder Canyon project, \$1,500,000, payable from the Colorado River dam fund, including payments to the Boulder City school district in accordance with the provisions of Public Law 528, approved May 12, 1948. Said payments for dependents of those employees of the Bureau of Reclamation directly employed in the construction, operation, and maintenance of the project shall be deemed a part of the cost of operation and maintenance of said project under section 1 (a) of the Boulder Canyon Project Adjustment Act (Act of July 19, 1940, 54 Stat. 774). Other such payments shall be deemed nonproject costs. The Secretary shall submit to the Appropriations Committees annually a justification showing all investments and expenditures made or proposed out of the Colorado River dam fund, for the joint use of the project and of other Federal activities at or near Boulder City. In the proportion that such investments and expenditures were or

June 29, 1948

896 INTERIOR DEPARTMENT APPROPRIATION ACT, 1949

shall be for the use of such other Federal activities and not related to the construction, operation, or maintenance of the project they shall be deemed nonproject investments and expenditures. The obligation under the provisions of section 2 of the said Act to repay to the United States Treasury advances and readvances to the Colorado River dam fund which obligation is made the basis for computation of rates under the provisions of section 1 of said Act, shall be diminished in the amount that nonproject investments or expenditures are or have been made from said fund and the rates computed pursuant to said section 1 of said Act shall reflect such diminution. (62 Stat. 1130)

EXPLANATORY NOTES

**Provision Repeated.** Substantially the same provisions appear in the Interior Department Appropriation Act, 1950, Act of October 12, 1949, 63 Stat. 784.

**Codification.** This same provision, taken from the next year's act, originally was codified as 43 U.S.C. § 618p, but was subsequently omitted because it was not repeated in later appropriation acts.

**Reference in the Text.** Public Law 528, referred to in the text as approved May 12, 1948, was actually approved May 14, 1948.

The Act authorizes payment of not to exceed \$65 per semester per pupil to the Boulder City School District for the education of dependents of Federal employees living in or in the immediate vicinity of Boulder City. The Act appears herein in chronological order.

**Provision Repealed.** This provision was repealed by section 7 of the Boulder City Act of 1958. The act appears herein in chronological order.

NOTE OF OPINION

1. Annual report

In a letter of June 17, 1948, to Representative Russell, the Comptroller General expressed the opinion that the language of the pending bill requiring the annual submission to the Appropriations Committees

of a justification showing investments and expenditures for certain purposes from the Colorado River dam fund would, if enacted, be regarded as permanent legislation. Dec. Comp. Gen., B-77260 (June 17, 1948).

\* \* \* \* \*

ADVANCES TO COLORADO RIVER DAM FUND

\* \* \* \* \*

[All-American Canal—Use of payments by Mexico.]—Boulder Canyon project (All-American Canal): . . . *Provided*, That amounts heretofore or hereafter received from the Republic of Mexico for temporary water service by means of such works shall be applied against construction costs, including incidental operations, and shall be available for payment of the cost of such operations. (62 Stat. 1131)

EXPLANATORY NOTE

**Provision Repeated.** The same provision appears in the Interior Department Appropriation Act, 1950, Act of October 12, 1949, 63 Stat. 782.

\* \* \* \* \*

ALASKAN INVESTIGATIONS

[Alaskan investigations.]—For engineering and economic investigations, as a basis for legislation, and for reports thereon, relating to projects for the development and utilization of the water power resources of Alaska, \$150,000, which

June 29, 1948

INTERIOR DEPARTMENT APPROPRIATION ACT, 1949 897

shall be available for, but not restricted to, services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), and rations and quarters for field parties while away from inhabited communities in which such facilities are available. (62 Stat. 1131)

EXPLANATORY NOTES

**Provision Repeated.** A modified provision relating to investigations in Alaska is contained in the Interior Department Appropriation Act, 1950, Act of October 12, 1949, 63 Stat. 782. A further revised version is contained in the Act of September 6, 1950, 64 Stat. 685, each subsequent annual Interior Department Appropriation Act through fiscal year 1955, and the Public Works Appropriation Act, 1956, Act of July 15, 1955, 69 Stat. 357, as follows: "engineering and economic investigations, as a basis for legislation, and for reports thereon to Congress, relating to projects for the development and utilization of the water resources of Alaska".

Reference in the Text. Section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), re-

ferred to in the text, provides that when authorized in an appropriation or other act, a department head may procure the temporary or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, without regard to the civil service and classification laws.

**Cross Reference.** The Act of August 9, 1955, 69 Stat. 618, authorizes the Secretary to make project investigations in Alaska and authorizes appropriations for this purpose in an amount not to exceed \$250,000 in any one fiscal year. Appropriations of greater amounts are contained in the Act of September 30, 1961, 75 Stat. 725, and certain subsequent acts.

[**Earned but unpaid amounts not appropriated.**]—No part of any appropriation for the Bureau of Reclamation, contained in this or any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 665 of title 31 of the United States Code.

EXPLANATORY NOTE

**Provision Repeated.** A similar provision is contained in each subsequent annual appropriation act through the most recent

one, the Act of October 16, 1966, 80 Stat. 1009.

\* \* \* \* \*

[**Surplus property—Basic Magnesium project—To Davis Dam project.**]—The War Assets Administration or any other Federal agency having ownership or custody thereof or interest therein is hereby directed to transfer to the Davis Dam project, without exchange of funds, the following described interests and facilities, including spare parts, of the Basic Magnesium project, Henderson, Nevada:

(a) The project's interest and equity in the part of Hoover Dam power plant switchyard known as T-7A;

(b) Two 230-kilovolt transmission lines between the said Hoover Dam power plant switchyard and the Basic Magnesium project substation, including all two hundred and thirty-kilovolt switching equipment at the terminal of the lines at the Basic Magnesium project together with appurtenant permits, rights-of-way, or other interest in realty;

(c) Three original seventy-five-thousand-kilovolt ampere, 230/13.8-kilovolt transformer banks and associated low voltage switching equipment included within the zone of differential protection for said transformers.

June 29, 1948

898 INTERIOR DEPARTMENT APPROPRIATION ACT, 1949

Upon transfer of the facilities herein described, the Secretary shall determine the amount of their fair value to the Davis Dam power system, and such amount shall be included in the determination of construction investment and other fixed charges which are required by section 9 of the Reclamation Project Act of 1939, as amended, to be considered in establishing rates for the sale of electric power. (62 Stat. 1132)

NOTE OF OPINION

1. Other laws

No payment in lieu of taxes is required under the Act of August 12, 1955, 69 Stat. 721 (relating to real property transferred from the Reconstruction Finance Corporation to any Government department), on two transmission lines running from the

Hoover Dam power plant switchyard to the Basic Magnesium Project substation near Henderson, Nevada, and related facilities, which are an integral part of the Davis Dam project transmission system. Dec. Comp. Gen. B-137273 (December 12, 1958).

\* \* \* \* \*

[**Surplus property—Columbus, Montana.**]—The War Assets Administration or other Federal agencies having ownership or custody thereof or interest therein is hereby directed to transfer to the Bureau of Reclamation, without exchange of funds, the following-described lands, improvements, buildings, facilities, and interest:

(a) Government-owned real property, identified by the War Assets Administration as Plancor 587, located at Columbus, Stillwater County, Montana, consisting of approximately one and five-tenths acres of land and two garage-shop and warehouse buildings located thereon containing approximately thirty-four thousand four hundred square feet.

(b) Government-owned warehouse situated on land owned by the Northern Pacific Railway Company and leased to the Government, identified by the War Assets Administration as Plancor 133, located at Columbus, Stillwater County, Montana, containing approximately eight thousand square feet of floor space. (62 Stat. 1132)

[**Surplus property—Grand Island Army Air Field.**]—The War Assets Administration or other Federal agency having ownership or custody thereof or interest therein is hereby directed to transfer to the Bureau of Reclamation without exchange of funds, the following-described lands, together with improvements, buildings, facilities, equipment, and interest:

A parcel of that section of the Grand Island Army Air Field, Grand Island, Nebraska, lying west of First Road West, formerly known as the station hospital area, and described in detail as follows:

Approximately forty acres of land generally defined as the northeast quarter southeast quarter section 34, township 12 north, range 9 west. It is the desire to acquire all land abutting against lands presently owned by the city of Grand Island and including such portions of Road One West and right-of-way between Chapel Street and the point one hundred and eighty feet south of the intersection with Second Street South, to give continuous ownership in the east and west direction as between the United States Government (Bureau of Reclamation) and the city of Grand Island. The records show that all of this land was acquired from individual owners by the United States of America during August and

June 29, 1948

INTERIOR DEPARTMENT APPROPRIATION ACT, 1949 899

September 1943, and the transfers are recorded with the registrar of deeds, Hall County, Nebraska, and the following buildings located in the hospital area numbered as follows: T-1112, T-1113, T-1114, T-1115, T-1116, T-1117, T-1118, T-1122, T-1100, T-1103, T-1104, T-1105, T-1107, T-1101, T-1102, T-1106, T-1108, T-1109, T-1110, T-1111, and T-1120, together with all roads, improvements, electric power lines, heating lines, water lines, sewer systems, Air-Temp units, steam boilers, and other appurtenances to the above-listed buildings, and all other facilities and equipment incident to said hospital area not heretofore disposed of. (62 Stat. 1132)

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[**Surplus property—War Relocation Center, Heart Mountain Division, Shoshone project.**]—The Reconstruction Finance Corporation is authorized and directed to transfer to the Bureau of Reclamation, without reimbursement or transfer of funds, all of its right, title, and interest in and to a certain building and improvements under Defense Plant Corporation project, Plancor 1437, constructed on the War Relocation Center at the Heart Mountain Division of the Shoshone project, Wyoming. (62 Stat. 1133)

\* \* \* \* \*

[**Short title.**]—This Act may be cited as the "Interior Department Appropriation Act, 1949". (62 Stat. 1150)

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Presidential Statement.** The following statement was issued by the President on June 30, 1948: Yesterday I signed H.R. 6705, the Interior Department Appropriation Act, 1949. I did so only because I had no choice. Since the bill came to me after Congress had adjourned, a veto would close down the operations of the Department of the Interior on July 1.

If it had been possible to veto this bill without bringing the vital work of the Department to a standstill, I would have done so because of a rider in the bill establishing arbitrary qualifications for the Commissioner, the assistant Commissioners, and the Regional Directors of the Bureau of Reclamation. This rider is designed to effect the removal of two men now holding such positions who have supported the public power policy of the Government and the 160-acre law which assures that Western lands reclaimed at public expense shall be used for the development of family size farms. No matter what may be the asserted reasons for wanting to remove these men from office, the result would be to serve the purposes of special interests desirous of monopolizing the rich farm lands of the West and intent upon stopping the construction of transmission lines for the delivery of

power from Federal dams. These same interests tried first to get the law changed but failed, and having failed then sought to get the management changed.

This type of legislation does great harm to our domestic principles. It is contrary to the spirit, if not the letter, of those provisions of the Constitution which guarantee the separation of legislative and executive functions and afford protection against bills of attainder. This type of action subjects Federal officials to the risk of being legislated out of office if they incur the wrath of special interests as a result of vigorous enforcement of the law.

In addition to this attack upon the management of the Bureau of Reclamation, the Act will delay important reclamation work in all of the great basin areas of the West, including the Missouri Basin, the Columbia Basin in the Pacific Northwest, the Central Valley in California, and the Colorado Basin. The Act makes available \$69 million less than I requested to carry on the vital work of the Department. Most of the funds cut out by the Congress were intended for land, water and power development in the West. This will mean delays in bringing in new lands for settlement, in furnishing water to farms now dry or badly short of water, and in providing additional power badly needed by industries, cities and farms.

June 29, 1948

900    INTERIOR DEPARTMENT APPROPRIATION ACT, 1949

By specific provisions in the Act and by statements in the committee reports accompanying its passage, the Congress has also made a broad attack on the national public power policy.

Thus, while appropriating \$3 million toward the construction of the Canyon Ferry project in Montana, the Congress has prohibited the construction of previously authorized power facilities and transmission lines for the delivery of power from the project. In the Central Valley of California, the Congress has failed to include funds for the construction of the previously authorized "west-side" transmission line to carry power from Shasta Dam to the San Francisco area. To bottle up power at these and other Federal dams by preventing the construction of previously authorized power facilities and transmission lines, clearly represents a capitulation to special interest groups.

Furthermore, the Act and the conference report portend a reversal of the long established policy of using interest collected on the power investment in reclamation projects to pay off a portion of the irrigation costs. The effect of such a change would be to increase public power and water rates to the people throughout the West.

These are but a few of the evidences of an intent to destroy the national power policy. They are representative of the sort of thinking expressed in the report of the House Committee on Appropriations where it was said that the laws of the State of Washington authorizing public utility districts to acquire the properties of privately-owned power companies by condemnation have "the earmarks of Soviet power policy".

In these and other significant respects the Congress in this Act has nullified by indirect action the purposes of permanent legislation which the Congress has refused to change by direct action, and which reflects, I believe, the will of the people.

There are numerous other objectionable features in this Act. For example, while protesting the increased cost of Federal construction projects, the Congress by this Act limits the amount of construction work which the Bureau of Reclamation and the Bonneville Power Administration can do with their own employees, the result of which may well be to force these agencies to accept excessive bids and thereby increase the cost of their construction projects to the Nation. The Act also imposes arbitrary and unreasonable limitations on personnel management services, on the employment of technicians in the higher salary levels, and on regional administration, without regard to the efficient administration of the programs of the Department.

I consider that in this legislation the Congress has disregarded long-standing principles of sound legislative practice and has failed to meet the needs of our people for the development of the great natural resources of the Nation in the public interest.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 6705, Public Law 841 in the 80th Congress. H.R. Rept. No. 2038. S. Rept. No. 1609. H.R. Rept. No. 2398 (conference report).

## FLOOD CONTROL ACT OF 1948

[Extracts from] An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. (Act of June 30, 1948, ch. 771, 62 Stat. 1171)

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### TITLE II—FLOOD CONTROL

\* \* \* \* \*

#### Sec. 203 [Projects authorized.]—

\* \* \* \* \*

##### ARKANSAS RIVER BASIN

The second paragraph under the heading "Arkansas River Basin" in the Flood Control Act of 1946 is hereby amended to read as follows:

"The Chief of Engineers is authorized to provide in the Canton Reservoir on the North Canadian River one hundred and seven thousand acre-feet of irrigation and water supply storage (including approximately sixty-nine thousand acre-feet for irrigation and thirty-eight thousand acre-feet for municipal water supply for Enid, Oklahoma, to be utilized in accordance with section 8 and section 6, respectively, of the Flood Control Act of December 22, 1944 (Public, 534, Seventy-eighth Congress)), upon the condition that when siltation of the reservoir shall encroach upon the flood control allocation the irrigation and water supply storage will be reduced progressively unless provision is made to raise the height of the dam or otherwise provide compensatory storage for flood control on the basis of an equitable distribution of the costs among the water users and other beneficiaries of conservation storage, as determined at that time." (62 Stat. 1176)

##### EXPLANATORY NOTE

Editor's Note, Annotations. Annotations if any, are found under the Act of July 24, of opinions with respect to this provision, 1946.

\* \* \* \* \*

##### RIO GRANDE BASIN

[Middle Rio Grande project.]—The comprehensive plan for the Rio Grande Basin as set forth in the report of the Chief of Engineers dated April 5, 1948, and in the report of the Bureau of Reclamation dated November 21, 1947, all in substantial accord with the agreement approved by the Secretary of the Army and the Acting Secretary of the Interior on November 21, 1947, is hereby approved except insofar as the recommendations in those reports are inconsistent with the provisions of this Act and subject to the authorizations and limitations set forth herein.

June 30, 1948

The approval granted above shall be subject to the following conditions and limitations:

(a) Construction of the spillway gate structure at Chamita Dam shall be deferred so long as New Mexico shall have accrued debits as defined by the Rio Grande Compact and until New Mexico shall consistently accrue credits pursuant to the Rio Grande Compact;

(b) Chiflo Dam and Reservoir on Rio Grande shall be excluded from the Middle Rio Grande project authorized herein without prejudice to subsequent consideration of Chiflo Dam and Reservoir by the Congress;

(c) The Bureau of Reclamation, in conjunction with other interested Federal agencies, is directed to make studies to determine feasible ways and means of reducing nonbeneficial consumption of water by native vegetation in the flood plain of the Rio Grande and its principal tributaries above Caballo Reservoir; and

(d) At all times when New Mexico shall have accrued debits as defined by the Rio Grande Compact all reservoirs constructed as a part of the project shall be operated solely for flood control except as otherwise required by the Rio Grande Compact, and at all times all project works shall be operated in conformity with the Rio Grande Compact as it is administered by the Rio Grande Compact Commission.

In carrying out the provisions of this Act, the Secretary of the Interior shall be governed by and have the powers conferred upon him by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, except as is otherwise provided in this Act or in the reports referred to above. This Act shall be deemed a supplement to said Federal reclamation laws.

Approval is granted to the Secretary of the Interior subject to the limitations of the authorizations approved from time to time for the prosecution of this plan to acquire in the name of the United States, by purchase or otherwise, any or all of the bonds and other evidences of indebtedness of the Middle Rio Grande Conservancy District outstanding when such authorizations are approved at such prices and on such terms and conditions as he shall deem necessary or proper for the protection of the investment of the United States and to retire those obligations on such terms and conditions as he shall likewise deem proper or necessary.

The Secretary of the Interior, in entering into a contract or contracts for the repayment of the reimbursable construction costs of the Middle Rio Grande project, now estimated at approximately \$18,000,000, shall vary that amount to reflect changes in the estimates of those costs occurring prior to the date of the contract or contracts and in so doing may, if need be, extend the repayment period beyond forty years to permit payment of costs in excess of the present estimate.

Subject to the limitations of authorizations approved from time to time for prosecution of this plan, approval is granted to the Secretary of the Interior to acquire, on behalf of the United States, by purchase or donation, agricultural lands owned by the State of New Mexico within the Middle Rio Grande project and to develop those lands substantially in the manner outlined in the report of

the Bureau of Reclamation referred to above. Lands so acquired shall be resold or leased by the Secretary to actual settlers for agricultural purposes under rules and regulations prescribed by him which rules and regulations shall set out the prices and terms of such sales and leases, the qualifications required of purchasers and lessees, and other matters relating to the disposition and use of these lands, and shall provide a preferred right to purchase or lease any tract of such land to otherwise qualified persons of the following classes in the order here set out, purchasers in any class being preferred to lessees in that or any other class;

(1) The former owner or owners of such tracts, if his or their title thereto was divested by reason of sale for taxes to the State of New Mexico.

(2) Honorably discharged veterans of World War II who are the sons or daughters of the former owner or owners of such tract, if the title of said former owner or owners was divested by reason of sale for taxes to the State of New Mexico.

(3) The sons or daughters of the former owner or owners of such tract other than those referred to in (2) if the title of said former owner or owners was divested by reason of sale for taxes to the State of New Mexico.

(4) Honorably discharged veterans of World War II other than those referred to in (2).

(5) Persons other than those referred to in the clauses above. Any deed executed by the Secretary in favor of any person described under (4) or (5) shall provide that any person described under (1), (2), or (3) shall have the right to purchase any land conveyed by such deed, within a period of ten years after the execution thereof, by (a) paying to the owner the amount or amounts actually paid by him as consideration for such deed and for the actual cost of improvements on such land plus interest at the rate of 6 per centum per annum on such amount or amounts, and (b) assuming any obligations of the owner to the Secretary with respect to such land. Any lease executed by the Secretary under the provisions of this section to any person described under (4) or (5) shall, by its terms, expire not later than five years after the date of its execution. The preferred rights provided for by this section to purchase or lease any land shall continue to be applicable until such land is finally disposed of by the Secretary; but the right of any lessee or purchaser to enter into possession shall be subject to any rights under any prior lease executed by the Secretary. Moneys accruing from the sale or lease of said lands shall be covered into the reclamation fund in the Treasury.

In the administration of the provisions of this Act all water in the Middle Rio Grande Valley in New Mexico shall be deemed to be useful primarily for domestic, municipal, and irrigation purposes.

Nothing in this Act shall be construed as affecting or abrogating in any way the laws of the State of New Mexico in which the Middle Rio Grande Valley lies, relating to the control, appropriation, or distribution of water used in irrigation or for municipal or other uses, or any vested right therein.

Nothing in this Act shall be construed to abrogate or impair existing obligations of the United States or any agency thereof, including obligations to furnish

June 30, 1948

FLOOD CONTROL ACT OF 1948

water for irrigation and obligations to any Indian or tribe or band of Indians whether based on treaty, agreement, or Act of Congress.

There is hereby authorized to be appropriated the sum of \$3,500,000 to be expended by the Department of the Army for the partial accomplishment of the comprehensive plan for the Rio Grande Basin. (62 Stat. 1179)

EXPLANATORY NOTE

**Additional Appropriations.** The Act of May 17, 1950, 64 Stat. 176, authorizes additional appropriations of \$39,000,000 to Army and \$30,179,000 to Interior for completion of the project. The text of the provision appears herein in chronological order.

NOTES OF OPINIONS

**Assessments** 2

**Excess lands** 1

**1. Excess lands**

Excess land provisions in rehabilitation, construction and repayment contract with conservancy district were held valid in *Middle Rio Grande Water Users Ass'n v. Middle Rio Grande Conservancy District*, 57 N.M. 287, 258 P.2d 391, 403-06 (1953).

**2. Assessments**

The contract of September 24, 1951, with the Middle Rio Grande Conservancy District for the rehabilitation and construction of project works and repayment of reim-

bursable construction costs thereof, as amended by the agreement of June 19, 1953, was approved by order of the Supreme Court of New Mexico entered June 29, 1953, on motion to withhold mandate pending submission of amendatory contract. *Middle Rio Grande Water Users Ass'n v. Middle Rio Grande Conservancy Dist.*, 57 N.M. 287, 258 P.2d 391, 407 (1953). The amendment eliminated a provision, found objectionable by the court in its main decision of May 11, 1953, that no water should be delivered to a tract of land if the assessment against it was found void or uncollectible by a court proceeding. *Ibid.*

\* \* \* \* \*

**Sec. 209. [Citation.]**—Title II may be cited as the “Flood Control Act of 1948”. (62 Stat. 1182)

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Legislative History.** H.R. 6419, Public

Law 858 in the 80th Congress. H.R. Rept. No. 1870. S. Rept. No. 1568. H.R. Rept. No. 1918 (on H. Res. 587).

### **CLAIM OF JAMES & PHELPS CONSTRUCTION CO.**

An act to reimburse the James and Phelps Construction Co. (Act of June 30, 1948, ch. 777, 62 Stat. 1414)

[**Sec. 1. Jurisdiction conferred.**]—Jurisdiction is hereby conferred upon the District Court of the Western District of Oklahoma to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by James and Phelps Construction Company, Oklahoma City, Oklahoma, Reclamation Bureau contracts numbered 12r-15920 and 12r-15994 arising out of or attributable to the alleged failure of the Government to supply materials as provided for in said contracts. (62 Stat. 1414)

**Sec. 2. [Payment by Secretary of the Treasury.]**—The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to the James and Phelps Construction Company. (62 Stat. 1414)

#### **EXPLANATORY NOTE**

**Legislative History.** S. 2705, Private Law 441 in the 80th Congress. S. Rept. No. 1736.

July 2, 1948

906

### CLAIM OF LUTHER BROTHERS CONSTRUCTION CO.

An act to reimburse the Luther Brothers Construction Company. (Act of July 2, 1948, ch. 821, 62 Stat. 1420)

[Sec. 1. Jurisdiction conferred.]—Jurisdiction is hereby conferred upon the District Court of the United States for the Northern District of Texas to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by Luther Brothers Construction Company, of Fort Worth, Texas, under Reclamation Bureau contract numbered 12r-15757 arising out of or attributable to the alleged failure of the Government to supply materials as provided for in said contracts. (62 Stat. 1420)

Sec. 2. [Payment by the Secretary of the Treasury.]—The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to the Luther Brothers Construction Company. (62 Stat. 1421)

#### EXPLANATORY NOTE

Legislative History. H.R. 6428, Private No. 2067. S. Rept. No. 1739.  
Law 456 in the 80th Congress. H.R. Rept.

## CLAIMS OF SILAS MASON, WALSH, AND ATKINSON-KIER COMPANIES

An act conferring jurisdiction upon the Court of Claims of the United States to hear, determine, and render judgment upon the joint claims of Silas Mason Company, Incorporated; Walsh Construction Company; and Atkinson-Kier Company. (Act of July 3, 1948, ch. 457, 62 Stat. 1421)

[Sec. 1. Jurisdiction conferred.]—Jurisdiction is hereby conferred upon the Court of Claims of the United States to hear and determine upon the merits and to render, in accordance therewith, judgment upon the joint claims of Silas Mason Company, Incorporated; Walsh Construction Company; and Atkinson-Kier Company against the United States which are embodied in the petition of the said companies filed in the Court of Claims May 1, 1939, as amended February 14, 1940, and therein docketed as number 44,659, excepting from such jurisdiction, however, the claims set out as causes of actions numbered 22, 24, 25, 26, 27, 30, and 31 in the said petition and excepting therefrom that part of the claim set out as cause of action numbered 14 in the said petition for which judgment was rendered by the Court in number 44,659 on October 1, 1945, in the amount of \$1,099.80. The Court of Claims is directed to hear, determine, and render judgment upon the said claims notwithstanding any prior determination, any statute of limitation, or any abandonment of, nonconformance with, or deviation from the protest and appeal provisions and procedure of the said contract, including but without limitation to article 15 of the contract and paragraph 14 of specifications numbered 570 involved in such claims, and without regard to any provisions of the said contract or specifications purporting to confer finality upon the decisions or questions arising under the contract by any officer of the United States. (62 Stat. 1421)

Sec. 2. [Adjudication to be made without reference to previous decision.]—Adjudication of the said claims by the Court of Claims is directed to be made without reference to the decision by the court in the case of Silas Mason Company, Incorporated, Walsh Construction Company, Atkinson-Kier Company against the United States on October 1, 1945, numbered 44,659; but the court shall consider as the evidence in such suit any and all evidence heretofore taken by the parties in the said case of Silas Mason Company, Incorporated, Walsh Construction Company, Atkinson-Kier Company against the United States; and the court may use as a basis for its findings of fact the report of its commissioner, Ewart W. Hobbs, filed January 11, 1944, upon such evidence subject to the exceptions thereto filed by the petitioners and by the defendant United States both on May 1, 1944. (62 Stat. 1421)

Sec. 3. [Suit to be instituted within six months.]—Any suit upon such claims brought under the provisions of this Act shall be instituted within six months from the date of enactment of this Act. Proceedings for the determination of such claims, and appeals from, and payment of, any judgment thereon shall be in the

July 3, 1948

908        CLAIMS OF SILAS MASON, ETC. COMPANIES

same manner as in the case of claims over which such court has jurisdiction under section 145 of the Judicial Code, as amended. (62 Stat. 1421)

EXPLANATORY NOTES

**Background.** The claims of Silas Mason Company, Inc., Walsh Construction Company and the Atkinson-Kier Company arose out of their successful bid on the first development of the Grand Coulee Dam and

powerplant.

**Legislative History.** S. 2217, Private Law 457 in the 80th Congress. S. Rept. No. 1586. H.R. Rept. 2347.

## UPPER COLORADO RIVER BASIN COMPACT

An act to grant the consent of the United States to the Upper Colorado River Basin Compact. (Act of April 6, 1949, ch. 48, 63 Stat. 31)

[Consent of Congress given to compact.]—The consent of the Congress is hereby given to the compact, signed (after negotiations in which a representative of the United States, duly appointed by the President, participated and upon which he has reported to the Congress) by the Commissioners for the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, on October 11, 1948, at Santa Fe, New Mexico, and thereafter ratified by the legislatures of each of the States aforesaid, which said Compact reads as follows:

## UPPER COLORADO RIVER BASIN COMPACT

The State of Arizona, the State of Colorado, the State of New Mexico, the State of Utah and the State of Wyoming, acting through their Commissioners,

Charles A. Carson for the State of Arizona,  
Clifford H. Stone for the State of Colorado,  
Fred E. Wilson for the State of New Mexico,  
Edward H. Watson for the State of Utah and  
L. C. Bishop for the State of Wyoming,

afetr negotiations participated in by Harry W. Bashore, appointed by the President as the representative of the United States of America, have agreed, subject to the provisions of the Colorado River Compact, to determine the rights and obligations of each signatory State respecting the uses and deliveries of the water of the Upper Basin of the Colorado River, as follows:

### ARTICLE I

(a) The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Colorado River System, the use of which was apportioned in perpetuity to the Upper Basin by the Colorado River Compact; to establish the obligations of each State of the Upper Division with respect to the deliveries of water required to be made at Lee Ferry by the Colorado River Compact; to promote interstate comity; to remove causes of present and future controversies; to secure the expeditious agricultural and industrial development of the Upper Basin, the storage of water and to protect life and property from floods.

(b) It is recognized that the Colorado River Compact is in full force and effect and all of the provisions hereof are subject thereto.

### ARTICLE II

As used in this Compact:

(a) The term "Colorado River System" means that portion of the Colorado River and its tributaries within the United States of America.

April 6, 1949

910        UPPER COLORADO RIVER BASIN COMPACT

- (b) The term "Colorado River Basin" means all of the drainage area of the Colorado River System and all other territory within the United States of America to which the waters of the Colorado River System shall be beneficially applied.
- (c) The term "States of the Upper Division" means the States of Colorado, New Mexico, Utah and Wyoming.
- (d) The term "States of the Lower Division" means the States of Arizona, California and Nevada.
- (e) The term "Lee Ferry" means a point in the main stream of the Colorado River one mile below the mouth of the Paria River.
- (f) The term "Upper Basin" means those parts of the States of Arizona, Colorado, New Mexico, Utah, and Wyoming within and from which waters naturally drain into the Colorado River System above Lee Ferry, and also all parts of said States located without the drainage area of the Colorado River System which are now or shall hereafter be beneficially served by waters diverted from the Colorado River System above Lee Ferry.
- (g) The term "Lower Basin" means those parts of the States of Arizona, California, Nevada, New Mexico and Utah within and from which waters naturally drain into the Colorado River System below Lee Ferry, and also all parts of said States located without the drainage area of the Colorado River System which are now or shall hereafter be beneficially served by waters diverted from the Colorado River System below Lee Ferry.
- (h) The term "Colorado River Compact" means the agreement concerning the apportionment of the use of the waters of the Colorado River System dated November 24, 1922, executed by Commissioners for the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, approved by Herbert Hoover, representative of the United States of America, and proclaimed effective by the President of the United States of America, June 25, 1929.
- (i) The term "Upper Colorado River System" means that portion of the Colorado River System above Lee Ferry.
- (j) The term "Commission" means the administrative agency created by Article VIII of this Compact.
- (k) The term "water year" means that period of twelve months ending September 30 of each year.
- (l) The term "acre-foot" means the quantity of water required to cover an acre to the depth of one foot and is equivalent to 43,560 cubic feet.
- (m) The term "domestic use" shall include the use of water for household, stock, municipal, mining, milling, industrial and other like purposes, but shall exclude the generation of electrical power.
- (n) The term "virgin flow" means the flow of any stream undepleted by the activities of man.

ARTICLE III

- (a) Subject to the provisions and limitations contained in the Colorado River Compact and in this Compact, there is hereby apportioned from the Upper Colorado River System in perpetuity to the States of Arizona, Colorado, New

April 6, 1949

UPPER COLORADO RIVER BASIN COMPACT

911

Mexico, Utah and Wyoming, respectively, the consumptive use of water as follows:

(1) To the State of Arizona the consumptive use of 50,000 acre-feet of water per annum.

(2) To the States of Colorado, New Mexico, Utah and Wyoming, respectively, the consumptive use per annum of the quantities resulting from the application of the following percentages to the total quantity of consumptive use per annum apportioned in perpetuity to and available for use each year by Upper Basin under the Colorado River Compact and remaining after the deduction of the use, not to exceed 50,000 acre-feet per annum, made in the State of Arizona.

State of Colorado, 51.75 per cent; State of New Mexico, 11.25 per cent; State of Utah, 23.00 per cent; State of Wyoming, 14.00 per cent.

(b) The apportionment made to the respective States by paragraph (a) of this Article is based upon, and shall be applied in conformity with, the following principles and each of them:

(1) The apportionment is of any and all man-made depletions;

(2) Beneficial use is the basis, the measure and the limit of the right to use;

(3) No State shall exceed its apportioned use in any water year when the effect of such excess use, as determined by the Commission, is to deprive another signatory State of its apportioned use during that water year; provided, that this subparagraph (b) (3) shall not be construed as:

(i) Altering the apportionment of use, or obligations to make deliveries as provided in Article XI, XII, XIII or XIV of this Compact;

(ii) Purporting to apportion among the signatory States such uses of water as the Upper Basin may be entitled to under paragraphs (f) and (g) of Article III of the Colorado River Compact; or

(iii) Countenancing average uses by any signatory State in excess of its apportionment.

(4) The apportionment to each State includes all water necessary for the supply of any rights which now exist.

(c) No apportionment is hereby made, or intended to be made, of such uses of water as the Upper Basin may be entitled to under paragraphs (f) and (g) of Article III of the Colorado River Compact.

(d) The apportionment made by this Article shall not be taken as any basis for the allocation among the signatory States of any benefits resulting from the generation of power.

#### ARTICLE IV

In the event curtailment of use of water by the States of the Upper Division at any time shall become necessary in order that the flow at Lee Ferry shall not be depleted below that required by Article III of the Colorado River Compact, the extent of curtailment by each State of the consumptive use of water apportioned to it by Article III of this Compact shall be in such quantities and at such times as shall be determined by the Commission upon the application of the following principles:

April 6, 1949

(a) The extent and times of curtailment shall be such as to assure full compliance with Article III of the Colorado River Compact;

(b) If any State or States of the Upper Division, in the ten years immediately preceding the water year in which curtailment is necessary, shall have consumptively used more water than it was or they were, as the case may be, entitled to use under the apportionment made by Article III of this Compact, such State or States shall be required to supply at Lee Ferry a quantity of water equal to its, or the aggregate of their, overdraft or the proportionate part of such overdraft, as may be necessary to assure compliance with Article III of the Colorado River Compact, before demand is made on any other State of the Upper Division;

(c) Except as provided in subparagraph (b) of this Article, the extent of curtailment by each State of the Upper Division of the consumptive use of water apportioned to it by Article III of this Compact shall be such as to result in the delivery at Lee Ferry of a quantity of water which bears the same relation to the total required curtailment of use by the States of the Upper Division as the consumptive use of Upper Colorado River System water which was made by each such State during the water year immediately preceding the year in which the curtailment becomes necessary bears to the total consumptive use of such water in the States of the Upper Division during the same water year; provided, that in determining such relation the uses of water under rights perfected prior to November 24, 1922, shall be excluded.

## ARTICLE V

(a) All losses of water occurring from or as the result of the storage of water in reservoirs constructed prior to the signing of this Compact shall be charged to the State in which such reservoir or reservoirs are located. Water stored in reservoirs covered by this paragraph (a) shall be for the exclusive use of and shall be charged to the State in which the reservoir or reservoirs are located.

(b) All losses of water occurring from or as the result of the storage of water in reservoirs constructed after the signing of this Compact shall be charged as follows:

(1) If the Commission finds that the reservoir is used, in whole or in part, to assist the States of the Upper Division in meeting their obligations to deliver water at Lee Ferry imposed by Article III of the Colorado River Compact, the Commission shall make findings, which in no event shall be contrary to the laws of the United States of America under which any reservoir is constructed, as to the reservoir capacity allocated for that purpose. The whole or that proportion, as the case may be, of reservoir losses as found by the Commission to be reasonably and properly chargeable to the reservoir or reservoir capacity utilized to assure deliveries at Lee Ferry shall be charged to the States of the Upper Division in the proportion which the consumptive use of water in each State of the Upper Division during the water year in which the charge is made bears to the total consumptive use of water in all States of the Upper Division during the same water year. Water stored in reservoirs or in reservoir

capacity covered by this subparagraph (b) (1) shall be for the common benefit of all the States of the Upper Division.

(2) If the Commission finds that the reservoir is used, in whole or in part, to supply water for use in a State of the Upper Division, the Commission shall make findings, which in no event shall be contrary to the laws of the United States of America under which any reservoir is constructed, as to the reservoir or reservoir capacity utilized to supply water for use and the State in which such water will be used. The whole or that proportion, as the case may be, of reservoir losses as found by the Commission to be reasonably and properly chargeable to the State in which such water will be used shall be borne by that State. As determined by the Commission, water stored in reservoirs covered by this subparagraph (b) (2) shall be earmarked for and charged to the State in which the water will be used.

(c) In the event the Commission finds that a reservoir site is available both to assure deliveries at Lee Ferry and to store water for consumptive use in a State of the Upper Division, the storage of water for consumptive use shall be given preference. Any reservoir or reservoir capacity hereafter used to assure deliveries at Lee Ferry shall by order of the Commission be used to store water for consumptive use in a State, provided the Commission finds that such storage is reasonably necessary to permit such State to make the use of the water apportioned to it by this Compact.

#### ARTICLE VI

The Commission shall determine the quantity of the consumptive use of water, which use is apportioned by Article III hereof, for the Upper Basin and for each State of the Upper Basin by the inflow-outflow method in terms of man-made depletions of the virgin flow at Lee Ferry, unless the Commission, by unanimous action, shall adopt a different method of determination.

#### ARTICLE VII

The consumptive use of water by the United States of America or any of its agencies, instrumentalities or wards shall be charged as a use by the State in which the use is made; provided, that such consumptive use incident to the diversion, impounding, or conveyance of water in one State for use in another shall be charged to such latter State.

#### ARTICLE VIII

(a) There is hereby created an interstate administrative agency to be known as the "Upper Colorado River Commission". The Commission shall be composed of one Commissioner, representing each of the States of the Upper Division, namely, the States of Colorado, New Mexico, Utah and Wyoming, designated or appointed in accordance with the laws of each such State and, if designated by the President, one Commissioner representing the United States of America. The President is hereby requested to designate a Commissioner. If so desig-

April 6, 1949

nated the Commissioner representing the United States of America shall be the presiding officer of the Commission and shall be entitled to the same powers and rights as the Commissioner of any State. Any four members of the Commission shall constitute a quorum.

(b) The salaries and personal expenses of each Commissioner shall be paid by the Government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact, and which are not paid by the United States of America, shall be borne by the four States according to the percentage of consumptive use apportioned to each. On or before December 1 of each year, the Commission shall adopt and transmit to the Governors of the four States and to the President a budget covering an estimate of its expenses for the following year, and of the amount payable by each State. Each State shall pay the amount due by it to the Commission on or before April 1 of the year following. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of any of the four States; however, all receipts and disbursement of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission shall appoint a Secretary, who shall not be a member of the Commission, or an employee of any signatory State or of the United States of America while so acting. He shall serve for such term and receive such salary and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical and other personnel as, in its judgment, may be necessary for the performance of its functions under this Compact. In the hiring of employees, the Commission shall not be bound by the civil service laws of any State.

(d) The Commission, so far as consistent with this Compact, shall have the power to:

(1) Adopt rules and regulations;  
(2) Locate, establish, construct, abandon, operate and maintain water gaging stations;

(3) Make estimates to forecast water run-off on the Colorado River and any of its tributaries;

(4) Engage in cooperative studies of water supplies of the Colorado River and its tributaries;

(5) Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions and use of the waters of the Colorado River, and any of its tributaries;

(6) Make findings as to the quantity of water of the Upper Colorado River System used each year in the Upper Colorado River Basin and in each State thereof;

(7) Make findings as to the quantity of water deliveries at Lee Ferry during each water year;

(8) Make findings as to the necessity for and the extent of the curtailment of use, required, if any, pursuant to Article IV hereof;

(9) Make findings as to the quantity of reservoir losses and as to the share thereof chargeable under Article V hereof to each of the States;

(10) Make findings of fact in the event of the occurrence of extraordinary drought or serious accident to the irrigation system in the Upper Basin, whereby deliveries by the Upper Basin of water which it may be required to deliver in order to aid in fulfilling obligations of the United States of America to the United Mexican States arising under the Treaty between the United States of America and the United Mexican States, dated February 3, 1944 (Treaty Series 994) become difficult, and report such findings to the Governors of the Upper Basin States, the President of the United States of America, the United States Section of the International Boundary and Water Commission, and such other Federal officials and agencies as it may deem appropriate to the end that the water allotted to Mexico under Division III of such treaty may be reduced in accordance with the terms of such Treaty;

(11) Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;

(12) Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, either independently or in cooperation with any state or federal agency;

(13) Make and transmit annually to the Governors of the signatory States and the President of the United States of America, with the estimated budget, a report covering the activities of the Commission for the preceding water year.

(e) Except as otherwise provided in this Compact the concurrence of four members of the Commission shall be required in any action taken by it.

(f) The Commission and its Secretary shall make available to the Governor of each of the signatory States any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States of America.

(g) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute *prima facie* evidence of the facts found.

(h) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

#### ARTICLE IX

(a) No State shall deny the right of the United States of America and, subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person, or entity of any signatory State to acquire rights to the use of water, or to construct or participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals and conduits in one State for the purpose of diverting, conveying, storing, regulating and releasing water to satisfy the provisions of the Colorado River Compact relating to the obligation of the States of the Upper Division to make deliveries of water at Lee Ferry, or for the purpose of diverting, con-

veying, storing, or regulating water in an upper signatory State for consumptive use in a lower signatory State, when such use is within the apportionment to such lower State made by this Compact. Such rights shall be subject to the rights of water users, in a State in which such reservoirs or works are located, to receive and use water, the use of which is within the apportionment to such State by this Compact.

(b) Any signatory State, any person or any entity of any signatory State shall have the right to acquire such property rights as are necessary to the use of water in conformity with this Compact in any other signatory State by donation, purchase or through the exercise of the power of eminent domain. Any signatory State, upon the written request of the Governor of any other signatory State, for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price satisfactory to the requesting State, or, if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or such entity as may be designated by the requesting State; provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining the requested property shall be paid by the requesting State at the time and in the manner prescribed by the State requested to acquire the property.

(c) Should any facility be constructed in a signatory State by and for the benefit of another signatory State or States or the water users thereof, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located, except that, in the case of a reservoir constructed, in one State for the benefit of another State or States, the water administration officials of the State in which the facility is located shall permit the storage and release of any water which, as determined by findings of the Commission, falls within the apportionment of the State or States for whose benefit the facility is constructed. In the case of a regulating reservoir for the joint benefit of all States in making Lee Ferry deliveries, the water administration officials of the State in which the facility is located, in permitting the storage and release of water, shall comply with the findings and orders of the Commission.

(d) In the event property is acquired by a signatory State in another signatory State for the use and benefit of the former, the users of water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivisions of the State, and in lieu of any and all taxes on said property, improvements and rights. The signatory States recommend to the President and the Congress that, in the event the United States of America shall acquire property in one of the signatory States

April 6, 1949

UPPER COLORADO RIVER BASIN COMPACT

917

for the benefit of another signatory State, or its water users, provision be made for the like payment in reimbursement of loss of taxes.

ARTICLE X

(a) The signatory States recognize La Plata River Compact entered into between the States of Colorado and New Mexico, dated November 27, 1922, approved by the Congress on January 29, 1925 (43 Stat. 796), and this Compact shall not affect the apportionment therein made.

(b) All consumptive use of water of La Plata River and its tributaries shall be charged under the apportionment of Article III hereof to the State in which the use is made; provided, that consumptive use incident to the diversion, impounding or conveyance of water in one State for use in the other shall be charged to the latter State.

EXPLANATORY NOTE

Reference in the Text. The La Plata River Compact approved by the Congress on January 29, 1925 (43 Stat. 796), re-

ARTICLE XI

Subject to the provisions of this Compact, the consumptive use of the water of the Little Snake River and its tributaries is hereby apportioned between the States of Colorado and Wyoming in such quantities as shall result from the application of the following principles and procedures:

(a) Water used under rights existing prior to the signing of this Compact.

(1) Water diverted from any tributary of the Little Snake River or from the main stem of the Little Snake River above a point one hundred feet below the confluence of Savery Creek and the Little Snake River shall be administered without regard to rights covering the diversion of water from any down-stream points.

(2) Water diverted from the main stem of the Little Snake River below a point one hundred feet below the confluence of Savery Creek and the Little Snake River shall be administered on the basis of an interstate priority schedule prepared by the Commission in conformity with priority dates established by the laws of the respective States.

(b) Water used under rights initiated subsequent to the signing of this Compact.

(1) Direct flow diversions shall be so administered that, in time of shortage, the curtailment of use on each acre of land irrigated thereunder shall be as nearly equal as may be possible in both of the States.

(2) The storage of water by projects located in either State, whether of supplemental supply or of water used to irrigate land not irrigated at the date of the signing of this Compact, shall be so administered that in times of water shortage the curtailment of storage of water available for each acre of land irrigated thereunder shall be as nearly equal as may be possible in both States.

(c) Water uses under the apportionment made by this Article shall be in

April 6, 1949

accordance with the principle that beneficial use shall be the basis, measure and limit of the right to use.

(d) The States of Colorado and Wyoming each assent to diversions and storage of water in one State for use in the other State, subject to compliance with Article IX of this Compact.

(e) In the event of the importation of water to the Little Snake River Basin from any other river basin, the State making the importation shall have the exclusive use of such imported water unless by written agreement, made by the representatives of the States of Colorado and Wyoming on the Commission, it is otherwise provided.

(f) Water use projects initiated after the signing of this Compact, to the greatest extent possible, shall permit the full use within the Basin in the most feasible manner of the waters of the Little Snake River and its tributaries, without regard to the state line; and, so far as is practicable, shall result in an equal division between the States of the use of water not used under rights existing prior to the signing of this Compact.

(g) All consumptive use of the waters of the Little Snake River and its tributaries shall be charged under the apportionment of Article III hereof to the State in which the use is made; provided, that consumptive use incident to the diversion, impounding or conveyance of water in one State for use in the other shall be charged to the latter State.

## ARTICLE XII

Subject to the provisions of this Compact, the consumptive use of the waters of Henry's Fork, a tributary of Green River originating in the State of Utah and flowing into the State of Wyoming and thence into the Green River in the State of Utah; Beaver Creek, originating in the State of Utah and flowing into Henry's Fork in the State of Wyoming; Burnt Fork, a tributary of Henry's Fork, originating in the State of Utah and flowing into Henry's Fork in the State of Wyoming; Birch Creek, a tributary of Henry's Fork, originating in the State of Utah and flowing into Henry's Fork in the State of Wyoming; and Sheep Creek, a tributary of Green River in the State of Utah, and their tributaries, are hereby apportioned between the States of Utah and Wyoming in such quantities as will result from the application of the following principles and procedures:

(a) Waters used under rights existing prior to the signing of this Compact. Waters diverted from Henry's Fork, Beaver Creek, Burnt Fork, Birch Creek and their tributaries, shall be administered without regard to the state line on the basis of an interstate priority schedule to be prepared by the States affected and approved by the Commission in conformity with the actual priority of right of use, the water requirements of the land irrigated and the acreage irrigated in connection therewith.

(b) Waters used under rights from Henry's Fork, Beaver Creek, Burnt Fork, Birch Creek and their tributaries, initiated after the signing of this Compact shall be divided fifty percent to the State of Wyoming and fifty percent to the

April 6, 1949

UPPER COLORADO RIVER BASIN COMPACT

919

State of Utah and each State may use said waters as and where it deems advisable.

(c) The State of Wyoming assents to the exclusive use by the State of Utah of the water of Sheep Creek, except that the lands, if any, presently irrigated in the State of Wyoming from the water of Sheep Creek shall be supplied with water from Sheep Creek in order of priority and in such quantities as are in conformity with the laws of the State of Utah.

(d) In the event of the importation of water to Henry's Fork, or any of its tributaries, from any other river basin, the State making the importation shall have the exclusive use of such imported water unless by written agreement made by the representatives of the States of Utah and Wyoming on the Commission, it is otherwise provided.

(e) All consumptive use of waters of Henry's Fork, Beaver Creek, Burnt Fork, Birch Creek, Sheep Creek, and their tributaries shall be charged under the apportionment of Article III hereof to the State in which the use is made; provided, that consumptive use incident to the diversion, impounding or conveyance of water in one State for use in the other shall be charged to the latter State.

(f) The States of Utah and Wyoming each assent to the diversion and storage of water in one State for use in the other State, subject to compliance with Article IX of this Compact. It shall be the duty of the water administrative officials of the State where the water is stored to release said stored water to the other State upon demand. If either the State of Utah or the State of Wyoming shall construct a reservoir in the other State for use in its own State, the water users of the State in which said facilities are constructed may purchase at cost a portion of the capacity of said reservoir sufficient for the irrigation of their lands thereunder.

(g) In order to measure the flow of water diverted, each State shall cause suitable measuring devices to be constructed, maintained and operated at or near the point of diversion into each ditch.

(h) The State Engineers of the two States jointly shall appoint a Special Water Commissioner who shall have authority to administer the water in both States in accordance with the terms of this Article. The salary and expenses of such Special Water Commissioner shall be paid, thirty percent by the State of Utah and seventy percent by the State of Wyoming.

### ARTICLE XIII

Subject to the provisions of this Compact, the rights to the consumptive use of the water of the Yampa River, a tributary entering the Green River in the State of Colorado, are hereby apportioned between the States of Colorado and Utah in accordance with the following principles:

(a) The State of Colorado will not cause the flow of the Yampa River at the Maybell Gaging Station to be depleted below an aggregate of 5,000,000 acre-feet for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification and approval of this Compact. In the event any diversion is made from the

April 6, 1941

Yampa River or from tributaries entering the Yampa River above the Maybell Gaging Station for the benefit of any water use project in the State of Utah then the gross amount of all such diversions for use in the State of Utah, less any returns from such diversions to the River above Maybell, shall be added to the actual flow at the Maybell Gaging Station to determine the total flow at the Maybell Gaging Station.

(b) All consumptive use of the waters of the Yampa River and its tributaries shall be charged under the apportionment of Article III hereof to the State in which the use is made; provided, that consumptive use incident to the diversion, impounding or conveyance of water in one State for use in the other shall be charged to the latter State.

#### ARTICLE XIV

Subject to the provisions of this Compact, the consumptive use of the waters of the San Juan River and its tributaries is hereby apportioned between the States of Colorado and New Mexico as follows:

The State of Colorado agrees to deliver to the State of New Mexico from the San Juan River and its tributaries which rise in the State of Colorado a quantity of water which shall be sufficient, together with water originating in the San Juan Basin in the State of New Mexico, to enable the State of New Mexico to make full use of the water apportioned to the State of New Mexico by Article III of this Compact, subject, however, to the following:

(a) A first and prior right shall be recognized as to:

(1) All uses of water made in either State at the time of the signing of this Compact; and

(2) All uses of water contemplated by projects authorized, at the time of the signing of this Compact, under the laws of the United States of America whether or not such projects are eventually constructed by the United States of America or by some other entity.

(b) The State of Colorado assents to diversions and storage of water in the State of Colorado for use in the State of New Mexico, subject to compliance with Article IX of this Compact.

(c) The uses of the waters of the San Juan River and any of its tributaries within either State which are dependent upon a common source of water and which are not covered by (a) hereof, shall in times of water shortages be reduced in such quantity that the resulting consumptive use in each State will bear the same proportionate relation to the consumptive use made in each State during times of average water supply as determined by the Commission; provided, that any preferential uses of water to which Indians are entitled under Article XIX shall be excluded in determining the amount of curtailment to be made under this paragraph.

(d) The curtailment of water use by either State in order to make deliveries at Lee Ferry as required by Article IV of this Compact shall be independent of any and all conditions imposed by this Article and shall be made by each State, as and when required, without regard to any provision of this Article.

(e) All consumptive use of the waters of the San Juan River and its tribu-

taries shall be charged under the apportionment of Article III hereof to the State in which the use is made; provided, that consumptive use incident to the diversion, impounding or conveyance of water in one State for use in the other shall be charged to the latter State.

#### ARTICLE XV

(a) Subject to the provisions of the Colorado River Compact and of this Compact, water of the Upper Colorado River System may be impounded and used for the generation of electrical power, but such impounding and use shall be subservient to the use and consumption of such water for agricultural and domestic purposes and shall not interfere with or prevent use for such dominant purposes.

(b) The provisions of this Compact shall not apply to or interfere with the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, the consumptive use of which is apportioned and available to such State by this Compact.

#### ARTICLE XVI

The failure of any State to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use to the Lower Basin or to any other State, nor shall it constitute a forfeiture or abandonment of the right to such use.

#### ARTICLE XVII

The use of any water now or hereafter imported into the natural drainage basin of the Upper Colorado River System shall not be charged to any State under the apportionment of consumptive use made by this Compact.

#### ARTICLE XVIII

(a) The State of Arizona reserves its rights and interests under the Colorado River Compact as a State of the Lower Division and as a State of the Lower Basin.

(b) The State of New Mexico and the State of Utah reserve their respective rights and interests under the Colorado River Compact as States of the Lower Basin.

#### ARTICLE XIX

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States of America to Indian tribes;

(b) Affecting the obligations of the United States of America under the Treaty with the United Mexican States (Treaty Series 994);

(c) Affecting any rights or powers of the United States of America, its agencies or instrumentalities, in or to the waters of the Upper Colorado River System, or its capacity to acquire rights in and to the use of said waters;

(d) Subjecting any property of the United States of America, its agencies or instrumentalities, to taxation by any State or subdivision thereof, or creating

April 6, 1949

922      UPPER COLORADO RIVER BASIN COMPACT

any obligation on the part of the United States of America, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, State agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(e) Subjecting any property of the United States of America, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact.

ARTICLE XX

This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE XXI

This Compact shall become binding and obligatory when it shall have been ratified by the legislatures of each of the signatory States and approved by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

IN WITNESS WHEREOF, the Commissioners have executed six counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States of America, and one of which shall be forwarded to the Governor of each of the signatory States.

Done at the City of Santa Fe, State of New Mexico, this 11th day of October, 1948.

Charles A. Carson,  
Commissioner for the State of Arizona  
Clifford H. Stone,  
Commissioner for the State of Colorado  
Fred E. Wilson,  
Commissioner for the State of New Mexico  
Edward H. Watson,  
Commissioner for the State of Utah  
L. C. Bishop,  
Commissioner for the State of Wyoming  
Grover A. Giles,  
Secretary.

Approved:

Harry W. Bashore,  
Representative of the United States of America.

April 6, 1949

UPPER COLORADO RIVER BASIN COMPACT

923

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Quotation Marks Omitted.** As enacted at 53 Stat. 31 this compact is enclosed in quotation marks. They have been omitted in this reproduction.

**Legislative History.** S. 790, Public Law 37 in the 81st Congress. S. Rept. No. 39. H.R. Rept. No. 270 (on H.R. 2325).

April 25, 1949

924

## CONVEYANCE OF LANDS TO CHURNTOWN ELEMENTARY SCHOOL DISTRICT

An act authorizing the Secretary of the Interior to convey certain lands to the Churntown Elementary School District, California. (Act of April 25, 1949, ch. 91, 63 Stat. 60)

[Sec. 1. Conveyance to school district—Reservation to U.S.]—The Secretary of the Interior is hereby authorized to convey to the Churntown Elementary School District, California, for such consideration as he may fix in accordance with its present valuation, all right, title, and interest of the United States in and to a parcel of land in the north half of section 26, township 33 north, range 5 west, Mount Diablo base and meridian, Shasta County, California, containing an area of ten and eleven one-hundredths acres, more or less, and described as follows:

\* \* \* \* \*

(Legal description omitted, 63 Stat. 60)

\* \* \* \* \*

There shall be reserved to the United States in the conveyance of the land described all oil, gas, coal, and other mineral deposits in the land, including all materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761), to be peculiarly essential to the production of fissionable material, together with the right to prospect for, mine, and remove the same. (63 Stat. 60)

### EXPLANATORY NOTE

**Reference in the Text.** Section 5(b)(1) of the Atomic Energy Act of 1946 (60 Stat. 761), referred to in the text, is a definition of the term "source materials" under the Act, which means "uranium, thorium, or any other material which is determined by the Commission, with the approval of the

President, to be peculiarly essential to the production of fissionable materials; but includes ores only if they contain one or more of the foregoing materials in such concentration as the Commission may by regulation determine from time to time."

[Sec. 2. Use of land—Reverter—Payment at 50% of appraised value.]—The land conveyed pursuant to the provisions of this Act shall be used only for public-school purposes, and the conveyance herein authorized shall be made upon the express condition that if the land is abandoned for such use for a period of two years or more or if the land shall be used for other purposes, the conveyance shall be held to be forfeited and the title shall revert to the United States. The Secretary of the Interior is hereby authorized to determine the facts and declare such forfeiture and reversion and such determination and declaration shall be final and conclusive: *Provided*, That the Churntown Elementary School District of California shall pay 50 per centum of the appraised value of the property as determined by the United States Department of the Interior. (63 Stat. 61)

April 25, 1949

CHURNTOWN ELEMENTARY SCHOOL DISTRICT 925

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Background.** The approximately 10 acres authorized to be conveyed by the Act were originally acquired by the Bureau of

Reclamation when the Shasta Dam was started, but the tract had not been used.

**Legislative History.** H.R. 164, Public Law 54 in the 81st Congress. H.R. Rept. No. 32. S. Rept. No. 159.

May 6, 1948

926

## AMENDED CONTRACTS, MISCELLANEOUS PROJECTS

An act to approve repayment contracts negotiated with the Bitter Root irrigation district, the Shasta View irrigation district, the Okanogan irrigation district, the Willwood irrigation district the Uncompahgre Valley Water Users' Association, and the Kittitas reclamation district, to authorize their execution, and for other purposes. (Act of May 6, 1949, ch. 93, 63 Stat. 62)

[Sec. 1. Execution of contracts by the Secretary authorized.]—The contracts referred to in sections 2 to 7, inclusive, of this Act, which have been negotiated by the Secretary of the Interior and reported on as provided in subsections (a) and (c) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), are hereby approved and the Secretary is hereby authorized to execute them on behalf of the United States. (63 Stat. 62)

### BITTER ROOT PROJECT, MONTANA

**Sec. 2.** The contract dated September 16, 1948, with the Bitter Root irrigation district.

(a) The Act of July 3, 1930 (46 Stat. 852), entitled "An Act for the rehabilitation of the Bitter Root irrigation project, Montana", and the Act of August 26, 1935 (49 Stat. 799), amending that Act, are hereby repealed. (63 Stat. 63)

#### EXPLANATORY NOTE

**References in the Text.** The Acts of July 3, 1930 (46 Stat. 852), and of August 26, 1935 (49 Stat. 799), repealed by section

### KLAMATH PROJECT, OREGON

**Sec. 3.** The contract dated August 20, 1948, with the Shasta View irrigation district. (63 Stat. 63)

### OKANOGAN PROJECT, WASHINGTON

**Sec. 4.** The contract dated September 20, 1948, with the Okanogan irrigation district.

(a) The Act of May 25, 1928 (45 Stat. 739), entitled "An Act to authorize the Secretary of the Interior to transfer the Okanogan project, in the State of Washington, to the Okanogan irrigation district upon payment of charges stated", is hereby repealed. (63 Stat. 63)

#### EXPLANATORY NOTE

**Reference in the Text.** The Act of May 25, 1928 (45 Stat. 739), repealed by section 4, appears herein in chronological order in note form.

May 6, 1949

AMENDED CONTRACTS, MISC. PROJECTS

927

SHOSHONE PROJECT, WYOMING

Sec. 5. The contract with the Willwood irrigation district which was approved by the electors of said district on December 18, 1948.

(a) The construction charge obligation in the amount of \$9,843 on account of eighty-five and eighty-three one-hundredths acres of land classified in a paying class under the Act of December 5, 1924, and found to be permanently unproductive under the reclassification of lands to be approved under said contract shall be deducted from the contractual obligation of said Willwood irrigation district.

(b) The construction charge obligation on account of two hundred thirty-six and eighty-five one-hundredths acres of land classified under the Act of December 5, 1924, as productive and found to be of insufficient productive power to be continued in a paying class under the reclassification of lands to be approved under said contract shall be suspended until the Secretary of the Interior shall declare them to be of sufficient productive power properly to be placed in the paying class. While said lands are so classified as temporarily unproductive and the construction charge obligation on account of them is suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges or such other charges as may be fixed by the Secretary of the Interior, the advance payment of which may be required in the discretion of the said Secretary. Should said lands temporarily classified as unproductive, or any of them in the future, be found by the Secretary of the Interior to be permanently unproductive, the construction charge obligation on account of them shall be charged off as a permanent loss to the reclamation fund at the per acre rates originally announced for the tracts, including any such lands in the public orders affecting such tracts. (63 Stat. 63)

EXPLANATORY NOTE

Reference in the Text. The Act of December 5, 1924, referred to in the text, is the Fact Finders' Act. The Act appears herein in chronological order.

UNCOMPAGHRE PROJECT, COLORADO

Sec. 6. The contract dated December 13, 1948, with the Uncompahgre Valley Water Users' Association.

(a) The June 1948 report of the Secretary of the Interior on the reclassification of the land of the Uncompaghre project, made in accordance with the provisions of section 43 of the Act of May 25, 1926 (44 Stat. 636), as amended by the Act of April 23, 1930 (46 Stat. 249), and of section 8 of the Act of August 4, 1939 (53 Stat. 1187), is approved.

(b) The provisions of the Act of May 16, 1930 (46 Stat. 367), are hereby extended to authorize the sale of vacant public lands as reclassified and listed in the report on the reclassification approved by subsection (a) of this section.

(c) The Secretary is authorized to cancel, modify, or take such other action as he deems appropriate with respect to water-right applications now or hereafter executed and approved on the Uncompahgre project.

May 6, 1949

(d) All costs and expenses incurred by the United States in making the land reclassification, in negotiating and completing the said contract and in making all studies and investigations in connection therewith, are hereby made nonreimbursable. (63 Stat. 63)

EXPLANATORY NOTES

**References in the Text.** Section 43 of the Act of May 25, 1926 (44 Stat. 636), as amended by the Act of April 23, 1930 (46 Stat. 249), referred to in the text, relates to construction charges and other questions with respect to lands found to be temporarily or permanently unproductive. The Act is the Omnibus Adjustment Act and it, and the amendment, appear herein in chronological order.

**Reference in the Text.** Section 8 of the Act of August 4, 1939 (53 Stat. 1187), referred to in the text, deals with the classi-

fication or reclassification of project lands as to irrigability and productivity. The Act is the Reclamation Project Act of 1939, which appears herein in chronological order.

**Reference in the Text.** The Act of May 16, 1930 (46 Stat. 367) referred to in the text, is an act to authorize the disposal of public land classified as temporarily or permanently unproductive on Federal irrigation projects. The Act appears here in chronological order.

YAKIMA PROJECT, WASHINGTON

**Sec. 7.** The contract dated January 20, 1949, with the Kittitas reclamation district.

(a) The Secretary's reclassification of the lands of the Kittitas Division, Yakima project, in the following classes: Paying classes (classes 1, 2, and 3), temporarily unproductive (class 5), and permanently unproductive (class 6), all as more fully described by the report entitled "Land Classification, 1944 (as amended in 1948)—Kittitas Division, Yakima Project", is approved.

(b) Subject to the limitations of the said contract as it may be hereafter amended, the Secretary is hereby authorized to make from time to time the following further classifications and reclassifications of the lands of the Kittitas Division on the basis of the classification standards outlined in the report referred to in (a) of this section:

(1) To reclassify class 5 land as paying land or as class 6 land.

(2) To classify lands not heretofore placed in any of the established classifications.

No classifications or reclassifications of any of the lands of the Kittitas Division by or under the authority of this Act shall be construed, however, as affecting or authorizing any reduction in the district's construction charge obligation as defined in the said contract.

(c) All except the first sentence of the paragraph under the subheading "Yakima project (Kittitas Division), Washington:", under the heading "Bureau of Reclamation", of the Act of March 3, 1925 (43 Stat. 1141, 1170), are hereby repealed. (63 Stat. 64)

EXPLANATORY NOTE

**Reference in the Text.** Extracts from the Act of March 3, 1925 (43 Stat. 1141, 1170), referred to in the text, including the sub-heading "Yakima project (Kittitas Division), Washington" referred to, appear herein in chronological order. The Act is the Interior Department Appropriation Act for 1926.

May 6, 1949

AMENDED CONTRACTS, MISC. PROJECTS

929

NOTE OF OPINION

1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been approved

by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2 on page 5 of attachment to letter.

**Sec. 8. [Act a part of the Federal reclamation laws.]**—This Act is declared to be a part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939. (63 Stat. 64)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

Law 56 in the 81st Congress. H.R. Rept. No. 448.

**Legislative History.** H.R. 4152, Public

May 12, 1949

930

## TRENTON DAM AND SWANSON LAKE

An act to change the name of Culbertson Dam on the Republican River in the State of Nebraska to "Trenton Dam" and to name the body of water arising behind such dam "Swanson Lake." (Act of May 12, 1949, ch. 100, 63 Stat. 66)

[Designation of Culbertson Dam as "Trenton Dam"—"Swanson Lake."]—The dam under construction on the Republican River in the State of Nebraska, heretofore known, designated, and referred to as "Culbertson Dam", shall hereafter be designated and referred to as "Trenton Dam." Any law, regulation, document, or record of the United States in which such dam is designated or referred to under and by the name "Culbertson Dam" shall be held and considered to refer to such dam under and by the name of "Trenton Dam". The body of water arising behind such dam shall hereafter be designated and referred to as "Swanson Lake" in commemoration of Carl H. Swanson. (63 Stat. 66)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Trenton Dam is a feature of the Frenchman-Cambridge Division, Missouri River Basin project, which was authorized by the Flood Control Act of

December 22, 1944. Extracts from the Act appear herein in chronological order.

**Legislative History.** S. 270, Public Law 61 in the 81st Congress. S. Rept. No. 214. H.R. Rept. No. 506.

## ARKANSAS RIVER COMPACT

[STATES OF COLORADO AND KANSAS]

An act to grant the consent of the United States to the Arkansas River compact. (Act of May 31, 1949, ch. 155, 63 Stat. 145)

[Sec. 1. Consent of Congress to compact.]—The consent of Congress is hereby given to the compact, signed (after negotiations in which a representative of the United States, duly appointed by the President, participated, and upon which he has reported to the Congress) by the Commissioners for the States of Colorado and Kansas on December 14, 1948, at Denver, Colorado, and thereafter ratified by the legislatures of each of the States aforesaid, which said compact reads as follows:

## ARKANSAS RIVER COMPACT

The State of Colorado and the State of Kansas, parties signatory to this Compact (hereinafter referred to as "Colorado" and "Kansas", respectively, or individually as a "State", or collectively as the "States") having resolved to conclude a compact with respect to the waters of the Arkansas River, and being moved by considerations of interstate comity, having appointed commissioners as follows: "Henry C. Vidal, Gail L. Ireland, and Harry B. Mendenhall, for Colorado; and George S. Knapp, Edward F. Arn, William E. Leavitt, and Roland H. Tate, for Kansas"; and the consent of the Congress of the United States to negotiate and enter into an interstate compact not later than January 1, 1950, having been granted by Public Law 34, 79th Congress, 1st Session, and pursuant thereto the President having designated Hans Kramer as the representative of the United States, the said commissioners for Colorado and Kansas, after negotiations participated in by the representative of the United States, have agreed as follows:

### ARTICLE I

The major purposes of this Compact are to:

A. Settle existing disputes and remove causes of future controversy between the States of Colorado and Kansas, and between citizens of one and citizens of the other State, concerning the waters of the Arkansas River and their control, conservation and utilization for irrigation and other beneficial purposes.

B. Equitably divide and apportion between the States of Colorado and Kansas the waters of the Arkansas River and their utilization as well as the benefits arising from the construction, operation and maintenance by the United States of John Martin Reservoir Project for water conservation purposes.

### ARTICLE II

The provisions of this Compact are based on (1) the physical and other conditions peculiar to the Arkansas River and its natural drainage basin, and the

May 31, 1949

nature and location of irrigation and other developments and facilities in connection therewith; (2) the opinion of the United States Supreme Court entered December 6, 1943, in the case of Colorado v. Kansas (320 U.S. 383) concerning the relative rights of the respective States in and to the use of waters of the Arkansas River; and (3) the experience derived under various interim executive agreements between the two States apportioning the waters released from the John Martin Reservoir as operated by the Corps of Engineers.

### ARTICLE III

As used in this Compact:

- A. The word "Stateline" means the geographical boundary line between Colorado and Kansas.
- B. The term "waters of the Arkansas River" means the waters originating in the natural drainage basin of the Arkansas River, including its tributaries, upstream from the Stateline, and excluding waters brought into the Arkansas River Basin from other river basins.
- C. The term "Stateline flow" means the flow of waters of the Arkansas River as determined by gaging stations located at or near the State line. The flow as determined by such stations, whether located in Colorado or Kansas, shall be deemed to be the actual Stateline flow.
- D. "John Martin Reservoir Project" is the official name of the facility formerly known as Caddo Reservoir Project, authorized by the Flood Control Act of 1936, as amended, for construction, operation and maintenance by the War Department, Corps of Engineers, later designated as the "Corps of Engineers, Department of the Army", and herein referred to as the "Corps of Engineers." "John Martin Reservoir" is the water storage space created by "John Martin Dam".
- E. The "flood control storage" is that portion of the total storage space in John Martin Reservoir allocated to flood control purposes.
- F. The "conservation pool" is that portion of the total storage space in John Martin Reservoir lying below the flood control storage.
- G. The "ditches of Colorado Water District 67" are those ditches and canals which divert water from the Arkansas River or its tributaries downstream from John Martin Dam for irrigation use in Colorado.
- H. The term "river flow" means the sum of the flows of the Arkansas and the Purgatoire Rivers into John Martin Reservoir as determined by gaging stations appropriately located above said Reservoir.
- I. The term "the Administration" means the Arkansas River Compact Administration established under Article VIII.

### ARTICLE IV

Both States recognize that:

- A. This Compact deals only with the waters of the Arkansas River as defined in Article III.
- B. This Compact is not concerned with the rights, if any, of the State of New Mexico or its citizens in and to the use in New Mexico of waters of Trinchera

May 31, 1949

ARKANSAS RIVER COMPACT

933

Creek or other tributaries of the Purgatoire River, a tributary of the Arkansas River.

C. (1) John Martin Dam will be operated by the Corps of Engineers to store and release the waters of the Arkansas River in and from John Martin Reservoir for its authorized purposes.

(2) The bottom of the flood control storage is presently fixed by the Chief of Engineers, U.S. Army, at elevation 3,851 feet above mean sea level. The flood control storage will be operated for flood control purposes and to those ends will impound or regulate the streamflow volumes that are in excess of the then available storage capacity of the conservation pool. Releases from the flood control storage may be made at times and rates determined by the Corps of Engineers to be necessary or advisable without regard to ditch diversion capacities or requirements in either or both States.

(3) The conservation pool will be operated for the benefit of water users in Colorado and Kansas, both upstream and downstream from John Martin Dam, as provided in this Compact. The maintenance of John Martin Dam and appurtenant works may at times require the Corps of Engineers to release waters then impounded in the conservation pool or to prohibit the storage of water therein until such maintenance work is completed. Flood control operation may also involve temporary utilization of conservation storage.

D. This Compact is not intended to impede or prevent future beneficial development of the Arkansas River basin in Colorado and Kansas by Federal or State agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoir, and other works for the purposes of water utilization and control, as well as the improved or prolonged functioning of existing works: Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in useable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future development or construction.

ARTICLE V

Colorado and Kansas hereby agree upon the following basis of apportionment of the waters of the Arkansas River:

A. Winter storage in John Martin Reservoir shall commence on November 1st of each year and continue to and include the next succeeding March 31st. During said period all water entering said reservoir up to the limit of the then available conservation capacity shall be stored: Provided, that Colorado may demand releases of water equivalent to the river flow, but such releases shall not exceed 100 c.f.s. (cubic feet per second) and water so released shall be used without avoidable waste.

B. Summer storage in John Martin Reservoir shall commence on April 1st of each year and continue to and include the next succeeding October 31st. During said period, except when Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, all water entering said reservoir up to the limit of the then available conservation capacity

May 31, 1949

shall be stored: Provided, that Colorado may demand releases of water equivalent to the river flow up to 500 c.f.s., and Kansas may demand releases of water equivalent to that portion of the river flow between 500 c.f.s. and 750 c.f.s., irrespective of releases demanded by Colorado.

C. Releases of water stored pursuant to the provisions of paragraphs A and B of this Article shall be made upon demands by Colorado and Kansas concurrently or separately at any time during the summer storage period. Unless increases to meet extraordinary conditions are authorized by the Administration, separate releases of stored water to Colorado shall not exceed 750 c.f.s., separate releases of stored water to Kansas shall not exceed 500 c.f.s., and concurrent releases of stored water shall not exceed a total of 1,250 c.f.s.: Provided, that when water stored in the conservation pool is reduced to a quantity less than 20,000 acre-feet, separate releases of stored water to Colorado shall not exceed 600 c.f.s., separate releases of stored water to Kansas shall not exceed 400 c.f.s., and concurrent releases of stored water shall not exceed 1,000 c.f.s.

D. Releases authorized by paragraphs A, B and C of this Article, except when all Colorado water users are operating under decreed priorities as provided in paragraphs F and G of this Article, shall not impose any call on Colorado water users that divert waters of the Arkansas River upstream from John Martin Dam.

E. (1) Releases of stored water and releases of river flow may be made simultaneously upon the demands of either or both States.

(2) Water released upon concurrent or separate demands shall be applied promptly to beneficial use unless storage thereof downstream is authorized by the Administration.

(3) Releases of river flow and of stored water to Colorado shall be measured by gaging stations located at or near John Martin Dam and the releases to which Kansas is entitled shall be satisfied by an equivalent in Stateline flow.

(4) When water is released from John Martin Reservoir appropriate allowances as determined by the Administration shall be made for the intervals of time required for such water to arrive at the points of diversion in Colorado and at the Stateline.

(5) There shall be no allowance or accumulation of credits or debits for or against either State.

(6) Storage, releases from storage and releases of river flow authorized in this Article shall be accomplished pursuant to procedures prescribed by the Administration under the provisions of Article VIII.

F. In the event the Administration finds that within a period of fourteen (14) days the water in the conservation pool will be or is liable to be exhausted, the Administration shall forthwith notify the State Engineer of Colorado, or his duly authorized representative, that commencing upon a day certain within said fourteen (14) day period, unless a change of conditions justifies cancellation or modification of such notice, Colorado shall administer the decreed rights of water users in Colorado Water District 67 as against each other and as against all rights now or hereafter decreed to water users diverting upstream from John Martin Dam on the basis of relative priorities in the same manner in which

their respective priority rights were administered by Colorado before John Martin Reservoir began to operate and as though John Martin Dam had not been constructed. Such priority administration by Colorado shall be continued until the Administration finds that water is again available in the conservation pool for release as provided in this Compact, and timely notice of such finding shall be given by the Administration to the State Engineer of Colorado or his duly authorized representative: Provided, that except as controlled by the operation of the preceding provisions of this paragraph and other applicable provisions of this Compact, when there is water in the conservation pool the water users upstream from John Martin Reservoir shall not be affected by the decrees to the ditches in Colorado Water District 67. Except when administration in Colorado is on a priority basis the water diversions in Colorado Water District 67 shall be administered by Colorado in accordance with distribution agreements made from time to time between the water users in such District and filed with the Administration and with the State Engineer of Colorado or, in the absence of such agreement, upon the basis of the respective priority decrees, as against each other, in said District.

G. During periods when Colorado reverts to administration of decree priorities, Kansas shall not be entitled to any portion of the river flow entering John Martin Reservoir. Waters of the Arkansas River originating in Colorado which may flow across the Stateline during such periods are hereby apportioned to Kansas.

H. If the usable quantity and availability for use of the waters of the Arkansas River to water users in Colorado Water District 67 and Kansas will be thereby materially depleted or adversely affected, (1) priority rights now decreed to the ditches of Colorado Water District 67 shall not hereafter be transferred to other water districts in Colorado or to points of diversion or places of use upstream from John Martin Dam; and (2) the ditch diversion rights from the Arkansas River in Colorado Water District 67 and of Kansas ditches between the Stateline and Garden City shall not hereafter be increased beyond the total present rights of said ditches, without the Administration, in either case (1) or (2), making findings of fact that no such depletion or adverse effect will result from such proposed transfer or increase. Notice of legal proceedings for any such proposed transfer or increase shall be given to the Administration in the manner and within the time provided by the laws of Colorado or Kansas in such cases.

#### ARTICLE VI

A. (1) Nothing in this Compact shall be construed as impairing the jurisdiction of Kansas over the waters of the Arkansas River that originate in Kansas and over the waters that flow from Colorado across the Stateline into Kansas.

(2) Except as otherwise provided, nothing in this Compact shall be construed as supplanting the administration by Colorado of the rights of appropriators of waters of the Arkansas River in said State as decreed to said appropriators by the courts of Colorado, nor as interfering with the distribution among said appropriators by Colorado, nor as curtailing the diversion and use for irrigation

May 31, 1949

936

## ARKANSAS RIVER COMPACT

and other beneficial purposes in Colorado of the waters of the Arkansas River.

B. Inasmuch as the Frontier Canal diverts waters of the Arkansas River in Colorado west of the Stateline for irrigation uses in Kansas only, Colorado concedes to Kansas and Kansas hereby assumes exclusive administrative control over the operation of the Frontier Canal and its headworks for such purposes, to the same extent as though said works were located entirely within the State of Kansas. Water carried across the Stateline in the Frontier Canal or any other similarly situated canal shall be considered to be part of the Stateline flow.

### ARTICLE VII

A. Each State shall be subject to the terms of this Compact. Where the name of the State or the term "State" is used in this Compact these shall be construed to include any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the waters of the Arkansas River under the authority of that State.

B. This Compact establishes no general principle or precedent with respect to any other interstate stream.

C. Wherever any State or Federal official or agency is referred to in this Compact such reference shall apply to the comparable official or agency succeeding to their duties and functions.

### ARTICLE VIII

A. To administer the provisions of this Compact there is hereby created an interstate agency to be known as the Arkansas River Compact Administration herein designated as "the Administration".

B. The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations consistent with the provisions of this Compact;

(2) Prescribe procedures for the administration of this Compact: Provided, that where such procedures involve the operation of John Martin Reservoir Project they shall be subject to the approval of the District Engineer in charge of said Project;

(3) Perform all functions required to implement this Compact and to do all things necessary, proper or convenient in the performance of its duties.

C. The membership of the Administration shall consist of three representatives from each State who shall be appointed by the respective Governors for a term not to exceed four years. One Colorado representative shall be a resident of and water right owner in Water Districts 14 or 17, one Colorado representative shall be a resident of and water right owner in Water District 67, and one Colorado representative shall be the Director of the Colorado Water Conservation Board. Two Kansas representatives shall be residents of and water right owners in the counties of Finney, Kearney or Hamilton, and one Kansas representative shall be the chief State official charged with the administration of water rights in Kansas. The President of the United States is hereby requested to designate a representative of the United States, and if a representative is so

designated he shall be an ex-officio member and act as chairman of the Administration without vote.

D. The State representatives shall be appointed by the respective Governors within thirty days after the effective date of this Compact. The Administration shall meet and organize within sixty days after such effective date. A quorum for any meeting shall consist of four members of the Administration: Provided, that at least two members are present from each State. Each State shall have but one vote in the Administration and every decision, authorization or other action shall require unanimous vote. In case of a divided vote on any matter within the purview of the Administration, the Administration may, by subsequent unanimous vote, refer the matter for arbitration to the Representative of the United States or other arbitrator or arbitrators, in which event the decision made by such arbitrator or arbitrators shall be binding upon the Administration.

E. (1) The salaries, if any, and the personal expenses of each member shall be paid by the government which he represents. All other expenses incident to the administration of this Compact which are not paid by the United States shall be borne by the States on the basis of 60 per cent by Colorado and 40 per cent by Kansas.

(2) In each even numbered year the Administration shall adopt and transmit to the Governor of each State its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by each State. Each State shall appropriate and pay the amount due by it to the Administration.

(3) The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

F. Each State shall provide such available facilities, equipment and other assistance as the Administration may need to carry out its duties. To supplement such available assistance the Administration may employ engineering, legal, clerical and other aid as in its judgment may be necessary for the performance of its functions. Such employees shall be paid by and be responsible to the Administration, and shall not be considered to be employees of either State.

G. (1) The Administration shall cooperate with the chief official of each State charged with the administration of water rights and with Federal agencies in the systematic determination and correlation of the facts as to the flow and diversion of the waters of the Arkansas River and as to the operation and siltation of John Martin Reservoir and other related structures. The Administration shall cooperate in the procurement, interchange, compilation and publication of all factual data bearing upon the administration of this Compact without, in general, duplicating measurements, observations or publications made by State or Federal agencies. State officials shall furnish pertinent factual data to the Administration upon its request. The Administration shall, with the collaboration of the appropriate Federal and State agencies, determine as may be necessary from time to time, the location of gaging stations required for the

May 31, 1949

proper administration of this Compact and shall designate the official records of such stations for its official use.

(2) The Director, U.S. Geological Survey, the Commissioner of Reclamation and the Chief of Engineers, U.S. Army, are hereby requested to collaborate with the Administration and with appropriate State officials in the systematic determination and correlation of data referred to in paragraph G (1) of this Article and in the execution of other duties of such officials which may be necessary for the proper administration of this Compact.

(3) If deemed necessary for the administration of this Compact, the Administration may require the installation and maintenance, at the expense of water users, of measuring devices of approved type in any ditch or group of ditches diverting water from the Arkansas River in Colorado or Kansas. The chief official of each State charged with the administration of water rights shall supervise the execution of the Administration's requirements for such installations.

H. Violation of any of the provisions of this Compact or other actions prejudicial thereto which come to the attention of the Administration shall be promptly investigated by it. When deemed advisable as the result of such investigation, the Administration may report its findings and recommendations to the State official who is charged with the administration of water rights for appropriate action, it being the intent of this Compact that enforcement of its terms shall be accomplished in general through the State agencies and officials charged with the administration of water rights.

I. Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute *prima facie* evidence of the facts found.

J. The Administration shall report annually to the Governors of the States and to the President of the United States as to matters within its purview.

#### ARTICLE IX

A. This Compact shall become effective when ratified by the Legislature of each State and when consented to by the Congress of the United States by legislation providing substantially, among other things, as follows:

"Nothing contained in this Act or in the Compact herein consented to shall be construed as impairing or affecting the sovereignty of the United States or any of its rights or jurisdiction in and over the area or waters which are the subject of such Compact: Provided, that the Chief of Engineers is hereby authorized to operate the conservation features of the John Martin Reservoir Project in a manner conforming to such Compact with such exceptions as he and the Administration created pursuant to the Compact may jointly approve."

B. This Compact shall remain in effect until modified or terminated by unanimous action of the States and in the event of modification or termination all rights then established or recognized by this Compact shall continue unimpaired.

In witness whereof, the commissioners have signed this Compact in triplicate original, one of which shall be forwarded to the Secretary of State of the United

May 31, 1949

ARKANSAS RIVER COMPACT

939

States of America and one of which shall be forwarded to the Governor of each signatory State.

Done in the City and County of Denver, in the State of Colorado, on the fourteenth day of December, in the Year of our Lord One Thousand Nine Hundred and Forty-eight.

Henry C. Vidal,  
Gail L. Ireland,  
Harry B. Mendenhall,  
Commissioners for Colorado

George S. Knapp,  
Edward F. Arn,  
William E. Leavitt,  
Roland H. Tate,  
Commissioners for Kansas

Attest:

Warden L. Noe, Secretary

Approved:

Hans Kramer,  
Representative of the United States

**Sec. 2. [Rights of U.S. not impaired—Operation of John Martin Reservoir.]**—Nothing contained in this Act or in the compact herein consented to shall be construed as impairing or affecting the sovereignty of the United States or any of its rights or jurisdiction in and over the area or waters which are the subject of such compact: *Provided*, That the Chief of Engineers is hereby authorized to operate the conservation features of the John Martin Reservoir project in a manner conforming to such compact with such exceptions as he and the Administration created pursuant to the compact may jointly approve. (63 Stat. 148)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in U.S. Code.

**Quotation Marks Omitted.** As enacted at 63 Stat. 145 this compact is enclosed in quotation marks. They have been omitted in this reproduction.

**Cross Reference, Consent of Congress to Negotiation by Kansas and Oklahoma to an Arkansas River Compact.** The Act of August 11, 1955, granted the consent of Congress to the States of Kansas and Oklahoma to negotiate a compact relating to the waters of the Arkansas River, but such compact is to recognize the respective rights of Kansas and Colorado under this Compact. Section 107 of the Act of November 7, 1966, grants the consent of Congress to the

Compact. The 1955 and 1966 Acts appear herein in chronological order.

**Cross Reference, Consent to Negotiate Compact.** The consent of Congress for the States of Colorado and Kansas to negotiate this compact was granted by the Act of April 19, 1945. The 1945 Act appears herein in chronological order.

**Cross Reference, John Martin Reservoir.** The Act of October 27, 1965, authorizes a permanent pool for fish and wildlife and recreation purposes in the John Martin Reservoir. The Act appears herein in chronological order.

**Legislative History.** H.R. 4151, Public Law 82 in the 81st Congress. H.R. Rept. No. 543. S. Rept. No. 363 (on S. 1448).

June 2, 1949

940

## CONSENT TO NEGOTIATE YELLOWSTONE RIVER COMPACT

An act granting the consent of Congress to the States of Montana, North Dakota, and Wyoming to negotiate and enter into a compact or agreement for division of the waters of the Yellowstone River. (Act of June 2, 1949, ch. 166, 63 Stat. 152)

[Consent to enter into compact.]—The consent of Congress is hereby given to the States of Montana, North Dakota, and Wyoming to negotiate and enter into a compact, or agreement, not later than June 1, 1952, providing for an equitable division and apportionment between the States of the water supply of the Yellowstone River and of the streams tributary thereto, upon condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make a report to Congress of proceedings and of any compact or agreement entered into: *Provided*, That such compact or agreement shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been approved by the legislatures of each of said States and by the Congress of the United States: *Provided further*, That nothing in this Act shall apply to any waters within or tributary to the Yellowstone National Park or shall establish any right or interest in or to any lands with the boundaries thereof. (63 Stat. 152)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Yellowstone River Compact.** The Compact authorized to be negotiated by this Act was signed by the Commissioners of the negotiating States on December 8, 1950, and approved by the

Congress by the Act of October 30, 1951. The Act, which includes the text of the Compact, appears herein in chronological order.

**Legislative History.** H.R. 2566, Public Law 83 in the 81st Congress. H.R. Rept. No. 488. S. Rept. No. 391.

## RELIEF OF CITY OF EL PASO

An act for the relief of the city of El Paso, Texas. (Act of June 7, 1949, ch .176, 63 Stat. 157)

[Payment to the city of El Paso.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the city El Paso, Texas, the sum of \$3,293.95. Such sum represents the amount of a judgment (plus interest and costs) rendered against the city of El Paso, in the case of Francisco Mendoza et al. against City of El Paso, Forty-first District Court, El Paso County, Numbered 53430, for damages on account of the death on June 9, 1943, of Lionides Rodolfo Mendoza, as a result of falling from a temporary walk on the Park Street Bridge over the Franklin Canal. Such canal and the bridges thereover are owned by the United States, and such temporary walk was constructed and was being maintained by the Bureau of Reclamation in connection with repair work which the United States was performing on such bridge, and not by the city of El Paso: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (63 Stat. 157)

### EXPLANATORY NOTES

Not Codified. This Act is not codified in the U.S. Code.

Legislative History. H.R. 967, Public Law 86 in the 81st Congress. H.R. Rept. No. 113. S. Rept. No. 384.

June 9, 1949

## PECOS RIVER COMPACT

An act to grant the consent of Congress to the Pecos River Compact. (Act of June 9, 1949, ch. 184, 63 Stat. 159)

[Consent of Congress given to compact.]—The consent of Congress is hereby given to the compact, signed (after negotiations in which a representative of the United States, duly appointed by the President, participated and upon which he has reported to Congress) by the Commissioners for the States of New Mexico and Texas, on December 3, 1948, at Santa Fe, New Mexico, and thereafter ratified by the legislatures of each of the States aforesaid, which compact reads as follows:

## PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

### ARTICLE I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods.

### ARTICLE II

As used in this Compact:

(a) The term "Pecos River" means the tributary of the Rio Grande which rises in north-central New Mexico and flows in a southerly direction through New Mexico and Texas and joins the Rio Grande near the town of Langtry, Texas, and includes all tributaries of said Pecos River.

(b) The term "Pecos River Basin" means all of the contributing drainage area of the Pecos River and its tributaries above its mouth near Langtry, Texas.

(c) "New Mexico" and "Texas" means the State of New Mexico and the State of Texas, respectively; "United States" means the United States of America.

(d) The term "Commission" means the agency created by this Compact for the Administration thereof.

(e) The term "deplete by man's activities" means to diminish the stream flow of the Pecos River at any given point as the result of beneficial consumptive uses of water within the Pecos River Basin above such point. For the purposes of this Compact it does not include the diminution of such flow by encroachment of

salt cedars or other like growth, or by deterioration of the channel of the stream.

(f) The term "Report of the Engineering Advisory Committee" means that certain report of the Engineering Advisory Committee dated January, 1948, and all appendices thereto; including basic data, processes and analyses utilized in preparing that report, all of which were reviewed, approved, and adopted by the Commissioners signing this Compact at a meeting held in Santa Fe, New Mexico, on December 3, 1948, and which are included in the Minutes of that meeting.

(g) The term "1947 condition" means that situation in the Pecos River Basin as described and defined in the Report of the Engineering Advisory Committee. In determining any question of fact hereafter arising as to such situation, reference shall be made to, and decisions shall be based on, such report.

(h) The term "water salvaged" means that quantity of water which may be recovered and made available for beneficial use and which quantity of water under the 1947 condition was non-beneficially consumed by natural processes.

(i) The term "unappropriated flood waters" means water originating in the Pecos River Basin above Red Bluff Dam in Texas, the impoundment of which will not deplete the water usable by the storage and diversion facilities existing in either state under the 1947 condition and which if not impounded will flow past Girvin, Texas.

### ARTICLE III

(a) Except as stated in paragraph (f) of this Article, New Mexico shall not deplete by man's activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition.

(b) Except as to the unappropriated flood waters thereof, the apportionment of which is included in and provided for by paragraph (f) of this Article, the beneficial consumptive use of the waters of the Delaware River is hereby apportioned to Texas, and the quantity of such beneficial consumptive use shall be included in determining waters received under the provisions of paragraph (a) of this Article.

(c) The beneficial consumptive use of water salvaged in New Mexico through the construction and operation of a project or projects by the United States or by joint undertakings of Texas and New Mexico, is hereby apportioned forty-three per cent (43%) to Texas and fifty-seven per cent (57%) to New Mexico.

(d) Except as to water salvaged, apportioned in paragraph (c) of this Article, the beneficial consumptive use of water which shall be non-beneficially consumed, and which is recovered, is hereby apportioned to New Mexico but not to have the effect of diminishing the quantity of water available to Texas under the 1947 condition.

(e) Any water salvaged in Texas is hereby apportioned to Texas.

(f) Beneficial consumptive use of unappropriated flood waters is hereby apportioned fifty per cent (50%) to Texas and fifty per cent (50%) to New Mexico.

June 9, 1949

ARTICLE IV

- (a) New Mexico and Texas shall cooperate to support legislation for the authorization and construction of projects to eliminate nonbeneficial consumption of water.
- (b) New Mexico and Texas shall cooperate with agencies of the United States to devise and effectuate means of alleviating the salinity conditions of the Pecos River.
- (c) New Mexico and Texas each may:
  - (i) Construct additional reservoir capacity to replace reservoir capacity made unuseable by any cause.
  - (ii) Construct additional reservoir capacity for the utilization of water salvaged and unappropriated flood waters apportioned by this Company (sic.) to such state.
  - (iii) Construct additional reservoir capacity for the purpose of making more efficient use of water apportioned by this Compact to such state.
- (d) Neither New Mexico nor Texas will oppose the construction of any facilities permitted by this Compact, and New Mexico and Texas will cooperate to obtain the construction of facilities that will be of joint benefit to the two states.
- (e) The Commission may determine the conditions under which Texas may store water in works constructed in and operated by New Mexico.
- (f) No reservoir shall be constructed and operated in New Mexico above Avalon Dam for the sole benefit of Texas unless the Commission shall so determine.
- (g) New Mexico and Texas each has the right to construct and operate works for the purpose of preventing flood damage.
- (h) All facilities shall be operated in such manner as to carry out the terms of this Compact.

ARTICLE V

- (a) There is hereby created an interstate administrative agency to be known as the "Pecos River Commission." The Commission shall be composed of one Commissioner representing each of the states of New Mexico and Texas, designated or appointed in accordance with the laws of each such state, and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum.
- (b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the two states. On or before November 1 of each even numbered year the Commission shall adopt and transmit to the Governors of the two states and to the President

a budget covering an estimate of its expenses for the following two years. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of either of the two states. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in, and become a part of, the annual report of the Commission.

(c) The Commission may appoint a secretary who, while so acting, shall not be an employee of either state. He shall serve for such term, receive such salary, and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact. In the hiring of employees the Commission shall not be bound by the civil service laws of either state.

(d) The Commission, so far as consistent with this Compact, shall have power to:

1. Adopt rules and regulations;
2. Locate, establish, construct, operate, maintain, and abandon water-gaging stations, independently or in cooperation with appropriate governmental agencies;
3. Engage in studies of water supplies of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
4. Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions, salvage, and use of the waters of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
5. Make findings as to any change in depletion by man's activities in New Mexico, and on the Delaware River in Texas;
6. Make findings as to the deliveries of water at the New Mexico-Texas state line;
7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;
8. Make findings as to quantities of water nonbeneficially consumed in New Mexico;
9. Make findings as to quantities of unappropriated flood waters;
10. Make findings as to the quantities of reservoir losses from reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;
11. Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;
12. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies;

June 9, 1949

13. Make and transmit annually to the Governors of the signatory states and to the President of the United States on or before the last day of February of each year, a report covering the activities of the Commission for the preceding year.

(e) The Commission shall make available to the Governor of each of the signatory states any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States.

(f) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute *prima facie* evidence of the facts found.

(g) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

## ARTICLE VI

The following principles shall govern in regard to the apportionment made by Article III of this Compact:

(a) The Report of the Engineering Advisory Committee, supplemented by additional data hereafter accumulated, shall be used by the Commission in making administrative determinations.

(b) Unless otherwise determined by the Commission, depletions by man's activities, state-line flows, quantities of water salvaged, and quantities of unappropriated flood waters shall be determined on the basis of three-year periods reckoned in continuing progressive series beginnnig with the first day of January next succeeding the ratification of this Compact.

(c) Unless and until a more feasible method is devised and adopted by the Commission the inflow-outflow method, as described in the Report of the Engineering Advisory Committee, shall be used to:

(i) Determine the effect on the state-line flow of any change in depletions by man's activities or otherwise, of the waters of the Pecos River in New Mexico.

(ii) Measure at or near the Avalon Dam in New Mexico the quantities of water salvaged.

(iii) Measure at or near the state line any water released from storage for the benefit of Texas as provided for in subparagraph (d) of this Article.

(iv) Measure the quantities of unappropriated flood waters apportioned to Texas which have not been stored and regulated by reservoirs in New Mexico.

(v) Measure any other quantities of water required to be measured under the terms of this Compact which are susceptible of being measured by the inflow-outflow method.

(d) If unappropriated flood waters apportioned to Texas are stored in facilities constructed in New Mexico, the following principles shall apply:

(i) In case of spill from a reservoir constructed in and operated by New Mexico, the water stored to the credit of Texas will be considered as the first water to spill.

(ii) In case of spill from a reservoir jointly constructed and operated, the water stored to the credit of either state shall not be affected.

(iii) Reservoir losses shall be charged to each state in proportion to the quantity of water belonging to that state in storage at the time the losses occur.

(iv) The water impounded to the credit of Texas shall be released by New Mexico on the demand of Texas.

(e) Water salvaged shall be measured at or near the Avalon Dam in New Mexico and to the quantity thereof shall be added a quantity equal to the quantity of salvaged water depleted by man's activities above Avalon Dam. The quantity of water salvaged that is apportioned to Texas shall be delivered by New Mexico at the New Mexico-Texas state line. The quantity of unappropriated flood waters impounded under paragraph (d) of this Article, when released shall be delivered by New Mexico at the New Mexico-Texas state line in the quantity released less channel losses. The unappropriated flood waters apportioned to Texas by this Compact that are not impounded in reservoirs in New Mexico shall be measured and delivered at the New Mexico-Texas state line.

(f) Beneficial use shall be the basis, the measure, and the limit of the right to use water.

#### ARTICLE VII

In the event of importation of water by man's activities to the Pecos River Basin from any other river basin the state making the importation shall have the exclusive use of such imported water.

#### ARTICLE VIII

The provisions of this Compact shall not apply to, or interfere with, the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact.

#### ARTICLE IX

In maintaining the flows at the New Mexico-Texas State line required by this Compact, New Mexico shall in all instances apply the principle of prior appropriation within New Mexico.

#### ARTICLE X

The failure of either state to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact shall not constitute a relinquishment of the right to such use, nor shall it constitute a forfeiture or abandonment of right to such use.

#### ARTICLE XI

Nothing in this Compact shall be construed as;

(a) Affecting the obligations of the United States under the Treaty with the United Mexican States (Treaty Series 994);

June 9, 1949

948

## PECOS RIVER COMPACT

- (b) Affecting any rights or powers of the United States, its agencies or instrumentalities, in or to the waters of the Pecos River, or its capacity to acquire rights in and to the use of said waters;
- (c) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any state or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any state or political subdivision thereof, a state agency, municipality or entity whatsoever, in reimbursement of the loss of taxes;
- (d) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any state to an extent other than the extent to which such laws would apply without regard to this Compact.

### ARTICLE XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards, shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident to the diversion, impounding, or conveyance of water in one state for use in the other state shall be charged to such latter state.

### ARTICLE XIII

This Compact shall not be construed as establishing any general principle or precedent applicable to other interstate streams.

### ARTICLE XIV

This Compact may be terminated at any time by appropriate action of the legislatures of both of the signatory states. In the event of such termination, all rights established under it shall continue unimpaired.

### ARTICLE XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and approved by the Congress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

June 9, 1949

PECOS RIVER COMPACT

949

Done at the City of Santa Fe, State of New Mexico, this 3rd day of December, 1948.

John H. Bliss,  
Commissioner for the State of New Mexico  
Charles H. Miller,  
Commissioner for the State of Texas

Approved:

Berkeley Johnson,  
Representative of the United States of America

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Phreatophyte Control.** The Joint Resolution of September 12, 1964, 78 Stat. 942, which appears herein in chronological order, authorizes a program of phreatophyte control in the Pecos

River Basin, and specifies that such act "shall not be construed to abrogate, amend, modify, or be in conflict with any provisions" of this Compact.

**Legislative History.** H.R. 3334, Public Law 91 in the 81st Congress. H.R. Rept. No. 541. S. Rept. No. 409 (on S. 1309).

June 13, 1949

950

## SEVER LANDS FROM YUMA AUXILIARY PROJECT

An act to authorize the furnishing of water to the Yuma auxiliary project, Arizona, through the works of the Gila project, Arizona, and for other purposes. (Act of June 13, 1949, ch. 198, 63 Stat. 172)

[**Sec. 1. Lands severed from Yuma Auxiliary project—No costs or charges heretofore assigned to lands repayable to U.S.**]—All lands heretofore withdrawn under the reclamation law in connection with the Yuma project and set apart or otherwise dealt with as an auxiliary project under the provisions of the Act of January 25, 1917 (39 Stat. 868), as amended, are hereby severed from said auxiliary project, except those lands in the first Mesa unit of said auxiliary project which are north of the south line of the north half of the north half of the north half of sections 17 and 18, and north of the south line of the southwest quarter of the southwest quarter of section 9, township 10 south, range 23 west, Gila and Salt River base and meridian, which lands henceforth shall constitute the entire area of the Yuma auxiliary project. After application of the payments as provided in section 3 hereof, no costs heretofore allocated or charges heretofore assigned to the lands hereby severed from said auxiliary project shall be repayable to the United States. (63 Stat. 172)

### EXPLANATORY NOTES

**Supplementary Provision: Project Boundaries Modified.** The Act of February 15, 1956, 70 Stat. 16, modified the boundaries of the Yuma auxiliary project by excluding therefrom two hundred eighty-five and thirteen one hundredths irrigable acres more or less. The 1956 Act, which ap-

pears herein in chronological order, includes the legal description of the excluded lands.

**Reference in the Text.** The Act of January 25, 1917 (39 Stat. 868), as amended, referred to in the text, is found herein in chronological order.

**Sec. 2. [Exchange of land and water rights.]**—For a period of five years from the date of enactment of this Act the owners of land with appurtenant water rights severed from the Yuma auxiliary project pursuant to the first section, the titles to which are deemed satisfactory by the Secretary of the Interior (hereinafter referred to as the Secretary) may exchange the same, acre for acre, for public lands and water rights within the Yuma auxiliary project as herein limited: *Provided*, That if any tract contains any fractional acreage, the area shall be computed to the nearest acre: *Provided further*, That such privilege of exchange shall be subject to the sale or other disposition or use by the United States for any of such public lands prior to the time and application for the exchange thereof shall have been made. (63 Stat. 172)

**Sec. 3. [Application of credits pursuant to Act of June 28, 1926, as amended.]**—The proportionate part of all payments heretofore made under the contract dated October 23, 1918, between the United States and Imperial Irrigation District, of California, which, under the Act of June 28, 1926 (44 Stat. 776), as amended, would have been applicable as a credit to the public lands of the United States severed from the Yuma auxiliary project pursuant to the provisions of the first section of this Act, shall be applied as of the date

June 13, 1949

SEVER LANDS FROM YUMA AUXILIARY PROJECT 951

of enactment of this Act to offset that portion of the cost, originally allocated to such lands, of those facilities previously constructed to be used jointly for the furnishing of water to the lands of the Yuma project and the Yuma auxiliary project. (63 Stat. 173)

EXPLANATORY NOTE

**Reference in the Text.** The Act of June 28, 1926 (44 Stat. 776), as amended, referred to in the text, appears herein in chronological order.

**Sec. 4.** [(a) Water users' organization to assume liability for (1) repayment of necessary additional works, (2) extending and improving distribution systems, (3) operation and maintenance—General repayment obligation not to exceed 60 years—Repayment of costs allocated on a per acre basis deferred until water-right application made—Right of U.S. with respect to prior charges—(b) After executing contract, Secretary authorized to proceed with construction, extensions and improvements.]—(a) The Secretary is hereby authorized to negotiate and enter into a suitable contract with an organization, as defined in section 2(g) of the Reclamation Project Act of 1939, as amended, satisfactory in form and powers to him, representing the water users of the Yuma auxiliary project as herein limited (hereafter referred to as the organization), for the repayment of certain costs in connection with the construction of works to enable the said project to obtain delivery of water appurtenant to the lands of its water users through the works of the Gila project; to carry such water through the works of the Gila project instead of the Yuma project when additional works for the purpose shall have been completed; and to extend and improve the existing distribution system of the Yuma auxiliary project so as more adequately to supply the needs of the water users. The contract, among other things, shall provide for the assumption of liability by the organization for (1) the repayment of the cost of the additional works necessary to supply water to the Yuma auxiliary project through the works of the Gila project, together with an appropriate share of the cost of works common to the Gila project and the Yuma auxiliary project; (2) the repayment of the cost of extending and improving the Yuma auxiliary project distribution system; (3) the payment annually in advance of estimated charges for the operation and maintenance of the works of the Yuma auxiliary project and an appropriate share of the estimated charges for the operation and maintenance of the works common to the Yuma auxiliary project and the Gila project. The general repayment obligation of any organization entering into such contract covering the repayment of the construction, extension, and improvement costs herein enumerated may be spread in annual installments, without the payment of interest over such reasonable period not exceeding sixty years, as the Secretary may determine: *Provided, however,* That repayment of costs allocated on a per acre basis to lands not under water-right application under the Act of January 25, 1917 (39 Stat. 868), as amended, and the joint resolution of February 21, 1925 (43 Stat. 962), on the date of the contract may be deferred until after water-right application has been made: *Provided further,* That the liability of the organization with respect to the costs allocated to such lands shall be suspended upon the cancellation of any water-right application as to any payments for the

June 13, 1949

952 SEVER LANDS FROM YUMA AUXILIARY PROJECT.

calendar year following such cancellation, and shall remain suspended until a new water-right application shall have been made. The contract may provide for the appointment of the organization as fiscal agent of the United States for the purpose of collecting any sums of money which may become due the United States with respect to land and water rights or water-right applications under the Act of January 25, 1917, as amended, and the joint resolution of February 21, 1925, and shall provide that payments made to the organization or any of its representatives for any purpose by any land and water right or water-right applicant shall not be applied to any tax or assessment of the organization if any obligations payable to the United States under the Act of January 25, 1917, as amended, or the joint resolution of February 21, 1925, remain due and unpaid. Such contract shall further provide that any lien held by the organization on lands covered by any land and water right or water-right application shall be inferior to the rights of the United States with respect to charges upon such lands under the Act of January 25, 1917, as amended, or the joint resolution of February 21, 1925, and to the lien thereon reserved by the United States pursuant to section 5(b) of this Act.

(b) Upon the execution of a satisfactory contract pursuant to subsection (a), subject to the availability of funds therefor, the Secretary is authorized to proceed with such construction, extensions, and improvements as may be necessary to effectuate the purpose of such contract. (63 Stat. 173)

EXPLANATORY NOTE

References in the Text. The Act of January 25, 1917 (39 Stat. 868), as amended, referred to in the text, is the Act authorizing the Yuma Auxiliary project. The Joint Resolution of February 21, 1925 (43 Stat. 962), also referred to in the text, authorized

an appropriation for construction work on the first Mesa Unit of the Yuma Auxiliary project, and also provided for the repayment of the sum authorized to be appropriated. Both the 1917 and the 1925 Acts appear herein in chronological order.

Sec. 5. [(a) Private sale of land and water rights—Purchase price—(b) Priority of lien of U.S.]—(a) After a contract shall have been executed pursuant to section 4, land and water rights in the Yuma auxiliary project may be sold at private sale, pursuant to the provisions of the Act of January 25, 1917 (39 Stat. 868), as amended and the joint resolution of February 21, 1925 (43 Stat. 962), for a purchase price of not less than (1) \$32 per acre for the land and (2) a sum for the water right consisting of not less than \$160 per acre for the cost of the reclamation works previously constructed exclusively for the Yuma auxiliary project. Such purchase price shall be in addition to any charges or assessments which may be levied by the organization to pay for the per acre construction, extension, and improvement costs allocable to such land under any contract executed pursuant to section 4 of this Act: *Provided*, That said purchase price shall not include any part of the cost of works of the Yuma project and such costs, less applicable credits, shall not be repayable to the United States: *And provided further*, That after a contract shall have been executed pursuant to section 4 and water is ready for delivery to the Yuma auxiliary project through the works of the Gila project, the water users of the Yuma auxiliary project shall cease to be liable for any charges for the operation and maintenance of the Yuma project, except such charges as may then be due and unpaid.

June 13, 1949

SEVER LANDS FROM YUMA AUXILIARY PROJECT 953

(b) To insure payment of any sums due or which may become due to the United States under land and water right or water-right applications under the Act of January 25, 1917, as amended, and the joint resolution of February 21, 1925, the United States, as of the date of the application, shall have a lien for the entire amount of its charges which shall be prior to all other liens, mortgages, claims, or interests whatsoever. Upon default of payment of any amount so due, the United States is empowered to declare the whole of the unaccrued portion of the charges due and payable and may file suit to foreclose the lien for all accrued charges in any court of competent jurisdiction and sell said land to satisfy the obligation due the United States. This remedy, however, shall not be exclusive. (63 Stat. 174)

EXPLANATORY NOTE

**References in the Text.** The Act of January 25, 1917 (39 Stat. 868), as amended, referred to in the text, is the Act authorizing the Yuma Auxiliary project. The Joint Resolution of February 21, 1925 (43 Stat. 962), also referred to in the text, authorized

an appropriation for construction work on the first Mesa Unit of the Yuma Auxiliary project, and also provided for the repayment of the sum authorized to be appropriated. Both the 1917 and the 1925 Acts appear herein in chronological order.

**Sec. 6. [Prior acts not inconsistent to remain in full force and effect.]**—All provisions of the Act of January 15, 1917 (39 Stat. 868), as amended, and the joint resolution of February 21, 1925 (43 Stat. 962), not inconsistent with the provisions of this Act shall remain in full force and effect. (63 Stat. 174)

EXPLANATORY NOTE

**References in the Text.** The Act of January 25, 1917 (39 Stat. 868), as amended (incorrectly referred to in the text as the Act of January 15, 1917), is the Act authorizing the Yuma Auxiliary project. The Joint Resolution of February 21, 1925 (43 Stat. 962), also referred to in the text,

authorized an appropriation for construction work on the first Mesa Unit of the Yuma Auxiliary project, and also provided for the repayment of the sum authorized to be appropriated. Both the 1917 and the 1925 Acts appear herein in chronological order.

**Sec. 7. [Secretary may dismantle and sell B-lift pumping plant—Credit of funds received.]**—After a contract shall have been executed pursuant to section 4 and water is ready for delivery to the Yuma auxiliary project through the works of the Gila project, the Secretary is hereby authorized to dismantle the existing B-lift pumping plant of the Yuma auxiliary project and to dispose of any salable parts thereof, either by public or private sale. All moneys realized from the sale of such parts shall be paid into the reclamation fund and credit therefor shall be given to the organization representing the water users of the Yuma auxiliary project toward the construction costs assumed by it pursuant to such contract. (63 Stat. 174)

**Sec. 8. [Appropriations authorized.]**—There are hereby authorized to be appropriated such sums as may be required for the purposes of this Act. (63 Stat. 175)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code. 102 in the 81st Congress. S. Rept. No. 241. H.R. Rept. No. 568.

**Legislative History.** S. 690, Public Law

June 28, 1949

## COMPLETION OF EDEN PROJECT

An act to authorize completion of construction and development of the Eden project, Wyoming. (Act of June 28, 1949, ch. 255, 63 Stat. 277)

[Sec. 1. Secretary of Interior authorized to complete construction—Reimbursement of construction costs of irrigation features—Repayment period not to exceed 60 years—Repayment of irrigation costs allocated to be repaid by power users.]—The Secretary of the Interior is authorized to complete the construction, including any necessary preconstruction surveys and investigations, of the irrigation features of the Eden project, Wyoming, as approved by the President on September 18, 1940 (Senate Document Numbered 18, Seventy-seventh Congress, first session (1941), page 29), with such modification in physical features as the Secretary of the Interior may find will result in greater engineering and economic feasibility: *Provided*, That of the construction costs of the irrigation features of the project not less than \$1,500,000 for the project of twenty thousand irrigable acres, or a proportionate part thereof based on the actual irrigable area as determined and announced by the Secretary of the Interior upon completion of the project, shall be reimbursable by the water users in not to exceed sixty years, and provision for the recovery thereof and for payment of the operation and maintenance costs of the irrigation features of the project shall be made by a contract or contracts satisfactory to the Secretary of the Interior: *Provided further*, That construction costs of the irrigation features of the project which are not hereby made reimbursable by the water users shall be set aside in a special account against which net revenues derived from the sale of power generated at the hydroelectric plants of the Colorado River storage project in the Upper Basin shall be charged when such plants are constructed. (63 Stat. 277)

Sec. 2. [Secretary of Agriculture to complete land development and settlement features—Reimbursement of costs.]—The Secretary of Agriculture is authorized to complete the land development and settlement features of the project in accordance with the general plan approved by the President on September 18, 1940, including the acquisition of such lands, or interests in lands, as may be necessary, and the extension of technical advice and assistance to settlers in matters of farm practice, soil conservation, and efficient land use: *Provided, however*, That the total reimbursable cost of the land development and settlement features of the project shall be not less than \$373,000 for the project of twenty thousand irrigable acres with proportionate adjustment, if necessary, based on the actual irrigable area as determined upon completion of the project. (63 Stat. 277)

Sec. 3. [Allotment of prior appropriations—Additional appropriations authorized.]—To carry out the purposes of this Act, the Secretary of the Interior and the Secretary of Agriculture are hereby authorized to allot any moneys available from Appropriations heretofore made to the Department of the Interior and the Department of Agriculture, respectively, for “water conservation

June 28, 1949

COMPLETION OF EDEN PROJECT

955

and utility projects" and "water conservation and utilization projects", and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Department of the Interior and the Department of Agriculture, respectively, such sums of money as may be necessary to complete the project. (63 Stat. 278)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 182 in the 81st Congress. S. Rept. No. 308. the U.S. Code. H.R. Rept. No. 691.

**Legislative History.** S. 55, Public Law

NOTES OF OPINIONS

Farm units 1  
Land preparation 2

**1. Farm units**

The Secretary may revise the size of the farm units on the Eden project under the authority of section 4(c)(5) of the Water Conservation and Utilization Act as amended. Nothing in the Colorado River Storage Project Act of 1956 altered, repealed or superseded the original authority for the Eden project, except as to the extent of participation in power revenues; and the Act of June 28, 1949, did not alter the

original authorization except with respect to repayment and participation in revenues. Memorandum of Associate Solicitor Hogan, April 13, 1965.

**2. Land preparation**

The Secretary of Agriculture, under the Water Conservation and Utilization Act, may continue to clear, level, and prepare lands for distribution of irrigation water under the act which originally authorized the Eden project. Memorandum of Associate Solicitor Hogan, May 14, 1965.

## FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

[Extracts from] An act to simplify the procurement, utilization, and disposal of Government property, to reorganize certain agencies of the Government, and for other purposes. (Act of June 30, 1949, ch. 288, 63 Stat. 377)

[Sec. 1. Short title.]—This Act may be cited as the “Federal Property and Administrative Services Act of 1949.” (63 Stat. 377)

\* \* \* \* \*

Sec. 3. [Definitions.]—As used in titles I through VI of this Act—(a) The term “executive agency” means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(b) The term “Federal agency” means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

(c) The term “Administrator” means the Administrator of General Services provided for in title I hereof.

(d) The term “property” means any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government.

(e) The term “excess property” means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

(f) The term “foreign excess property” means any excess property located outside the States of the Union, the District of Columbia, Puerto Rico, and the Virgin Islands.

(g) The term “surplus property” means any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator. \* \* \* (63 Stat. 378; § 1(a), Act of July 12, 1952, 66 Stat. 593; § 5, Act of February 28, 1958, 72 Stat. 29; 40 U.S.C. § 472)

## EXPLANATORY NOTES

**1958 Amendment.** Section 5 of the Act of February 28, 1958, amended subsection (d) to include within the definition of property minerals in lands withdrawn or reserved from the public domain which it is determined are suitable for disposition under the public land mining and mineral leasing laws, and to except lands or portions of lands withdrawn or reserved which it is determined are not suitable for return to the public domain because such lands are substantially changed in character by improvements or otherwise.

**1952 Amendment.** Section 1(a) of the Act of July 12, 1952, excluded from the definition of "public domain" in subsection

(d) withdrawn or reserved lands not suitable for return to the public domain for disposition under the public land laws. For legislative history of the 1952 Act see H.R. 5350, Public Law 522 in the 82d Congress; H.R. Rept. No. 1524; S. Rept. No. 2075.

**Miscellaneous Amendments.** Other amendments not deemed necessary to explain in these notes are included in the above text.

**Editor's Note, Annotations.** Annotations of opinions are included only to the extent deemed relevant to activities of the Bureau of Reclamation under this statute.

\* \* \* \* \*

**Sec. 202. [Property utilization.]**—(a) In order to minimize expenditures for property, the Administrator shall prescribe policies and methods to promote the maximum utilization of excess property by executive agencies, and he shall provide for the transfer of excess property among Federal agencies and to the organizations specified in section 109(f). The Administrator, with the approval of the Director of the Bureau of the Budget, shall prescribe the extent of reimbursement for such transfers of excess property: *Provided*, That reimbursement shall be required of the fair value, as determined by the Administrator, of any excess property transferred whenever net proceeds are requested pursuant to section 204(c) or whenever either the transferor or the transferee agency (or the organizational unit affected) is subject to the Government Corporation Control Act (59 Stat. 597, 31 U.S.C. 841) or is an organization specified in section 109(f); and that excess property determined by the Administrator to be suitable for distribution through the supply centers of the General Services Administration shall be retransferred at prices fixed by the Administrator with due regard to prices established in accordance with section 109(b).

(b) Each executive agency shall (1) maintain adequate inventory controls and accountability systems for the property under its control, (2) continuously survey property under its control to determine which is excess property, and promptly report such property to the Administrator, (3) perform the care and handling of such excess property, and (4) transfer or dispose of such property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(c) Each executive agency shall, as far as practicable, (1) make reassessments of property among activities within the agency when such property is determined to be no longer required for the purposes of the appropriation from which it was purchased, (2) transfer excess property under its control to other Federal agencies and to organizations specified in section 109(f), and (3) obtain excess property from other Federal agencies.

\* \* \* \* \*

(h) The Administrator may authorize the abandonment, destruction, or donation to public bodies of property which has no commercial value or of

June 30, 1949

which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale. \* \* \* (63 Stat. 384; 40 U.S.C. § 483)

EXPLANATORY NOTE

**Miscellaneous Amendments.** Several plain in these notes are included in the amendments not deemed necessary to ex- above text.

\* \* \* \* \*

**Sec. 203. [Disposal of surplus property.]**—(a) Except as otherwise provided in this section, the Administrator shall have supervision and direction over the disposition of surplus property. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act.

(b) The care and handling of surplus property, pending its disposition, and the disposal of surplus property, may be performed by the General Services Administration or, when so determined by the Administrator, by the executive agency in possession thereof or by any other executive agency consenting thereto.

(c) Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Administrator deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this title.

(d) A deed, bill of sale, lease, or other instrument executed by or on behalf of any executive agency purporting to transfer title or any other interest in surplus property under this title shall be conclusive evidence of compliance with the provisions of this title insofar as concerns title or other interest of any bona fide grantee or transferee for value and without notice of lack of such compliance.

(e) (1) All disposals or contracts for disposal of surplus property (other than by abandonment, destruction, donation, or through contract brokers) made or authorized by the Administrator shall be made after publicly advertising for bids, under regulations prescribed by the Administrator, except as provided in paragraphs (3) and (5) of this subsection.

(2) Whenever public advertising for bids is required under paragraph (1) of this subsection—

(A) the advertisement for bids shall be made at such time previous to the disposal or contract, through such methods, and on such terms and conditions as shall permit that full and free competition which is consistent with the value and nature of the property involved;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement;

(C) award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other

factors considered: *Provided*, That all bids may be rejected when it is in the public interest to do so.

(3) Disposals and contracts for disposal may be negotiated, under regulations prescribed by the Administrator, without regard to paragraphs (1) and (2) of this subsection but subject to obtaining such competition as is feasible under the circumstances, if—

(A) necessary in the public interest during the period of a national emergency declared by the President or the Congress, with respect to a particular lot or lots of personal property or, for a period not exceeding three months, with respect to a specifically described category or categories of personal property as determined by the Administrator;

(B) the public health, safety, or national security will thereby be promoted by a particular disposal of personal property;

(C) public exigency will not admit of the delay incident to advertising certain personal property;

(D) the personal property involved is of a nature and quantity which, if disposed of under paragraphs (1) and (2) of this subsection, would cause such an impact on an industry or industries as adversely to affect the national economy, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(E) the estimated fair market value of the property involved does not exceed \$1,000;

(F) bid prices after advertising therefor are not reasonable (either as to all or some part of the property) or have not been independently arrived at in open competition;

(G) with respect to real property only, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(H) the disposal will be to States, Territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(I) otherwise authorized by this Act or other law.

(4) Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under such regulations as may be prescribed by the Administrator: *Provided*, That such regulations shall require that wide public notice of availability of the property for disposal be given by the brokers.

(5) Negotiated sales of personal property at fixed prices may be made by the Administrator either directly or through the use of disposal contractors without regard to the limitations set forth in paragraphs (1) and (2) of this subsection: *Provided*, That such sales shall be publicized to the

June 30, 1949

extent consistent with the value and nature of the property involved, that the prices established shall reflect the estimated fair market value thereof, and that such sales shall be limited to those categories of personal property as to which the Administrator determines that such method of disposal will best serve the interests of the Government.

(6) Except as otherwise provided by this paragraph, an explanatory statement of the circumstances of each disposal by negotiation of any real or personal property having a fair market value in excess of \$1,000 shall be prepared. Each such statement shall be transmitted to the appropriate committees of the Congress in advance of such disposal, and a copy thereof shall be preserved in the files of the executive agency making such disposal. No such statement need be transmitted to any such committee with respect to any disposal of personal property made under paragraph (5) at a fixed price, or to property disposals authorized by any other provisions of law to be made without advertising.

(7) Section 3709, Revised Statutes, as amended (41 U.S.C. 5), shall not apply to disposals or contracts for disposal made under this subsection. (63 Stat. 385; 40 U.S.C. § 484)

EXPLANATORY NOTE

Miscellaneous Amendments. A number plain in these notes are included in the of amendments not deemed necessary to ex- above text.

\* \* \* \* \*

Sec. 204. [Proceeds from transfer or disposition of property.]—(a) All proceeds under this title from any transfer of excess property to a Federal agency for its use, or from any sale, lease, or other disposition of surplus property, shall be covered into the Treasury as miscellaneous receipts, except as provided in subsections (b), (c), (d), and (e) of this section.

(b) All the proceeds of such dispositions of surplus real and related personal property made by the Administrator of General Services shall be set aside in a separate fund in the Treasury. Not more than an amount to be determined quarterly by the Director of the Bureau of the Budget may be obligated from such fund by the Administrator to pay the direct expenses incurred for the utilization of excess property and the disposal of surplus property under this Act for fees of appraisers, auctioneers, and realty brokers, and for advertising and surveying. Such payments from this fund may be used either to pay such expenses directly or to reimburse the fund or appropriation initially bearing such expenses. Fees paid to appraisers, auctioneers, and brokers shall be in accordance with the scale of fees customarily paid for such services in similar commercial transactions, and in no event shall more than 12 per centum of the proceeds of all dispositions within each fiscal year of surplus real and related personal property be paid out of such proceeds under this authorization to meet direct expenses incurred in connection with such dispositions. Periodically, but not less often than once each year, any excess funds beyond current operating needs shall be transferred from the fund to miscellaneous receipts: *Provided*, That a report of receipts, disbursements, and transfers to miscellaneous receipts

under this authorization shall be made annually in connection with the budget estimates to the Director of the Bureau of the Budget and to the Congress.

(c) Where the property transferred or disposed of was acquired by the use of funds either not appropriated from the general fund of the Treasury or appropriated therefrom but by law reimbursable from assessment, tax, or other revenue or receipts, then the net proceeds of the disposition or transfer shall be credited to the reimbursable fund or appropriation or paid to the Federal agency which determined such property to be excess: *Provided*, That the proceeds shall be credited to miscellaneous receipts in any case when the agency which determined the property to be excess shall deem it uneconomical or impractical to ascertain the amount of net proceeds. As used in this subsection, the term "net proceeds of the disposition or transfer" means the proceeds of the disposition or transfer minus all expenses incurred for care and handling and disposition or transfer.

(d) Any Federal agency disposing of surplus property under this title (1) may deposit, in a special account with the Treasurer of the United States, such amount of the proceeds of such dispositions as it deems necessary to permit appropriate refunds to purchasers when any disposition is rescinded or does not become final, or payments for breach of any warranty, and (2) may withdraw therefrom amounts so to be refunded or paid, without regard to the origin of the funds withdrawn.

(e) Where any contract entered into by an executive agency or any subcontract under such contract authorizes the proceeds of any sale of property in the custody of the contractor or subcontractor to be credited to the price or cost of the work covered by such contract or subcontract, the proceeds of any such sale shall be credited in accordance with the contract or subcontract.

(f) Any executive agency entitled to receive cash under any contract covering the lease, sale or other disposition of surplus property may in its discretion accept in lieu of cash, any property determined by the President to be strategic or critical material at the prevailing market price thereof at the time the cash payment or payments became or become due.

(g) Where credit has been extended in connection with any disposition of surplus property under this title or by War Assets Administration (or its predecessor agencies) under the Surplus Property Act of 1944, or where such disposition has been by lease or permit, the Administrator shall administer and manage such credit, lease, or permit, and any security therefor, and may enforce, adjust, and settle any right of the Government with respect thereto in such manner and upon such terms as he deems in the best interest of the Government. \* \* \* (63 Stat. 388; 40 U.S.C. § 485)

#### EXPLANATORY NOTES

**Miscellaneous Amendments.** Several amendments not deemed necessary to explain in these notes are included in the above text.

**Appendix.** Other provisions of this Act are found in the appendix herein.

**Legislative History.** H.R. 4754, Public Law 152 in the 81st Congress. H.R. Rept. No. 670, pts. 1 and 2. S. Rept. No. 475 (on S. 2020). S. Rept. No. 338 (on S. 1809). H.R. Rept. No. 935 (conference report).

June 30, 1949

NOTES OF OPINIONS

1. Relation to other laws

The Secretary is authorized to transfer without charge to the Coachella Valley County Water District the care and maintenance of 25 permanent-type houses erected by the United States on land donated by the District. The houses were used by construction workers in connection with the construction of irrigation works and are no longer needed for that purpose. In view of the fact that the land was donated and the permanent-type housing was constructed with the understanding that the houses would subsequently be used by District personnel when the District assumed the responsibility for operation and maintenance of the project, the houses may properly be considered part of "project works" within the meaning of Section 5 of the Reclamation Extension Act of 1914. Disposition under section 203 of the Federal Property and Administrative Services Act of 1949 is not required. *35 Comp. Gen.* 285 (1955), *reversing* *34 Comp. Gen.* 374 (1955).

The surplus property disposal provisions of the Federal Property and Administrative Services Act of 1949 are in addition and paramount to, but do not repeal, other

authority to dispose of property such as subsection Q of the Fact Finder's Act, which authorizes the reconveyance of donated real property. The administrator of General Services may, upon application, authorize the disposition of property under subsection Q. Memorandum of Associate Solicitor Fritz, March 7, 1955.

Inasmuch as the Federal Property and Administrative Services Act of 1949, as amended, is "in addition and paramount to any authority conferred by any other law," its provisions giving other Federal departments and agencies a prior right to request a transfer of property no longer needed by the Bureau of Reclamation would apply to property originally donated by the Metropolitan Water District of Salt Lake City, Utah, but no longer needed, for the Provo River reclamation project, notwithstanding subsection Q of the Fact Finders' Act of 1924 which authorizes the Secretary of the Interior to reconvey donated property to the grantee. Department report of July 22, 1959, on H.R. 5270; printed in H.R. Rept. No. 822, 86th Cong., 1st Sess. 2; similar report in S. Rept. No. 1134, 86th Cong., 2nd Sess. 2. See Act of April 4, 1960, Pub. L. 86-407, herein.

## FORT SUMNER PROJECT

An act to authorize a project for the rehabilitation of certain works of the Fort Sumner irrigation district in New Mexico, and for other purposes. (Act of July 29, 1949, ch. 371, 63 Stat. 483).

[Rehabilitation, operation and maintenance in accordance with Federal Reclamation laws—Conditions precedent to initiation of project.]—For the purpose of providing water for the irrigation of approximately six thousand five hundred acres of arid lands on the Pecos River in New Mexico, the Secretary of the Interior is hereby authorized to rehabilitate, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) the irrigation system of the Fort Sumner irrigation district in New Mexico and to construct all necessary works incidental thereto: *Provided*, That the project shall not be initiated until contracts satisfactory to the Secretary of the Interior shall have been executed with—

(a) an irrigation or conservancy district, satisfactory in form and powers to the Secretary and embracing the land of the project as determined by him, obligating the district, among other things, (i) to repay to the United States without interest the cost of rehabilitating and constructing the project, the terms to be such as will secure repayment as rapidly as, in the judgment of the Secretary, the district can reasonably be expected to make repayment and, in any event, within the useful life of the project; (ii) to pay for or otherwise provide adequate operation and maintenance, including replacements, of the project works during the period of the contract; and (iii) to furnish the Secretary with such control over and access to project works which are owned by or within the control of the district as he may require in order to safeguard the investment of the United States in the project; and

(b) the holder or holders of at least 90 per centum of the outstanding general obligation bonds of the Fort Sumner irrigation district providing for such refinancing or cancellation of those bonds and scheduling of payments of principal and interest called for thereby as the Secretary believes necessary in order to insure fulfillment of the obligations required under (a) above. (63 Stat. 483)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Presidential Statement.** The following statement was issued by the President on July 29, 1949:

I have today approved S. 276, authorizing "a project for the rehabilitation of certain works of the Fort Sumner irrigation district in New Mexico". Under this Act, the Federal Government will rehabilitate, operate, and maintain, under the reclamation laws, an irrigation system which hereto-

fore has been a private venture. The construction costs involved will be repaid by the water users over an extended period of time.

The irrigation district has been unable to obtain private financing for replacement of the existing dam, rehabilitation and enlargement of canal systems, installation of an adequate pumping plant, and repair and extension of the drainage system, all of which are urgently needed. This Act will make it possible to accomplish this necessary

## FORT SUMNER PROJECT

July 29, 1946

work and put the farmers in the district in a position to maintain successful farming operations.

By the enactment of S. 276, the Congress has indicated its belief that there are circumstances under which Federal assistance for the rehabilitation of non-Federal irrigation projects is desirable and appropriate in the national interest. I agree, but I do not believe that bringing projects under the reclamation laws, one at a time, provides the best means of furnishing such assistance.

In this case, however, there is a special need for prompt action which leads me to approve this bill. The existing dam has been partially destroyed by flood waters and has been temporarily repaired with an earth fill. The dam is now threatened with destruction if another flood of even mod-

erate proportions should occur. Therefore, I do not consider that approval of this Act establishes a precedent for the approval in the future of other bills authorizing Federal assistance for individual projects of this type.

It seems to me that assistance to such projects should be provided through a general program designed to meet the needs of cooperative organizations of water users. The statutory foundation for such a program should be laid by enactment of legislation similar to that under which the Federal Government formerly carried on a program for extending assistance to non-Federal irrigation districts.

**Legislative History.** S. 276, Public Law 192 in the 81st Congress. S. Rept. No. 286 H.R. Rept. No. 798.

## WEBER BASIN PROJECT

An act to authorize the construction, operation and maintenance of the Weber Basin reclamation project, Utah. (Act of August 29, 1949, ch. 519, 63 Stat. 677)

[**Sec. 1. Secretary authorized to construct works.**]—The Secretary of the Interior, through the Bureau of Reclamation, is hereby authorized to construct, operate, and maintain the Weber Basin project to consist of reservoirs, irrigation and drainage works, power plants, transmission lines, and similar works in and near Morgan, Davis, Summit, and Weber Counties, Utah, for the purposes of supplying irrigation water to lands, both new and presently irrigated; supplying municipal, industrial, and domestic water; controlling floods; and generating and selling electric energy to help meet the short supply of power in the area and as a means of making the whole project self-supporting and financially solvent; and for other beneficial purposes (including, but without limitation, the control and catchment of silt, improvement of the general quality of the water, the preservation and propagation of fish and wildlife, and the provision and improvement of recreational facilities), at an estimated cost of \$69,500,000, all in substantial accord with the recommendations made in that certain report, dated July 15, 1949, of the regional director, region IV, Bureau of Reclamation, entitled "Weber Basin project, Utah". (63 Stat. 677)

**Sec. 2. [Equitable apportionment of costs—Allocations to flood control, recreation and fish and wildlife nonreimbursable—Repayment period not to exceed 60 years.]**—The Secretary is authorized to apportion equitably the costs of constructing, operating, and maintaining (including therein reasonable provision for replacement) the project works herein authorized between, on the one hand, their flood control, recreational, and fish and wildlife purposes, and, on the other hand, their irrigation, power, municipal, and other water-supply purposes. The former allocations shall be nonreimbursable and nonreturnable. The latter allocations shall be reimbursable and returnable: *Provided*, That general repayment obligations undertaken pursuant to subsections (c) and (d) of section 9 of the Reclamation Act of 1939 may extend over a period not exceeding sixty years. (63 Stat. 678)

**Sec. 3. [Condition precedent to construction of irrigation or drainage works.]**—As a condition precedent to construction of any of the irrigation or drainage works herein authorized, there shall be established an organization in the State of Utah with powers satisfactory to the Secretary, including the power to tax property both real and personal within its boundaries and the power to enter into a contract or contracts with the United States for payment of reimbursable costs allocated to irrigation, municipal water supply, and other miscellaneous purposes. (63 Stat. 678)

**Sec. 4. [Act and supplement to the Federal Reclamation laws.]**—This Act shall be a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the provisions whereof shall govern the construction, operation, and maintenance

August 29, 194

WEBER BASIN PROJECT

of the Weber Basin project except as otherwise herein provided. (63 Stat. 678

Sec. 5. [Appropriations authorized.]—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated such sums as may be required to carry out the purposes of this Act. (63 Stat. 678

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Presidential Statement.** The following statement was made by the President on August 30, 1949:

I have approved S. 2391, to authorize the construction, operation, and maintenance of the Weber Basin reclamation project, Utah.

This bill will authorize the Secretary of the Interior, through the Bureau of Reclamation, to construct, operate, and maintain the Weber Basin project for the purposes of supplying irrigation water to 70,000 acres of new lands and supplemental water to 30,000 acres of land now inadequately irrigated; supplying municipal, industrial, and domestic water; controlling floods; generating and selling electricity; and for other beneficial purposes.

I have signed this bill with reluctance because it was enacted without following the normal procedures for obtaining full information and adequate review concerning irrigation projects before authorization. The bill appears to have been enacted on the basis of the information contained in a preliminary report of the Regional Director of the Bureau of Reclamation. This report had not been reviewed by other interested agencies or by the Executive Office. So far as I know, there has been no final report on the project by the Secretary of the Interior or the Commissioner of Reclamation.

The enactment of this bill under these circumstances raises a number of serious questions. These questions are raised because there has not been sufficient opportunity to review the adequacy of the data contained in the report of the Regional Director, and because the bill represents in some respects basic departures from the established reclamation law.

I have given my approval to the bill only because I am convinced, after careful study and after discussions with several Members of Congress from Utah, that the project is basically sound and that it will be possible to overcome the most serious difficulties arising from the lack of adequate consideration before the project was authorized.

The provisions of the bill which appear to be most questionable are as follows:

1. It authorizes the repayment of irrigation water supply costs over a period of 60 years instead of the period of 40 years which has prevailed heretofore under the reclamation law.

2. The project report of the Regional Director contemplates a non reimbursable allocation of cost in the amount of \$4,656,000 for recreation. The allocation of cost to recreation facilities is not now authorized under reclamation law. If the allocation authorized in connection with the project were uniformly applied as a precedent it would ultimately involve the Government in the expenditure of hundreds of millions of dollars.

3. Under the proposed repayment plan for the project, the amounts repaid by municipal and industrial users would be applied first to the repayment of the cost allocated to municipal and industrial purposes, and then to the repayment of part of the cost allocated to irrigation—all of this on a basis which would provide total revenue over a period of 60 years sufficient only to cover the total reimbursable cost without interest. Thus, in addition to receiving no interest on the reimbursable irrigation cost, the Government would also receive no interest on the reimbursable cost for municipal and industrial uses.

4. The report on the project was not referred to the Department of the Army for review and comment by the Chief of Engineers in accordance with the provisions of section 1 of the Flood Control Act of 1944. Consequently, the Corps of Engineers has had no adequate opportunity to consider the phases of the project in which it is interested. On the basis of such study as he has had time to make, however, the Chief of Engineers raises serious questions as to the amount allocated for flood control.

5. The report on the project was not made available to the Department of Agriculture. Consequently, it has not been possible for that Department to express its views with regard to the

August 29, 1949

## WEBER BASIN PROJECT

967

agricultural and economic feasibility of the proposed plan.

There is no urgency for immediate construction of the Weber Basin project. In fact, the plans of the Bureau of Reclamation call for construction to be spread over a period of twelve years. I believe, therefore, that the objections to the present authorization can, for the most part, be eliminated—some of them by future action of the Congress, and some by the exercise of the discretion which the bill fortunately permits.

The bill does not commit the Secretary of the Interior to the cost allocations made in the report of the Regional Director. It is flexible enough to permit an apportionment of the cost on an equitable and sound basis consistent with the facilities and system of operation finally adopted for the project. The construction of the proposed recreational facilities can be postponed until such time as the Congress has enacted basic standards for the allocation of costs to recreational purposes in connection with reclamation projects. The questions of proper allocation of flood control benefits and construction costs can be resolved between the Secretaries of the Interior and the Army. Additional information concerning the ability of water users to repay the costs of irrigation features of the project can be developed in consultation with the Department of Agriculture. The questions of a 60-year repayment period and interest on the reimbursable costs for municipal and industrial water users will be reconsidered when a complete study of this project is available.

For the foregoing reasons, I am directing the Secretary of the Interior to take the following steps: To complete his study of this project and submit a final report; to defer initiation of construction of any of

the recreational facilities pending determination of a national policy on recreation at water resources development projects; to work out with the Department of the Army a sound flood control plan and cost allocations; to consult with the Department of Agriculture on the ability of the water users to repay the cost of the irrigation features; to make such other adjustments in the plans, estimates, cost allocations and repayment obligations as may be required on the basis of the above and the data which will become available when detailed surveys, engineering designs and refined estimates are completed; and to defer final negotiations on any repayment contracts with the water users until definite repayment amounts and conditions are settled.

I do not intend to submit any requests for construction appropriations until the above preparation has been accomplished and it is known as surely as possible what is going to be done, how much it will cost, how much is going to be repaid and when. It would seem that this plan for proceeding with the Weber Basin project is only fair to the water users who will eventually have to return to the United States the investment allocated to irrigation and municipal water supplies.

I have always favored a sound water resources development program and the authorization of additional projects as needs arise and as they are found to be justified. I consider it essential that the program be not jeopardized by premature authorization of projects in advance of resolution of questionable features. To do so may lead to unsound action which will endanger the success of our whole reclamation program.

**Legislative History.** S. 2391, Public Law 273 in the 81st Congress. S. Rept. No. 849. H.R. Rept. No. 1186 (on H.R. 799).

### NOTES OF OPINIONS

**Inverse condemnation** 2  
**Sovereign consent** 1

#### 1. Sovereign consent

In an action to halt work on the enlargement of the Pine View Dam and Reservoir, the Ogden River Water Users' Association could not name Bureau of Reclamation employees as co-defendants because the suit was, in contemplation of law, a suit against the United States and could not be maintained without sovereign consent. *Ogden River Water Users' Association v. Weber Basin Water Conservancy, et al.*, 238 F. 2d 936 (1956).

#### 2. Inverse condemnation

In an action to halt work on the enlarge-

ment of the Pine View Dam and Reservoir, the Ogden River Water Users' Association contention, that it was in danger of being deprived of its rights and properties without just compensation or any compensation, in violation of the Fifth Amendment, was not supported by facts or allegation that irreparable damages would ensue. Any prospective damages to the Ogden River Water Users' Association appeared to be adequately compensable in damages and in such case an injunction will not lie nor does the Fifth Amendment entitle one to anticipatory compensation. *Ogden River Water Users' Ass'n v. Weber Basin Water Conservancy, et al.*, 238 F. 2d 936 (1946).

October 5, 1949

968

## HYDROELECTRIC POWER AT FALCON DAM

An act to authorize the carrying out of the provisions of article 7 of the treaty of February 3, 1944, between the United States and Mexico, regarding the joint development of hydroelectric power at Falcon Dam, on the Rio Grande, and for other purposes. (Act of October 5, 1949, ch. 593, 63 Stat. 701)

[**Sec. 1. Approval of Congress given to negotiation of agreement for generating electric energy at Falcon Dam.**]—In accordance with the provisions of understanding (a) of the Senate resolution of ratification of the treaty of February 3, 1944, between the United States and Mexico, the approval of the Congress is hereby given to the negotiation of an agreement, in accordance with the provisions of article 7 of said treaty, for the joint construction, operation, and maintenance on a self-liquidating basis for the United States share, by the two sections of the International Boundary and Water Commission, United States and Mexico, of facilities for generating hydroelectric energy at the Falcon Dam on the Rio Grande being constructed by the said Commission under the provisions of article 5 of the said treaty. (63 Stat. 701)

**Sec. 2. [Appropriations authorized—Availability of prior appropriations.]**—There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act: *Provided*, That funds heretofore appropriated to the Department of State under the heading “International Boundary and Water Commission, United States and Mexico” shall be available for expenditure for the purposes of this Act. (63 Stat. 701)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Supplementary Provision: Marketing of Power.** The Act of June 18, 1954, 68 Stat. 255, authorizes the Secretary of the Interior to market the power from Falcon Dam. The Act appears herein in chronological order.

**International Boundary and Water Commission.** The International Boundary Commission was created originally pursuant to the Convention with Mexico of March 1, 1889 (effective December 24, 1890), 26 Stat. 1512. It was reconstituted the International Boundary and Water Commission, United States and Mexico, by the Treaty with Mexico of February 3, 1944 (effective November 8, 1945), 59 Stat. 1219. The

1944 Treaty appears herein in chronological order.

**Cross Reference, Statutory Authority of the Commission.** The Act of August 19, 1935, which appears herein in chronological order, provides general authority for the work of the Commission, and the notes following the Act briefly summarize other statutory provisions relating to its program.

**Editor's Note, Annotations.** Annotations of opinions are not included because none were found dealing primarily with the activities of the Bureau of Reclamation under this statute.

**Legislative History.** H.R. 5773, Public Law 312 in the 81st Congress. H.R. Rept. No. 1299. S. Rept. No. 967.

## REHABILITATION AND BETTERMENT ACT

An act to provide for the return of rehabilitation and betterment costs of Federal reclamation projects. (Act of October 7, 1949, ch. 650, 63 Stat. 724)

[Sec. 1. Return of rehabilitation and betterment costs as determined by the Secretary—Determination not effective until 60 days after submission to Congressional Committees—Definition of term—Performance of work by contract or force-account.]—Expenditures of funds hereafter specifically appropriated for rehabilitation and betterment of irrigation systems on projects governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) shall be made only after the organizations concerned shall have obligated themselves for the return thereof in installments fixed in accordance with their ability to pay, as determined by the Secretary of the Interior in the light of their outstanding repayment obligations, and which shall, to the fullest practicable extent, be scheduled for return with their construction charge installments or otherwise scheduled as he shall determine. No such determination of the Secretary of the Interior shall become effective until the expiration of sixty days after it has been submitted to the Committee on Interior and Insular Affairs of the Senate and the Committee on Public Lands of the House of Representatives; except that, any such determination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary, in writing, of such approval: *Provided*, That when Congress is not in session the Secretary's determination, if accompanied by a finding by the Secretary that substantial hardship to the water users concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings. The term "rehabilitation and betterment", as used in this Act, shall mean maintenance, including replacements, which cannot be financed currently, as otherwise contemplated by the Federal reclamation laws in the case of operation and maintenance costs, but shall not include construction, the costs of which are returnable, in whole or in part, through "construction charges" as that term is defined in section 2 (d) of the Reclamation Project Act of 1939 (53 Stat. 1187). Such rehabilitation and betterment work may be performed by contract, by force-account, or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary of the Interior shall deem appropriate for the protection of the United States, by contract entered into with the organization concerned whereby such organization shall perform such work. (63 Stat. 724; Act of March 3, 1950, 64 Stat. 11; 43 U.S.C. § 504)

### EXPLANATORY NOTE

**1950 Amendment.** The Act of March 3, 1950, 64 Stat. 11, amended the Act by adding that portion of the second sentence of section 1 which follows the semicolon in the sentence. The 1950 Act appears herein in chronological order.

October 7, 1949

**Sec. 2. [Act a supplement to the Federal reclamation laws.]**—This Act shall be deemed a supplement to the Federal reclamation laws. (63 Stat. 724; 43 U.S.C. § 504 note)

EXPLANATORY NOTES

**Previous Authorization.** The Interior Department Appropriation Act, 1949, approved June 29, 1948, 62 Stat. 1128, contained the following authorization for rehabilitation and betterment of projects: "For rehabilitation and betterment of existing projects \$1,500,000; *Provided*, That, at

the discretion of the Secretary, repayment may be scheduled after the completion of repayment of existing obligations of the water users' organizations concerned."

**Legislative History.** H.R. 1694, Public Law 335 in the 81st Congress. H.R. Rept. No. 589. S. Rept. No. 501.

NOTES OF OPINIONS

Advances of funds	3
Construction costs	4
Contracts	6
Discretion of Secretary	5
Maintenance costs	4
Private projects	2
Purpose	1

**1. Purpose**

The purpose of the Rehabilitation and Betterment Act is to provide a practicable means for repaying the costs of major rehabilitation and maintenance programs, and project modifications based on new engineering techniques, which cannot be paid currently as is the usual requirement for operation and maintenance expenses under Federal reclamation laws. Solicitor Barry Opinion, 68 I.D. 263 (1961), in repropose contract with Coachella Valley County Water District.

The Rehabilitation and Betterment Act is a remedial measure and should be liberally construed. Solicitor Barry Opinion, 68 I.D. 263, 265 (1961), in repropose contract with Coachella Valley County Water District.

**2. Private projects**

Inasmuch as the irrigation system of the Arnold Irrigation District was privately developed, and limited Federal expenditures were authorized by specific items in appropriation acts, the Arnold project is not a project governed by the Federal reclamation laws within the purview of the Rehabilitation and Betterment Act. Memorandum of Acting Associate Solicitor Fisher to Commissioner, March 12, 1956.

**3. Advances of funds**

In contracting with a water users' organization for the performance of rehabilitation and betterment work under the act, the Secretary is exempted from the prohibition contained in R. S. § 3648, 31 U.S.C. § 529, against making advances of public money. Solicitor White Opinion, M-36085 (July 11, 1951).

**4. Maintenance vs. construction costs**

Expenditures are properly chargeable to "construction" when they (1) are incurred to construct an irrigation system and put it in condition to furnish and properly distribute water, (2) are made necessary by faulty original construction in violation of contract and statutory requirements, or (3) are for the purpose of increasing the capacity of the original system. On the other hand, expenditures are properly chargeable to "operation and maintenance" when they are required to remedy conditions brought about by the use of a completed system or to maintain and operate it effectively for the end to which it is designed. *U.S. v. Fort Belknap Irr. Dist.*, 197 F. Supp. 812, 819 (D. Mont. 1961).

In making repairs and replacements chargeable to "operation and maintenance" the government is not limited to preserving the status quo, but may, in the exercise of sound discretion, utilize materials or equipment of an improved type or design. *U.S. v. Fort Belknap Irr. Dist.*, 197 F. Supp. 812 (D. Mont. 1961).

The cost of raising a dike to cut off a spillway that was never completed and never used for 40 years is a "construction" expense and may not be charged to defendant irrigation districts without their consent. *U.S. v. Fort Belknap Irr. Dist.*, 197 F. Supp. 812, 821 (D. Mont. 1961).

A regulating reservoir to prevent wastage may properly be built as an operating facility with the costs charged as operation and maintenance and thus eligible for repayment under the Rehabilitation and Betterment Act. Solicitor Barry Opinion, 68 I.D. 263 (1961), in re proposed contract with Coachella Valley County Water District.

**5. Discretion of Secretary**

The Rehabilitation and Betterment Act of 1949 does not preclude the Secretary from spending, for rehabilitation work, money appropriated for "operation and

October 7, 1949

REHABILITATION AND BETTERMENT ACT

971

maintenance" purposes and charging the cost to irrigation districts as operation and maintenance costs without their consent, even though repayment of such costs could be deferred by agreement with the districts under the Act. *U.S. v. Fort Belknap Irr. Dist.*, 197 F. Supp. 812, 823-25 (D. Mont. 1961). *Accord:* Memorandum of Solicitor Abbott to Commissioner, February 26, 1959, in re rehabilitation and betterment, Sherburne Lake dam, Milk River project.

6. Contracts

The Secretary may exclude from the repayment obligation of the Malta and Glasgow Irrigation Districts under contracts with them their proportionate share of construction costs of Sherburne Dam determined by the court in *U.S. v. Fort Belknap Irr. Dist.*, 197 F. Supp. 812 (D. Mont. 1961), even though they were not parties to the litigation. Dec. Comp. Gen., B-149629 (September 6, 1962).

October 10, 1949

972

## BUFFALO RAPIDS PROJECT

An act to authorize the Secretary of the Interior to complete construction of the irrigation facilities and to contract with the water users on the Buffalo Rapids project, Montana, increasing the reimbursable construction cost obligation, and for other purposes (Act of October 10, 1949, ch. 651, 63 Stat. 725)

[**Sec. 1. Completion of project including drainage works authorized—Repayment period not to exceed 60 years.**]—The Secretary of the Interior is authorized to complete the construction of irrigation facilities including necessary drainage works on the first and second divisions of the Buffalo Rapids project, Montana, as approved by the President under authority of the Act of May 10, 1939 (53 Stat. 685), and the Act of October 14, 1940 (54 Stat. 1119), as amended: *Provided*, That of the funds heretofore or hereafter expended for such construction an amount equal to \$60 per irrigable acre as determined and announced by the Secretary of the Interior upon completion of the project, shall be reimbursable by the water users over a repayment period of not to exceed sixty years, and the provision for the recovery thereof and for payment of the operation and maintenance costs of the irrigation and drainage features of the project shall be made by a contract or contracts satisfactory to the Secretary of the Interior. (63 Stat. 725)

### EXPLANATORY NOTE

**References in the Text.** The Act of May 10, 1939 (53 Stat. 685), referred to in the text, is the Interior Department Appropriation Act for 1940. The Act includes an appropriation for water conservation and utility projects. The Act of October 14, 1940 (54 Stat. 1119), as amended, also referred to in the text, is an amendment to

the Water Conservation and Utilization Act. Extracts from the 1939 Act appear herein in chronological order. The Water Conservation and Utilization Act of August 11, 1939, including the amendments made by the 1940 Act, also appears herein in chronological order.

**Sec. 2. [Availability of prior appropriations—Additional appropriations authorized.]**—To carry out the purposes of this Act, the Secretary of the Interior is hereby authorized to allot any moneys available from appropriations heretofore made to the Department of the Interior for “water conservation and utility projects” and “water conservation and utilization projects”, and there is hereby authorized to be appropriated to the Department of the Interior, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to complete the project. (63 Stat. 725)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** S. 2042, Public Law 336 in the 81st Congress. S. Rept. No. 668. H.R. Rept. No. 1043 (on H.R. 5113).

## COMPLETE LAND DEVELOPMENT, ANGOSTURA UNIT

An act to authorize completion of the land development and settlement of the Angostura unit of the Missouri Basin project, notwithstanding a limitation of time. (Act of October 10, 1949, ch. 652, 63 Stat. 725)

[**Completion of land development and settlement authorized.**]—The Secretary of Agriculture may complete the land development and settlement of the Angostura unit of the Missouri Basin project situated in Custer and Fall River Counties, South Dakota, to which, for this purpose only the provisions of section 5 of the Act of July 16, 1943 (57 Stat. 566, 567), shall be, and the same are hereby, extended and shall be in full force and effect to the same extent as though the requirements thereof had been completed prior to June 30, 1947. (63 Stat. 725)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of July 16, 1943 (57 Stat. 566, 567), referred to in the text, amended the Water Conservation and Utilization Act of August 11, 1939.

The 1939 Act, including the amendments made by the 1940 Act, appears herein in chronological order.

**Legislative History.** H.R. 2538, Public Law 337 in the 81st Congress. H.R. Rept. No. 1109. S. Rept. No. 977.

October 12, 1949

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1950

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1950, and for other purposes. (Act of October 12, 1949, ch. 680, 63 Stat. 765)

### OFFICE OF THE SECRETARY

\* \* \* \* \*

[Southeastern power marketing appropriation; geographical area.]—Salaries and expenses, southeastern power marketing: For expenses necessary to carry out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the area east of the Mississippi River, for marketing power produced or to be produced at multiple-purpose projects of the Corp of Engineers, Department of the Army; \* \* \*. (63 Stat. 766)

#### EXPLANATORY NOTE

**Provision Repeated.** A similar reference to the "area east of the Mississippi" is contained in the Interior Department Appropriation Act, 1951, Act of September 6, 1950, 64 Stat. 680. Thereafter the appropriation acts simply refer to the "southeastern power area".

[Southwestern power marketing; geographical area.]—Construction, operation, and maintenance, power transmission facilities: For expenses necessary to carry out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area comprising the States of Arkansas and Louisiana, that part of the States of Kansas and Missouri lying south of the Missouri River Basin and east of the ninety-eighth meridian, and that part of the States of Texas and Oklahoma lying east of the ninety-ninth meridian and north of the San Antonio River Basin, including the construction and acquisition of transmission lines, sub-stations, and related facilities; operation and maintenance of power transmission facilities; marketing of electric power and energy; \* \* \*. (63 Stat. 766)

#### EXPLANATORY NOTE

**Provision Not Repeated.** This geographical description is not repeated in subsequent appropriation acts, which simply refer to the "southwestern power area."

\* \* \* \* \*

[Continuing fund, Southwestern Power Administration.]—Continuing fund, power transmission facilities: All receipts from the transmission and sale of electric power and energy under the provisions of section 5 of the Flood Control Act of December 22, 1944 (16 U.S.C. 825s), generated or purchased in the southwestern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of \$300,000, including the sum of \$100,000 in the continuing fund established under the Administrator of the Southwestern Power Administration in the First Supplemental National Defense Appropriation Act, 1949, ch. 680, 63 Stat. 765.

October 12, 1949.

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1950 975

sion Act, 1944 (57 Stat. 621), which shall be transferred to the fund hereby established; and said fund of \$300,000 shall be placed to the credit of the Secretary and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of the facilities, and to cover all costs in connection with the purchase of electric power and energy and rentals for the use of facilities for the transmission and distribution of electric power and energy to public bodies, cooperatives, and privately owned companies: *Provided*, That expenditures from this fund to cover such costs in connection with the purchase of electric power and energy and rentals for the use of facilities are to be made only in such amounts as may be approved annually in appropriation Acts and for the fiscal year 1952 such expenditures may be made not in excess of \$250,000. (63 Stat. 767; Act of August 31, 1951, 65 Stat. 249; 16 U.S.C. § 825s-1)

### EXPLANATORY NOTE

1951 Amendment. The Act of August 31, 1951, added the proviso.

### NOTES OF OPINIONS

Power purchase and line rental 2  
Purpose 1

#### 1. Purpose

The primary purpose of the continuing fund for the Bonneville Power Administration, as of the continuing fund first established for the Southwestern Power Administration and the emergency fund created by the Act of June 26, 1948, for the Bureau of Reclamation, is to insure continuous operation of transmission facilities in the face of emergencies that cause or threaten interruption (as distinguished from curtailment) in power service. Dec. Comp. Gen. B-105397 (September 21, 1951).

#### 2. Power purchase and line rental

The continuing fund statute and the various Interior Department Appropriation

Acts permit the Southwestern Power Administration to purchase power and rent transmission lines from electric cooperatives. *Kansas City Power & Light Co. v. McKay*, 115 F. Supp. 402, 418 (D.D.C. 1953), judgment vacated for lack of capacity to sue, 225 F. 2d 924 (D. Cir. 1955).

The proviso added in 1951 is effective to limit expenditures for purchase of power and energy and rental of facilities to the amounts available annually in appropriation acts; and if these amounts are insufficient to carry out leasing and purchasing contracts, the United States would be relieved of liability for breach of contract under the contract provisions conditioning performance on the availability of appropriations. Solicitor White Memorandum, M-36099 (September 14, 1951).

### BUREAU OF RECLAMATION

[Cachuma unit, Santa Barbara County project—Participation by member districts.]—Santa Barbara County project, California, Cachuma Unit, \$5,185,000: *Provided*, That none of the funds appropriated herein shall be available for construction of physical works or the acquisition of rights-of-way until the condition contained in the contract between the United States and the Santa Barbara County Water Agency, executed September 12, 1949, concerning participation by member districts shall have been met, and the outcome of elections within the member districts shall have been favorable in sufficient member districts to approve the disposition of the quantity of water as provided in said contract to make the same effective; (63 Stat. 779)

October 12, 1949

976 INTERIOR DEPARTMENT APPROPRIATION ACT, 1950

[Arnold project, additional funds—Ochoco Dam, additional funds—Grants Pass, northwest unit pipe line.]—Deschutes project, Oregon, \$1,313,750, of which not to exceed \$35,150 shall be available toward emergency rehabilitation of the works of the Arnold irrigation district, to be repaid in full under conditions satisfactory to the Secretary of the Interior, not to exceed \$1,063,750 shall be available toward emergency reconstruction of Ochoco Dam subject to allocations under section 7 of the Reclamation Project Act of 1939, and repayment of reimbursable amounts under terms satisfactory to the water users and the Bureau of Reclamation, and not to exceed \$100,000 shall be available for emergency reconstruction of the northwest unit pipe line of the Grants Pass irrigation district; (63 Stat. 780).

EXPLANATORY NOTES

**Popular Name.** The Arnold, Ochoco, and Grants Pass projects are known as Cordon amendment projects after Senator Guy Cordon of Oregon. The appropriations for these projects constitute their authorization.

**Cross Reference, Arnold Project.** Other appropriations for the Arnold project are contained in the Act of July 25, 1947, 61 Stat. 474; the Act of December 23, 1947, 61 Stat. 944; and the Act of August 26, 1957, 71 Stat. 419.

**Cross Reference, Ochoco Dam.** An

earlier appropriation for emergency reconstruction of Ochoco Dam is contained in the Act of June 29, 1948, 62 Stat. 1127. Ochoco Dam was made part of the Crooked River project by the Act of August 6, 1956, 70 Stat. 1058.

**Cross Reference, Grants Pass Project.** Other appropriations for features of the Grants Pass project are contained in the Act of July 9, 1952, 66 Stat. 451 (Savage Rapids Dam), and the Act of July 2, 1956, 70 Stat. 476 (fish protective facilities).

NOTE OF OPINION

1. Feasibility finding not required

The provision in the Interior appropriation act for 1950 making \$100,000 available for the emergency reconstruction of the northwest unit pipeline of the Grants Pass irrigation district was intended as an authorization for the work as well as an

appropriation, as shown by the legislative history and the inclusion of the word "emergency". Consequently the requirement of section 9(a) of the Reclamation Project Act of 1939 for a finding of feasibility does not apply as a condition precedent to the expenditure of funds. Memorandum of Chief Counsel Fix, September 21, 1949.

\* \* \* \* \*

[Glendo unit, Missouri River Basin project—Definite plan report required.]—Missouri River Basin\* \* \*. *Provided further*, That in order to promote agreement among the States of Nebraska, Wyoming, and Colorado and to avoid any possible alteration of existing vested water rights, no part of this or any prior appropriation shall be used for construction or for further commitment for construction of the Glendo unit or any feature thereof, until a definite plan report thereon has been completed, reviewed by the States of Nebraska, Wyoming, and Colorado and approved by Congress: (63 Stat. 783)

EXPLANATORY NOTE

**Provision Repeated.** The same requirement for a definite plan report for the Glendo unit is contained in each subsequent

annual Interior Department Appropriation Act through the Act of July 31, 1953, 67 Stat. 266.

*Provided further*, That no part of this or prior appropriations shall be used for construction, nor for further commitments to construction of Moorhead Dam and Reservoir, Montana, or any feature thereof until a definite plan report

October 12, 1949

INTERIOR DEPARTMENT APPROPRIATION ACT, 1950 977

thereon has been completed, reviewed by the States of Wyoming and Montana, and approved by the Congress: \* \* \*. (63 Stat. 784)

EXPLANATORY NOTE

**Provision Repeated.** The same requirement for a definite plan report for Moorhead Dam and Reservoir is contained in each subsequent annual Interior Depart-

ment Appropriation Act through fiscal year 1955, and each annual Public Works Appropriation Act thereafter through the Act of July 2, 1956, 70 Stat. 476.

\* \* \* \* \*

**Sec. 202. [Short title].**—This Act may be cited as "The Interior Department Appropriation Act, 1950." (63 Stat. 802)

EXPLANATORY NOTES

**Not Codified.** Provisions appearing above are not codified in the U.S. Code except as shown.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts

appear herein only in the act in which first used.

**Legislative History.** H.R. 3838, Public Law 350 in the 81st Congress, H.R. Rept. No. 324. S. Rept. No. 661. H.R. Rept. No. 1380 (conference report).

October 14, 1949

## AMERICAN RIVER BASIN DEVELOPMENT

An act to authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes. (Act of October 14, 1949, ch. 690, 63 Stat. 852)

[Sec. 1. Central Valley project reauthorized to include American River development.]—The Central Valley project, California, authorized by section 2 of the Act of Congress of August 26, 1937 (50 Stat. 850), is hereby reauthorized to include the American River development as hereinafter described, which development is declared to be for the same purposes as described and set forth in the Act of Congress of August 26, 1937 (50 Stat. 850). (63 Stat. 852)

### EXPLANATORY NOTE

Reference in the Text. Section 2 of the referred to in the text, appears herein in Act of August 26, 1937 (50 Stat. 850), chronological order.

Sec. 2. [Authorized features—Further investigations, surveys and studies—Recommendations for use of water—Studies and reports to be submitted pursuant to procedure prescribed in Flood Control Act, 1944—Folsom Dam and Reservoir to be turned over to Bureau of Reclamation for operation and maintenance.]—The American River development shall consist of: Folsom Dam and Reservoir having a storage capacity of approximately one million acre-feet, to be constructed by the Corps of Engineers at such point below the confluence of the North Fork and the South Fork of the American River near the city of Folsom, California, as the Secretary of the Army and the Chief of Engineers after consultation with the Bureau of Reclamation and other appropriate State, Federal, and local agencies may find most advisable; and the following features for the development and use of water, to be constructed, operated, and maintained by the Secretary of the Interior through the Commissioner of Reclamation: A hydroelectric power plant with a generating capacity of approximately one hundred and twenty thousand kilowatts, and necessary hydroelectric afterbay power plants and necessary electric transmission lines to the nearest practical interconnection with the Central Valley project transmission system; a storage dam with a capacity of approximately forty thousand acre-feet to be located on Sly Park Creek, a tributary of the North Fork of Consumnes River, with necessary appurtenant works, including a diversion dam on Camp Creek, tunnel, conduit, and canals for the delivery of water to lands in El Dorado County, and incidental works appurtenant thereto. The Secretary of the Interior, through the Bureau of Reclamation, is hereby further authorized and directed to conduct the necessary investigations, surveys, and studies for the purpose of developing plans for disposing of the water and electric power which would be made available by the project, including studies of such supplemental works and equipment as may be required to maintain a firm supply of electric energy, and render reports thereon which would set forth the works required for such disposition, together with findings as to their engineering and financial feasibility, including a study of the water resources and requirements of the

October 14, 1949

AMERICAN RIVER BASIN DEVELOPMENT

979

ntire American River watershed and the areas serviceable therefrom, and particularly of a diversion canal at the highest feasible level extending southerly from Folsom Reservoir as will permit the maximum beneficial use of the water or irrigation of the lands lying under said canal in El Dorado and Sacramento Counties; a diversion canal at the highest feasible level for the purpose of securing the maximum beneficial use of the water in Placer County extending northerly from such reservoir to a point on the Bear River in the vicinity of Sheridan, California, and a conduit or conduits with necessary pumping plants and supplemental works extending from the most feasible diversion point on the Central Valley project, California, to serve lands and municipalities in Contra Costa, Alameda, Santa Clara, San Joaquin, and San Benito Counties.

Nothing contained in this Act shall be construed by implication or otherwise as an allocation of water and in the studies for the purposes of developing plans for disposal of water as herein authorized the Secretary of the Interior shall make recommendations for the use of water in accord with State water laws, including but not limited to such laws giving priority to the counties and areas of origin for present and future needs.

Said studies and the reports thereon shall be submitted to the proper State authorities under the procedure provided for in the Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session).

Folsom Dam and Reservoir, upon completion of construction by the Corps of Engineers, to the extent where water from said reservoir is ready to be turned either into the power plant or conduits, shall be transferred to the Bureau of Reclamation for operation and maintenance under the supervision of the Secretary of the Interior together with the other features of the American River development herein authorized for construction by the Bureau of Reclamation, all in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). After the transfer as provided herein, the dam shall be operated for flood control in accordance with criteria established by the Secretary of the Army as provided for in section 7 of the Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session). (63 Stat. 852)

EXPLANATORY NOTES

**Folsom Dam.** The Flood Control Act of 1944, 58 Stat. 901, originally authorized construction of a smaller Folsom reservoir project with a capacity of only 355,000 acre feet without irrigation or power facilities other than penstocks.

**San Felipe Division.** The contemplated works to serve lands and municipalities in Santa Clara and San Benito Counties referred to above are included in the proposed San Felipe division, Central Valley project. Reference thereto also is contained in the Act of August 27, 1958, 72 Stat. 937, and

in section 6 of the Act of June 3, 1960, 74 Stat. 159. These acts appear herein in chronological order.

**Reference in the Text.** The Flood Control Act of 1944 (Public Law 534, Seventy-eighth Congress, second session), referred to in the text, is the Act of December 22, 1944. Extracts from the Act, including section 1 (providing for the submission to the States of information on river basin investigations) and section 7 referred to, appear herein in chronological order.

**Sec. 3. [Consultation with local interests in locating and designing works.]—** In locating and designing the works authorized for construction by section 2 of

this Act the Secretary of the Army and the Chief of Engineers, the Secretary of the Interior and the Commissioner of Reclamation shall give due consideration to the report set forth in Bulletin Numbered 26 of the Division of Water Resources of the Department of Public Works of the State of California, and shall consult the local interests to be affected by the construction and operation of said works, through public hearings or in such other manner as in their discretion may be found best suited to a maximum expression of the views of such local interests. (63 Stat. 854)

**Sec. 4. [Operation of works to be coordinated and integrated with existing and future features of the Central Valley project.]**—The Secretary of the Interior is directed to cause the operation of said works to be coordinated and integrated with the operation of existing and future features of the Central Valley project in such manner as will effectuate the fullest and most economic utilization of the land and water resources of the Central Valley project of California for the widest possible public benefit. (63 Stat. 854)

**Sec. 5. [Appropriations authorized.]**—There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this Act. (63 Stat. 854)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 356 in the 81st Congress, H.R. Rept. No. 241. S. Rept. No. 606. H.R. Rept. No. 316 (on H. Res. 166).

**Legislative History.** H.R. 165, Public

## FARM TENANT ACT LOANS TO ENTRYMEN

An act to enable the Secretary of Agriculture to extend financial assistance to homestead entrymen, and for other purposes. (Act of October 19, 1949, ch. 697, 63 Stat. 883)

[Sec. 1. Loans by Secretary of Agriculture to homestead entrymen and others.]—The Secretary of Agriculture is authorized to make a loan or loans for any purpose authorized by and in accordance with the terms of the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to any person eligible for assistance under said Acts who has made or makes a homestead entry on public land or who has contracted for or contracts for the purchase of other land of the United States in a reclamation project pursuant to the applicable provisions of the homestead and reclamation laws. Any such loans required by the Secretary of Agriculture or by law to be secured by a real-state mortgage may be secured by a mortgage contract which shall create a lien against the land in favor of the United States acting through the Secretary of Agriculture and any patent thereafter issued shall recite the existence of such lien. The first installment for the repayment of any such loan or any other loan made under the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to the owner of a newly irrigated farm in a reclamation project, may be deferred for a period of not to exceed two years from the date of the first advance under such loan. (63 Stat. 883; 7 U.S.C. § 1006a)

Sec. 2. [Cancellation of entry or purchase contract land.]—Any entry or purchase contract land with respect to which a loan is made under the authority of this Act shall be subject to cancellation by the Secretary of the Interior as provided by existing law or upon request of the Secretary of Agriculture whenever default occurs in the terms, conditions, covenants, or obligations contained in the mortgage. After cancellation or relinquishment of an entry or purchase contract, land on which there is a mortgage lien, pursuant to the provisions of his Act, shall thereafter, except as hereinafter provided, only be open to entry or resale to persons eligible for both an original entry or purchase contract and an original loan. Such entry or resale shall be subject to the outstanding balance of any amounts due the United States with respect to such land or such portion hereof as may be determined by the Secretary of Agriculture and the Secretary of the Interior, or their delegates, to be within the entryman's or purchaser's ability to pay on the basis of the long-time earning capacity of the land. If no entry or purchase is made within one year after the cancellation or relinquishment of a prior entry or purchase of land on which there is such a mortgage lien, the land shall be disposed of by the Secretary of Agriculture on terms consistent with the provisions of section 43 of the Bankhead-Jones Farm Tenant Act, as amended, for the satisfaction of the indebtedness secured by the mortgage, subject, however, to other outstanding charges on the land due the United States, and the purchaser of such land shall be entitled to the issuance of patent or deed upon the completion of all requirements with respect to the payment of such charges. (63 Stat. 883; 7 U.S.C. § 1006b)

October 19, 1944

EXPLANATORY NOTES

**References in the Text.** The loan provisions of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937, both referred to in the text, were superseded by the Consolidated Farmers Home Administration Act of 1961, and references to the first two acts are to be construed as referring to the latter act.

Extracts from the Consolidated Farmer Home Administration Act of 1961, which was enacted August 8, 1961, appear herein in chronological order.

**Legislative History.** H.R. 2514, Public Law 361 in the 81st Congress. H.R. Rept No. 478. S. Rept. No. 975.

## REDUCTION OF CONSTRUCTION CHARGES, YUMA PROJECT

An act authorizing the withdrawal of public notices in the Yuma reclamation project, and for other purposes. (Act of October 25, 1949, ch. 725, 63 Stat. 903)

[Secretary authorized to reduce or eliminate increases in construction charges on Yuma project by withdrawal or modification of public notices—Equitable adjustment of existing water-right applications and contracts.]—(1) For the purpose of encouraging the filing of water-right applications on lands within the Yuma reclamation project by the reduction or elimination of increases in construction charges imposed by the provisions of section 9 of the Reclamation Extension Act (Act of August 13, 1914, 38 Stat. 686, 689), the Secretary of the Interior, in his discretion, may from time to time withdraw or modify by public notice any public notice or public notices applicable to said project issued under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto); and (2) for the additional purpose of making such adjustments with reference to water-right applications and other contracts affected by such increases as, in his judgment, are equitably required by reason of action taken under (1) above, the Secretary may by public notice make such modifications of water-right applications and contracts with water users' associations and others then in effect on said project as he may deem advisable and equitable: *Provided*, That nothing contained in this Act shall be construed to amend section 4 of the Reclamation Extension Act aforesaid. Credits arising from a reduction or elimination of increases in construction charges allowed by the Secretary hereunder shall be without interest and shall be applied at an equal rate per annum against construction charge installments thereafter to become due or, if and to the extent that such credits exceed such installments, as advance payments on operation and maintenance charges due or to become due: *Provided*, That no reduced rates or credits accruing pursuant to this Act in favor of any landowner during any period while he holds in single ownership in excess of one hundred and sixty acres of irrigable land, upon which land the construction charges have not been paid in full, shall be allowed but such owners during the period of such excess ownership shall pay construction and other charges without credits or reductions allowable under this section. (63 Stat. 903)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Reclamation Extension Act (Act of August 13, 1914, 38 Stat. 686, 689), referred to in the text,

appears herein in chronological order.

**Legislative History.** S. 1542, Public Law 383 in the 81st Congress. S. Rept. No. 953. H.R. Rept. No. 1404.

October 27, 1949

984

## AMENDED CONTRACTS, MISCELLANEOUS PROJECTS

An act to approve contracts negotiated with the Belle Fourche Irrigation District, the Deaver Irrigation District, the Westland Irrigation District, the Stanfield Irrigation District, the Vale Oregon Irrigation District, and the Prosser Irrigation District, to authorize their execution, and for other purposes. (Act of October 27, 1949, ch. 770, 63 Stat. 941)

[Sec. 1. Execution of contracts by Secretary authorized.]—The contracts referred to in sections 2 to 6, inclusive, of this Act, which have been negotiated by the Secretary of the Interior (hereinafter referred to as the "Secretary") pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), are hereby approved and the Secretary is hereby authorized to execute them on behalf of the United States. (63 Stat. 941)

### BELLE FOURCHE PROJECT, SOUTH DAKOTA

**Sec. 2.** The contract with the Belle Fourche Irrigation District which was approved by the electors of said district on May 3, 1949.

(a) The 1947 reclassification of the lands of the Belle Fourche Irrigation District, made in accordance with the provisions of section 8 of the Reclamation Project Act of 1939, and approved by the board of directors of said district on December 27, 1948, is approved.

(b) Contingent upon execution of said contract all payments upon construction charges shall be suspended against three thousand four hundred twenty and seven-tenths acres of land classified under the Act of May 25, 1926 (44 Stat. 636), as in part productive and in part unproductive and found to be temporarily unproductive under the reclassification of lands, approved in section 2 of this Act until the Secretary shall declare them to be possessed of sufficient productive power to be placed in a paying class, whereupon payment of construction charges against such areas shall be resumed. The reclassification of such areas shall be completed by the Secretary within five years of the effective date of said contract. While said lands so classified as temporarily unproductive and the construction charges against them are suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges, or such other charges as may be fixed by the Secretary, the advance payment of which may be required in the discretion of the Secretary. Should said lands temporarily classed as unproductive, or any of them, be found by the Secretary to be permanently unproductive, there shall be deducted from the construction charge obligation of said Belle Fourche Irrigation District on account of them an amount obtained by multiplying the total acreage declared by the Secretary to be permanently unproductive by the sum of \$43.90 per acre for construction charge plus \$10.17 per acre for drainage costs.

(c) The amounts deducted from the construction charge obligation of the Belle Fourche Irrigation District as adjusted in said contract and as provided in subsection (b) of this section shall be charged off as a permanent loss to the

reclamation fund, but no adjustment shall be made by the United States by reason thereof with any individual landowner either by refund, credit, exchange of land, or otherwise. (63 Stat. 941)

#### EXPLANATORY NOTE

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636), referred to in the text, is the Omnibus Adjustment Act. The Act appears herein in chronological order.

#### SHOSHONE PROJECT, WYOMING

**Sec. 3.** The contract with Deaver Irrigation District which was approved by the electors of said district on April 9, 1949.

(a) The reclassification of lands, with the consequent modification of the Deaver Irrigation District's construction charge obligation, which is provided in said contract, is hereby approved. The construction charge obligation on account of lands found to be temporarily unproductive under such reclassification shall be suspended until the Secretary places such lands in a pay or permanently unproductive status in accordance with said contract. No landowner owning lands within the district which, under such reclassification, have been found to be temporarily or permanently unproductive or which are hereafter placed in a permanently unproductive status in accordance with said contract, shall be thereby entitled to a credit or refund by the United States for construction charges heretofore paid on account of such lands or to an exchange of such lands for other public lands.

(b) The Secretary is authorized to further reclassify not to exceed an additional one hundred acres of land in the Frannie Division of the Shoshone project and to modify the Deaver Irrigation District's construction charge obligation in accordance with said contract and pursuant to the conditions herein provided if, upon such reclassification, he determines that the pay status of any such reclassified lands should be changed.

(c) The proviso affecting the application of net revenues of the Shoshone power plant, as contained in the Act of March 4, 1929 (45 Stat. 1562), and the Act of April 9, 1938 (52 Stat. 210), are hereby modified to the extent necessary to permit not to exceed \$213,000 of the net revenues of the Shoshone power plant to be applied on payments to be made under article 9 (a) of said contract.

(d) The rehabilitation of the irrigation works serving the Deaver Irrigation District contemplated under said contract may be performed by contract, by force account, or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary shall deem appropriate for the protection of the United States, by contract entered into with the Deaver Irrigation District whereby said district shall perform such work. (63 Stat. 942)

#### EXPLANATORY NOTES

**1954 Modification.** The Act of July 14, 1954, 68 Stat. 471, also modifies the provisions in the 1929 and 1938 Acts referred to in the text. The 1954 Act appears herein in chronological order.

**References in the Text.** The Act of

March 4, 1929 (45 Stat. 1562), and the Act of April 9, 1938 (52 Stat. 210), referred to in the text, deal with the allocation of net revenues of the Shoshone Power Plant. Both Acts appear herein in chronological order.

October 27, 1949

**Cross Reference, Annual Appropriation Acts.** For a number of years the annual appropriation acts made funds from power revenues of the Shoshone project available for operation and maintenance of the commercial system, as explained in the note

under the Act of March 7, 1928, 45 Stat. 230.

**Cross Reference, Sale of Facilities.** The Act of May 14, 1930, 46 Stat. 309, authorizes the sale of power facilities no longer needed for the Shoshone project. The Act appears herein in chronological order.

#### UMATILLA PROJECT, OREGON

**Sec. 4.** The contract with the Westland Irrigation District which was approved by the electors of said district on May 14, 1949, and the contract with the Stanfield Irrigation District which was approved by the electors of said district on May 21, 1949.

(a) All payments made by the said districts and other parties under contracts for the delivery of water from McKay Dam and Reservoir shall be deposited in a special deposit account with the appropriate regional disbursing officer of the Treasury Department and such payments shall be available for expenditure (i) to meet operation and maintenance costs for the McKay Dam and Reservoir for the year for which paid, and (ii) for the accumulation in said special deposit account of an operation and maintenance reserve, sufficient in the Secretary's judgment to assure proper operation and maintenance of McKay Dam and Reservoir. Following the close of each calendar year, moneys in said special deposit account, in excess of the requirements of (i) and (ii) as determined by the Secretary, shall be transferred to the reclamation fund. (63 Stat. 942)

#### VALE PROJECT, OREGON

**Sec. 5.** The contract dated April 11, 1949, with the Vale Oregon Irrigation District.

(a) All beginning with the first "*Provided*" under the subheading "Vale Project, Oregon", under the heading "Bureau of Reclamation", of the Act of March 3, 1925 (43 Stat. 1141, 1168), is hereby repealed, and the word "Vale" is hereby stricken out from the first sentence of the third paragraph under the heading "Bureau of Reclamation" of the Act of May 10, 1926 (44 Stat. 453, 479). (63 Stat. 943)

#### EXPLANATORY NOTE

**References in the Text.** The Act of March 3, 1925 (43 Stat. 1141, 1168), and the Act of May 10, 1926 (44 Stat. 453, 479), referred to in the text, appear herein in chronological order.

#### NOTE OF OPINION

##### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been approved

by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

October 27, 1949

AMENDED CONTRACTS, MISC. PROJECTS

987

YAKIMA PROJECT, WASHINGTON

**Sec. 6.** The contract with the Prosser Irrigation District which was approved by the electors of said district on May 28, 1949. (63 Stat. 943)

NOTE OF OPINION

**1. Excess lands**

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing

holdings if such contract has been approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

**Sec. 7. [Repayment of rehabilitation and betterment charges.]**—In the event expenditures are made by the United States for rehabilitation and betterment work as contemplated by the terms of the contracts approved by sections 2, 3, and 5 of this Act, payments made to the United States in reduction of the respective construction charge obligations thereunder shall be applied annually against such expenditures until an amount equal thereto shall have been returned to the United States. (63 Stat. 943)

**Sec. 8. [Act a part of the reclamation laws.]**—This Act is declared to be a part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939 (53 Stat. 1187). (63 Stat. 943)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** H.R. 5184, Public Law 419 in the 81st Congress. H.R. Rept. No. 974. S. Rept. No. 1111.

March 3, 1951

988

## AMEND REHABILITATION AND BETTERMENT ACT

An act to expedite the rehabilitation of Federal reclamation projects in certain cases  
(Act of March 3, 1950, ch. 47, 64 Stat. 11)

[Amendment to effect date of Secretary's determination.]—The second sentence of the Act entitled "An Act to provide for the return of rehabilitation and betterment costs of Federal reclamation projects", approved October 7, 1949, is amended by striking out the period at the end thereof and inserting a semicolon and the following:

"Except that, any such determination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary, in writing, of such approval: *Provided* That when Congress is not in session the Secretary's determination, if accompanied by a finding by the Secretary that substantial hardship to the water user concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings." (64 Stat. 11; 43 U.S.C. § 504)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of October 7, 1949.

**Legislative History.** H.R. 7220, Public Law 451 in the 81st Congress. H.R. Rept No. 1631. S. Rept. No. 1272 (on S. 3001).

### CLAIM OF J. N. JONES AND OTHERS

In act conferring jurisdiction upon the United States District Court for the District of Oregon to hear, determine, and render judgment upon the claims of J. N. Jones and others. (Act of March 16, 1950, ch. 68, 64 Stat. A22)

[**Sec. 1. Jurisdiction conferred upon U.S.D.C. for the District of Oregon.**]—Notwithstanding any statute of limitations or lapse of time or any limitation upon the jurisdiction of United States district courts to hear, determine, and render judgment on tort claims against the United States which accrue prior to January 1, 1945, jurisdiction is hereby conferred upon the United States District Court for the District of Oregon to hear, determine, and render judgment upon the claims of the following-named persons, all of Malheur County, Oregon, against the United States for damages incurred by them when their properties were flooded as the result of a break on May 7, 1942, in the reservoir gates which controlled the flow of water into canals of the Vale-Oregon irrigation district; the projects in such district being then under the exclusive control of the United States;

(1) J. N. Jones; (2) May Delsole, successor in interest and heir at law of L. P. Delsole; (3) Anna Curry, administratrix of estate of Fred Curry; (4) John U. Hoffman; (5) Orrin Curry; (6) Tom Joyce; (7) W. W. Seaward; (8) Gilbert Masterson; (9) Drexell Williams; (10) John Joyce and Kate Joyce; and (11) Mary Robertson, successor in interest and heir at law of W. A. Robertson. (64 Stat. A22)

**Sec. 2. [Suits to be instituted within one year from March 16, 1950.]**—Suit upon such claims may be instituted by or on behalf of the claimants listed in section 1 at any time within one year after the date of enactment of this Act. Liability proceedings for the determination of such claims and review thereof, and payment of any judgments thereon shall be in accordance with the provisions of law applicable in the case of tort claims against the United States. (64 Stat. A23)

#### EXPLANATORY NOTE

**Legislative History.** S. 2125, Private 820. H.R. Rept. No. 1672.  
Law 401 in the 81st Congress. S. Rept. No.

March 21, 1950

990

## SNAKE RIVER COMPACT

An act granting the consent and approval of Congress to a compact entered into by the States of Idaho and Wyoming relating to the waters of the Snake River. (Act of March 21, 1950, ch. 73, 64 Stat. 29)

[Sec. 1. Consent and approval of Congress to the compact.]—The consent and approval of Congress is hereby given to an interstate compact relating to the waters of the Snake River, signed (after negotiations in which a representative of the United States duly appointed by the President participated) by the Commissioners for the States of Idaho and Wyoming on October 10, 1949, at Cheyenne, Wyoming, and thereafter ratified by the legislatures of each of the States aforesaid as provided for by Public Law 580, Eightieth Congress, approved June 3, 1948 (62 Stat. 294), which compact reads as follows:

## SNAKE RIVER COMPACT

The States of Idaho and Wyoming, parties signatory to this compact, have resolved to conclude a compact as authorized by the Act of June 3, 1948 (62 Stat. 294), and after negotiations participated in by the following named State Commissioners:

### FOR IDAHO

Mark R. Kulp, Boise  
N. V. Sharp, Filer  
Charles H. Welteroth, Jerome  
Roy Marquess, Paul  
Ival V. Goslin, Aberdeen  
R. Willis Walker, Rexburg  
Alex O. Coleman, St. Anthony  
Leonard E. Graham, Rigby  
Charles E. Anderson, Idaho Falls  
A. K. Van Orden, Blackfoot

### FOR WYOMING

L. C. Bishop, Cheyenne  
E. B. Hitchcock, Rock Springs  
J. G. Imeson, Jackson  
David P. Miller, Rock Springs  
Carl Robinson, Afton  
Ciril D. Cranney, Afton  
Clifford P. Hansen, Jackson  
Clifford S. Wilson, Driggs, Idaho  
Lloyd Van Deburg, Jackson

and by R. J. Newell, representative of the United States of America, have agreed upon the following articles, to-wit:

March 21, 1950

SNAKE RIVER COMPACT

991

ARTICLE I

A. The major purposes of this compact are to provide for the most efficient use of the waters of the Snake River for multiple purposes; to provide for equitable division of such waters; to remove causes of present and future controversies; to promote interstate comity; to recognize that the most efficient utilization of such waters is required for the development of the drainage area of the Snake River and its tributaries in Wyoming and Idaho; and to promote joint action by the States and the United States in the development and use of such waters and the control of floods.

B. Either State using, claiming or in any manner asserting any right to the use of waters of the Snake River under the authority of either State shall be subject to the terms of this compact.

ARTICLE II

As used in this compact:

A. The term "Snake River" as distinguished from terms such as "Snake River and its tributaries" shall mean the Snake River from its headwaters to the Wyoming-Idaho boundary and all tributaries flowing into it within the boundaries of Wyoming, and the Salt River and all its tributaries.

B. The terms "Idaho" and "Wyoming" shall mean, respectively, the State of Idaho and the State of Wyoming, and, except as otherwise expressly provided, either of those terms or the term "State" or "States" used in relation to any right or obligation created or recognized by this compact shall include any person or entity of any nature whatsoever, including the United States.

C. The term "domestic use" shall mean the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of a family garden or orchard not exceeding one-half acre in area.

D. The term "stock water use" shall mean the use of water for livestock and poultry.

E. The term "established Wyoming rights" shall mean Snake River water rights that have been validly established of record in Wyoming prior to July 1, 1949, for use in Wyoming.

ARTICLE III

A. The waters of the Snake River, exclusive of established Wyoming rights and other uses coming within the provisions of C of this Article III, are hereby allocated to each State for storage or direct diversion as follows:

To Idaho-----	96 per cent
To Wyoming-----	4 per cent

subject to the following stipulations and conditions as to the four per cent allocated to Wyoming:

1. One-half may be used in Wyoming by direct diversion or by storage and subsequent diversion without provision being made for replacement storage space.

March 21, 1950

2. The other one-half may be diverted for direct use or stored for later diversion and use on the condition that there shall have been provided for reimbursement of Idaho users replacement storage space to the extent of one-third of the maximum annual diversion in acre-feet but not in excess, however, of one-third of half the total hereby allocated to Wyoming. Until this total replacement storage space has been made available, provisions for meeting its proportionate part of this total shall be a prerequisite to the right to use water in Wyoming for any irrigation project authorized after June 30, 1949, for construction by any Federal agency.

B. The amount of water subject to allocation as provided in A of this Article III shall be determined on an annual water-year basis measured from October 1 of any year through September 30 of the succeeding year. The quantity of water to which the percentage factors in A of this Article III shall be applied through a given date in any water year shall be, in acre-feet, equal to the algebraic sum of:

1. The quantity of water, in acre-feet, that has passed in Wyoming state line in the Snake River to the given date, determined on the basis of gaging stations to be established at such points as are agreed on under the provisions of B of Article VI.

2. The change during that water year to the given date in quantity of water, in acre-feet, in any existing or future reservoirs in Wyoming which water is for use in Idaho.

3. The quantity of water, in acre-feet, stored in that water year and in storage on the given date for later diversion and use in Wyoming, under rights having a priority later than June 30, 1949.

4. One-third of the quantity of water, in acre-feet, excluding any storage water held over from prior years, diverted, under rights having priority later than June 30, 1949, in that water year to the given date:

(a) from the Snake River for use that year on lands in Wyoming and

(b) from tributaries of the Salt River for use that year on lands in Idaho.

C. There are hereby excluded from the allocations made by this compact:

1. Existing and future domestic and stock-water uses of water; provided, that the capacity of any reservoir for stockwater shall not exceed 20 acre-feet;

2. Established Wyoming rights; and

3. All water rights for use in Idaho on any tributary of the Salt River heading in Idaho which were validly established under the laws of Idaho prior to July 1, 1949;

and all such uses and rights are hereby recognized.

#### ARTICLE IV

No water of the Snake River shall be diverted in Wyoming for use outside the drainage area of the Snake River except with the approval of Idaho; and no water of any tributary of the Salt River heading in Idaho shall be diverted

in Idaho for use outside the drainage area of said tributary except with the approval of Wyoming.

#### ARTICLE V

Subject to the provisions of this compact, waters of the Snake River may be impounded and used for the generation of electrical power, but such impounding and use shall be subservient to the use of such waters for domestic, stock and irrigation purposes, and shall not interfere with or prevent their use for such preferred purposes. Water impounded or diverted in Wyoming exclusively for the generation of electrical power shall not be charged to the allocation set forth in Article III of this compact.

#### ARTICLE VI

A. It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the administration of the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

B. The States shall in conjunction with other responsible agencies cause to be established, maintained and operated such suitable water gaging stations as they find necessary to administer this compact. The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, so far as this compact is concerned, shall collaborate with officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation and publication of information necessary for its proper administration.

C. In the case of failure of the administrative officials of the two States to agree on any matter necessary to the administration of this compact, the Director of the United States Geological Survey, or whatever official succeeds to his duties, shall be asked to appoint a Federal representative to participate as to matters in disagreement, and points of disagreement shall be decided by majority vote.

#### ARTICLE VII

A. Either State shall have the right to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir or diversion works in the other State for the purpose of conserving and regulating its allocated water and to perfect rights thereto. Either State exercising this right shall comply with the laws of the other State except as to any general requirement for legislative approval that may be applicable to the granting of rights by one State for the diversion or storage of water for use outside of that State.

B. Each claim or right hereafter initiated for storage or diversion of water in one State for use in the other State shall be filed in the office of the proper official of the State in which the water is to be stored or diverted, and a dupli-

March 21, 1950

SNAKE RIVER COMPACT

cate copy of the application, including a map showing the character and location of the proposed facilities and the lands to be irrigated, shall be filed in the office of the proper official of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval, said application shall be checked against the records of the office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records as to whether or not he approves the application. All endorsements shall be placed on both the original and duplicate copies of all such applications and maps filed to the end that the records in both States may be complete and identical.

ARTICLE VIII

A. Neither State shall deny the right of the United States, and, subject to the conditions hereinafter contained, neither State shall deny the right of the other State to acquire rights to the use of water, or to construct or participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals and conduits in one State for the purpose of diverting, conveying, storing or regulating water in one State for use in the other State, when such use is within the allocation to such State made by this compact.

B. Either State shall have the right to acquire such property rights as are necessary to the use of water in conformity with this compact in the other State by donation, purchase or through the exercise of the power of eminent domain. Either State, upon the written request of the Governor of the other State, for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price satisfactory to the requesting State, or, if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or such entity as may be designated by the requesting State; provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining the requested property shall be paid by the requesting State at the time and in the manner prescribed by the State requested to acquire the property.

C. Should any facility be constructed in either State by and for the benefit of the other State, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located, except that, in the case of a reservoir constructed in either State for the benefit of the other State, the proper officials of the State in which the facility is located shall permit the storage and release of any water to which the other State is entitled under this compact.

D. Either State having property rights in the other State acquired as provided in B of this Article VIII shall pay to the political subdivisions of the State in which such property rights are located, each and every year during which such rights are held, a sum of money equivalent to the average annual amount of taxes assessed against those rights during the ten years preceding

the acquisition of such rights in reimbursement for the loss of taxes to said political subdivision of the State, except that this provision shall not be applicable to interests in property rights the legal title to which is in the United States. Payments so made to a political subdivision shall be in lieu of any and all taxes by that subdivision on the property rights for which the payments are made.

#### ARTICLE IX

The provisions of this compact shall not apply to or interfere with the right or power of either State to regulate within its boundaries the appropriation, use and control of waters allocated to such State by this compact.

#### ARTICLE X

The failure of either State to use the waters, or any part thereof, the use of which is allocated to it under the terms of this compact, shall not constitute a relinquishment of the right to such use to the other State, nor shall it constitute a forfeiture or abandonment of the right to such use.

#### ARTICLE XI

In case any reservoir is constructed in one State where the water is to be used principally in the other State, sufficient water not to exceed five cubic feet per second shall be released at all times, if necessary for stock-water use and conservation of fish and wildlife.

#### ARTICLE XII

The provisions of this compact shall remain in full force and effect unless amended or terminated by action of the legislatures of both States and consented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified and approved to become effective; provided, that in the event of such amendment or termination all rights theretofore established hereunder or recognized hereby shall continue to be recognized as valid by both States notwithstanding such amendment or termination.

#### ARTICLE XIII

Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under this compact or the enforcement of any of its provisions.

#### ARTICLE XIV

##### A. Nothing in this compact shall be deemed:

1. To affect adversely any rights to the use of the waters of the Snake River, including its tributaries entering downstream from the Wyoming-Idaho state line, owned by or for Indians, Indian tribes and their reservations. The water required to satisfy these rights shall be charged against the allocation made to the State in which the Indians and their lands are located.

March 21, 1950

SNAKE RIVER COMPACT

2. To impair or affect any rights or powers of the United States, its agencies or instrumentalities, in and to the use of the waters of the Snake River nor its capacity to acquire rights in and to the use of said waters.

3. To apply to any waters within the Yellowstone National Park or Grand Teton National Park.

4. To subject any property of the United States, its agencies or instrumentalities to taxation by either State or subdivisions thereof, nor to create an obligation on the part of the United States, its agents or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivisions thereof, State agency, municipality or entity whatsoever in reimbursement for the loss of taxes.

5. To subject any works of the United States used in connection with the control or use of waters which are the subject of this compact to the laws of any State to an extent other than the extent to which these laws would apply without regard to this compact.

B. Notwithstanding the provisions of A of this article, any beneficial uses hereafter made by the United States, or those acting by or under its authority, within either State, of the waters allocated by this compact shall be within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

ARTICLE XV

This compact shall become operative when approved by legislative enactment by each of the States, and when consented to by the Congress of the United States.

ARTICLE XVI

Wyoming hereby relinquishes the right to the allocation of stored water in Grassy Lake Reservoir, as set forth in Wyoming's reservoir permit No. 4631 Res. and evidenced by certificate No. R-1, page 318, and all claims predicated thereon.

In Witness Whereof the Commissioners have signed this compact in quadruplicate, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done at the City of Cheyenne, in the State of Wyoming, this 10th day of October, in the Year of Our Lord, One Thousand Nine Hundred and Forty-Nine.

Commissioners for Idaho:

Mark R. Kulp

R. Willis Walker

N. V. Sharp

Alex O. Coleman

Charles H. Welteroth

Leonard E. Graham

Roy Marquess

Chas. E. Anderson

Ival V. Goslin

A. K. Van Orden

March 21, 1950

SNAKE RIVER COMPACT

997

Commissioners for Wyoming

L. C. Bishop  
E. B. Hitchcock  
J. G. Imeson  
David P. Miller  
Carl Robinson

Ciril D. Cranney  
Clifford P. Hansen  
Clifford S. Wilson  
Lloyd Van Deburg

I have participated in the negotiations of this compact and intend to report favorably thereon to the Congress of the United States.

R. J. Newell,  
Representative of The United States of America. (64 Stat. 29)

EXPLANATORY NOTE

**Reference in the Text.** Public Law 580, Eightieth Congress, approved June 3, 1948 (62 Stat. 294), referred to in the first paragraph, granted the consent of Congress to the States of Idaho and Wyoming to negotiate and enter into a compact for

an equitable apportionment of the waters of the Snake River and its tributaries originating in either of the two states and flowing into the other. The 1948 Act appears herein in chronological order.

**Sec. 2. [Rights reserved.]**—The right to alter, amend, or repeal this Act is expressly reserved. (64 Stat. 33)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 464 in the 81st Congress. H.R. Rept. No. the U.S. Code. 1743.

**Legislative History.** S. 3159, Public Law

March 31, 1950

998

## DISPOSAL OF SMALL TRACTS

An act to authorize the disposal of withdrawn public tracts too small to be classed as a farm unit under the Reclamation Act. (Act of March 31, 1950, ch. 78, 64 Stat. 39)

[**Sec. 1. Disposal of small tracts of withdrawn public land.**]—In accordance with the provisions of this Act and notwithstanding the provisions of any other law, the Secretary of the Interior, hereinafter styled the Secretary, is authorized, in connection with any Federal irrigation project for which water is available, and after finding that such action will be in furtherance of the irrigation project and the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplemental thereto, hereinafter styled the Reclamation Act, to dispose of any tract of withdrawn public land which, in the opinion of the Secretary, has less than sufficient acreage reasonably required for the support of a family and is too small to be opened to homestead entry and classed as a farm unit under the Reclamation Act. (64 Stat. 39; 43 U.S.C. § 375b)

### NOTE OF OPINION

#### 1. Lands affected

The Act of March 31, 1950, is applicable to reclamation withdrawn lands without distinction as to the form of withdrawal. Associate Solicitor Fisher Opinion, M-36433 (April 12, 1957), *in re disposal of lands, Guernsey Reservoir, North Platte Project.*

**Sec. 2. [Sale to project owners or entrymen.]**—The Secretary is authorized to sell such land to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided*, That such resident farm land-owner or resident entryman shall be permitted to purchase under this Act not more than one hundred and sixty acres of such land, or an area which, together with land already owned or entered on such project shall not exceed one hundred and sixty irrigable acres. (64 Stat. 39; 43 U.S.C. § 375c)

### NOTES OF OPINIONS

Ownership 2  
Payment of charges 3  
Resident 1

#### 1. Resident

A man who resides with his family on lands leased on the project, while his parents reside on land he owns on the project, is not a "resident farm owner" within the meaning of section 2 of the Act of March 31, 1950. Memorandum of Acting Solicitor Fritz, October 20, 1958, *in re protest of McCall, Milk River project.*

#### 2. Ownership

The acreage limitations in the Act of March 31, 1950, refer to individuals, not

to farm units. Accordingly, a husband and wife jointly owning a farm unit, may acquire jointly so much irrigable land under the Act as will not, when added to the total irrigable acreage jointly owned, aggregate more than 320 acres of irrigable land. Memorandum of Acting Associate Solicitor Fisher, April 26, 1957.

#### 3. Payment of charges

Sales of small tracts under this Act may be made to resident entrymen who have not received patent for their units and who have not made final payment in full of all construction charges. Memorandum of Assistant Commissioner Nielson to Regional Director, Boise, Idaho, January 6, 1956.

March 31, 1950

DISPOSAL OF SMALL TRACTS

999

**Sec. 3. [Issuance of patent.]**—After the purchaser has paid to the United States all the amount on the purchase price of such land, a patent shall be issued. Such patents shall contain a reservation of a lien for water charges when deemed appropriate by the Secretary, and reservations of coal or other mineral rights to the same extent as patents issued under the homestead laws and also other reservations, limitations, or conditions as now provided by law. (64 Stat. 40; 43 U.S.C. § 375d)

**Sec. 4. [Receipts to reclamation fund.]**—The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project on which such lands are located. (64 Stat. 40; 43 U.S.C. § 375e)

**Sec. 5. [Rules and regulations.]**—The Secretary of the Interior is authorized to perform any and all acts and to make rules and regulations necessary and proper for carrying out the purposes of this Act. (64 Stat. 40; 43 U.S.C. § 375f)

EXPLANATORY NOTE

**Legislative History.** S. 1543, Public Law H.R. Rept. No. 1754.  
469 in the 81st Congress. S. Rept. No. 1193.

April 29, 1950

1000

## CLAIM OF FISHER CONTRACTING COMPANY

An act to reimburse the Fisher Contracting Company. (Act of April 29, 1950, ch. 145, 64 Stat. A38)

[**Sec. 1. Jurisdiction conferred upon U.S.D.C. for the District of Arizona.**]—Jurisdiction is hereby conferred upon the District Court of the United States for the District of Arizona to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by Fisher Contracting Company, of Phoenix, Arizona, under Reclamation Bureau contract numbered I2r—15535 arising out of or attributable to the alleged failure of the Government to supply materials as provided for in said contract: *Provided, however,* That no allowance shall be made for any loss sustained on account of the pouring of concrete during the period between June 1, 1946, and September 30, 1946, if the court shall find that Fisher Contracting Company requested and was granted permission to perform such work during said period for the convenience of the company. (64 Stat. A38)

**Sec. 2. [Payment by Secretary of the Treasury.]**—The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to the Fisher Contracting Company. (64 Stat. A38)

### EXPLANATORY NOTE

**Legislative History.** H.R. 4959, Private No. 1835. S. Rept. No. 1244 (on S. 1950). Law 443 in the 81st Congress. H.R. Rept.

April 29, 1950

1001

## CONSENT TO NEGOTIATE CANADIAN RIVER COMPACT

An act granting the consent of the Congress to the negotiation of a compact relating to the waters of the Canadian River by the States of Oklahoma, Texas, and New Mexico. (Act of April 29, 1950, ch. 135, 64 Stat. 93)

[Compact to be entered into by June 30, 1953.]—The consent of the Congress is hereby given to the States of Oklahoma, Texas, and New Mexico to negotiate and enter into a compact not later than June 30, 1953, providing for an equitable apportionment among the said States of the waters of the Canadian River and its tributaries, upon the condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to the Congress of the proceedings and of any compact entered into. Said compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of the States aforesaid and approved by the Congress of the United States. (64 Stat. 93; 43 U.S.C. § 600c, note)

### EXPLANATORY NOTES

**Cross Reference, Canadian River Compact.** The Act of May 17, 1952, 66 Stat. 74, granted the consent of Congress to the Canadian River Compact which was negotiated and entered into pursuant to this

Act. The 1952 Act appears herein in chronological order.

**Legislative History.** H.R. 3482, Public Law 491 in the 81st Congress. H.R. Rept. No. 542. S. Rept. No. 1319.

May 17, 1950

1002

## FLOOD CONTROL ACT OF 1950

[Extracts from] An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. (Act of May 17, 1950, ch. 188, 64 Stat. 163)

\* \* \* \* \*

### TITLE II—FLOOD CONTROL

\* \* \* \* \*

#### Sec. 204. [Projects authorized.]—

\* \* \* \* \*

##### ARKANSAS RIVER BASIN

\* \* \* \* \*

The Chief of Engineers is authorized to so design, construct, and operate the Optima Reservoir, authorized by the Flood Control Act of 1936, as amended and supplemented, that, taken with the existing Fort Supply and Canton Reservoirs, there will remain available at all times to the maximum practicable extent, conservation storage capacity in the Canton Reservoir as authorized by existing law. (64 Stat. 173)

\* \* \* \* \*

##### RIO GRANDE BASIN

[Middle Rio Grande project.]—In addition to previous authorizations, there is hereby authorized the completion of the plan approved in the Flood Control Act of June 30, 1948, for the Rio Grande Basin, at an estimated cost of \$39,000,000 for the work to be prosecuted by the Department of the Army and \$30,179,000 for the work to be prosecuted by the Department of the Interior as set forth in House Document Numbered 243, Eighty-first Congress. (64 Stat. 176)

#### EXPLANATORY NOTE

Reference in the Text. Extracts from the Flood Control Act of June 30, 1948, referred to in the text, including the author-

ization for the Rio Grande Basin referred to, are found herein in chronological order.

\* \* \* \* \*

##### RUSSIAN RIVER BASIN

The plan for flood control, water conservation, and related purposes, in the Russian River Basin, California, is hereby approved substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors dated April 22, 1949, and as recommended by the Chief of Engineers in his report dated November 15, 1949, and there is authorized to be appropriated the sum of \$11,522,000 for accomplishment of the initial stage of the plan: *Provided*,

That section 8 of the Flood Control Act of 1944 shall apply to this project: *Provided further*, That prior to starting construction, local interests shall contribute the sum of \$5,598,000 in cash in full repayment of the conservation benefits: *And provided further*, That such contribution of \$5,598,000 shall be transferred to the Secretary of the Army for application to the cost of construction of the project. (64 Stat. 177)

#### EXPLANATORY NOTE

**Reference in the Text.** Section 8 of the Flood Control Act of 1944 (enacted December 22, 1944) provides that whenever the Secretary of the Army determines, upon recommendation of the Secretary of the Interior, that any dam or reservoir operated under the direction of the Secretary of the Army may be utilized for irrigation pur-

poses, the Secretary of the Interior is authorized to construct, operate and maintain such additional works in connection therewith as he may deem necessary for irrigation purposes. Extracts from the 1944 Act, including section 8 referred to, appear herein in chronological order.

\* \* \* \* \*

#### Sec. 205. [Surveys authorized.]—

\* \* \* \* \*

[**Arkansas, White and Red River Basins.**]—Arkansas, White and Red River Basins, Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Colorado, Kansas and Missouri, with a view to developing comprehensive, integrated plans of improvement for navigation, flood control, domestic and municipal water supplies, reclamation and irrigation, development and utilization of hydroelectric power, conservation of soil, forest and fish and wildlife resources, and other beneficial development and utilization of water resources including such consideration of recreation uses, salinity and sediment control, and pollution abatement as may be provided for under Federal policies and procedures, all to be coordinated with the Department of the Interior, the Department of Agriculture, the Federal Power Commission, other appropriate Federal agencies and with the States, as required by existing law: *Provided*, That Federal projects now constructed and in operation, under construction, authorized for construction, or projects that may be hereafter authorized substantially in accordance with reports currently before or that may hereafter come before the Congress, if in compliance with the first section of an Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved December 22, 1944 (58 Stat. 887), shall not be altered, changed, restricted, delayed, retarded, or otherwise impeded or interfered with by reason of this paragraph. (64 Stat. 181)

#### EXPLANATORY NOTE

**Reference in the Text.** Extracts from the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved December 22, 1944

(58 Stat. 887), referred to in the text, including the first section of the Act referred to, appear herein in chronological order.

May 17, 1950

1004

## FLOOD CONTROL ACT OF 1950

### NOTE OF OPINION

#### 1. Investigations

Section 8 of the Flood Control Act of 1944 authorizes the Secretary of the Interior to investigate reclamation development in connection with proposed Department of the Army reservoir projects outside of the 17 reclamation states. Opinion of Chief Counsel Fisher, September 12, 1952, in re authority of Bureau of Reclamation to per-

form work in Arkansas and Louisiana in connection with the Arkansas-Red-White River investigations, and Opinion of Associate Solicitor Hogan, December 6, 1963, in re authority to make studies in Louisiana; both reprinted in *Hearings on Public Works Appropriations Bill, 1965, Before a Subcommittee of the House Committee on Appropriations*, 88th Cong., 2d Sess., pt. 2, at 134-38 (1964).

\* \* \* \*

**Sec. 209. [Alamogordo Dam.]**—The Chief of Engineers and the Secretary of the Army are directed to review their previous studies and to report to the Congress the amount of the total cost of the Alamogordo Dam and Reservoir on the Pecos River, New Mexico, which is properly allocable to flood control, in accordance with the provisions of section 7 of the Flood Control Act approved August 11, 1939. (64 Stat. 182)

### EXPLANATORY NOTE

**Reference in the Text.** Section 7 of the Flood Control Act approved August 11, 1939, referred to in the text, authorized the construction of the Alamogordo Dam and

Reservoir on the Pecos River, New Mexico. Section 7 of the 1939 Act appears herein in chronological order.

\* \* \* \*

**Sec. 215. [Missouri River Basin.]**—In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$200,000,000 for the prosecution of the comprehensive plan adopted by section 9a of the Act approved December 22, 1944 (Public Numbered 534, Seventy-eighth Congress), for continuing the works in the Missouri River Basin to be undertaken under said plans by the Secretary of the Interior. (64 Stat. 184)

### EXPLANATORY NOTE

**Reference in the Text.** The comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress), referred to in the text, authorizes the prosecution of the Missouri River Basin

Project by the Department of the Army and the Department of the Interior. Extracts from the Act, including section 9(a) referred to, appear herein in chronological order.

\* \* \* \*

**Sec. 219. [Short title.]**—Title II may be cited as the “Flood Control Act of 1950”. (64 Stat. 184)

### EXPLANATORY NOTES

**Not Codified.** Extracts shown here are not codified in the U.S. Code.

**Legislative History.** H.R. 5472, Public

Law 516 in the 81st Congress. H.R. Rept. No. 969. S. Rept. No. 1143. H. R. Rept. No. 1968 (conference report).

## REORGANIZATION PLAN NO. 3 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949. (64 Stat. 1262)

### DEPARTMENT OF THE INTERIOR

**Section 1. Transfer of functions to the Secretary.**—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its board of directors or officers.

**Sec. 2. Performance of functions of Secretary.**—The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

**Sec. 3. Assistant Secretary of the Interior.**—There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of Executive departments.

**Sec. 4. Administrative Assistant Secretary.**—There shall be in the Department of the Interior an Administrative Assistant Secretary of the Interior, who shall be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate of \$14,000 per annum.

**Sec. 5. Incidental transfers.**—The Secretary of the Interior may from time to time effect such transfers within the Department of the Interior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

### EXPLANATORY NOTES

**Codification.** This reorganization plan is reproduced in 5 U.S.C. § 133z-15, note (1964 ed.) and in the Appendix to Title 5, U.S.C.A.

**Effective Date.** This reorganization plan became effective May 24, 1950.

June 14, 1950

1006

## LAKE MOHAVE

An act to provide for the designation of the reservoir to be formed by the Davis Dam on the Colorado River as Lake Mohave. (Act of June 14, 1950, ch. 231, 64 Stat. 211)

[Lake named.]—The reservoir to be formed by the impounding of the waters of the Colorado River by the Davis Dam now under construction shall be known and designated on the public records as Lake Mohave. (64 Stat. 211)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Davis Dam project, formerly named "Bullhead Dam", was found feasible and authorized by the Secretary of the Interior on April 26, 1941, under provisions of the Reclamation Project Act of 1939. By the Act of May 28,

1954, 68 Stat. 143, the Parker-Davis project was formed by the consolidation of the Parker Dam Power project and the Davis Dam project. The 1954 Act appears herein in chronological order.

**Legislative History.** S. 2117, Public Law 538 in the 81st Congress. S. Rept. No. 1352. H.R. Rept. No. 2060.

### RELIEF OF L. M. ABERNATHY

An act for the relief of Lonnie M. Abernathy. (Act of June 19, 1950, ch. 319, 64 Stat. A77)

[Payment authorized.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lonnie M. Abernathy, of Oklahoma City, Oklahoma, the sum of \$129.50. Such sum represents the amount which is equitably due the said Lonnie M. Abernathy from the United States for the loss of a well on his farm in Jackson County, Oklahoma, in August 1947, which caved in as a result of seepage from the Altus Canal, W. C. Austin project of the Bureau of Reclamation, Department of the Interior. The United States was precluded from making administrative settlement of such claim by reason of purchase contract numbered 164r-298 between the United States and the said Lonnie M. Abernathy which provided that payment of the purchase price of the land on which such project is situated was to include full payment for damages arising out of the construction, operation, and maintenance of such project: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (64 Stat. A77)

#### EXPLANATORY NOTE

Legislative History. H.R. 4996, Private No. 1847. S. Rept. No. 1640.  
Law 546 in the 81st Congress. H.R. Rept.

June 21, 1950

1008

## CLAIM OF STEBBINS CONSTRUCTION COMPANY

An act to reimburse the Stebbins Construction Company. (Act of June 21, 1950, ch. 343  
64 Stat. A84)

[**Jurisdiction conferred upon U.S.D.C. for the Northern District of Oklahoma.**]—Jurisdiction is hereby conferred upon the United States District Court for the Northern District of Oklahoma to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by Stebbins Construction Company, Tulsa, Oklahoma, Reclamation Bureau contract numbered 12-r-15914 arising out of and attributable to the alleged failure of the Government to supply materials as provided for in said contract.

The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to the Stebbins Construction Company: *Provided*, That the passage of this Act shall not be construed as an inference of liability on the part of the Government of the United States. (64 Stat. A84)

### EXPLANATORY NOTE

**Legislative History.** S. 1769, Private Law 567 in the 81st Congress; S. Rept. No. 1219. H. R. Rept. No. 2146.

## RELIEF OF HORNER CONSTRUCTION COMPANY

An act for the relief of Arthur S. Horner, Leah B. Horner and Maude Brewer, doing business as the A. S. Horner Construction Company. (Act of June 30, 1950, ch. 440, 64 Stat. A107)

[**Sec. 1. Jurisdiction conferred upon U.S.D.C. for the District of Colorado.**]—Jurisdiction is hereby conferred upon the District Court of the United States for the District of Colorado to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by Arthur S. Horner, Leah B. Horner, and Maude Brewer, partners composing a firm, doing business as A. S. Horner Construction Company, of Denver, under Reclamation Bureau Contract numbered 12r-15632 arising out of or attributable to the alleged failure of the Government to supply materials as provided for in said contracts. (64 Stat. A107)

**Sec. 2. [Payments by Secretary of the Treasury.]**—The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to Arthur S. Horner, Leah B. Horner, and Maude Brewer, partners composing a firm, doing business as A. S. Horner Construction Company. (64 Stat. A108)

**Sec. 3. [Petition for writ of certiorari.]**—Any findings rendered under the authority of this Act may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of either party: *Provided*, That the passage of this Act shall not be considered an inference of liability on the part of the United States. (64 Stat. A108)

### EXPLANATORY NOTE

**Legislative History.** H.R. 2230, Private Law 637 in the 81st Congress. H.R. Rept. No. 1528. S. Rept. No. 1627.

July 31, 1950

1010

## EKLUTNA PROJECT

An act to authorize construction of the Eklutna project hydroelectric generating plant and transmission facilities in connection therewith, and for other purposes. (Act of July 31, 1950, ch. 510, 64 Stat. 382)

[Sec. 1. Secretary authorized to construct Eklutna project—Interest at rate of  $2\frac{1}{2}$  per centum—Disposition of minerals discovered—Reservation of waters.]—In order to encourage and promote the economic development of the Territory of Alaska, to foster the establishment of essential industries in said Territory, and to further the self-sufficiency of national defense installations located therein, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to construct, operate, and maintain the Eklutna project in the vicinity of Anchorage, Alaska, consisting of a low dam at Lake Eklutna, a diversion tunnel and penstock, a power plant with an installed capacity of thirty thousand kilowatts, transmission lines to Anchorage and other load centers, and related works (except recreational facilities) substantially in accordance with the plans and recommendations in the report adopted by the Secretary of the Interior on January 18, 1949, on file with the Committee on Public Lands of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate at an estimated cost of \$33,000,000. The capital investment properly allocable to each unit of said project, as determined by the Federal Power Commission, shall be amortized over a reasonable period of years, and interest shall be charged on the unamortized balance of the full capital investment in said project at a rate of  $2\frac{1}{2}$  per centum per annum and shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. All minerals discovered in the course of constructing the Eklutna project are hereby reserved to the United States and may be sold or otherwise disposed of in such manner as may be prescribed by the Secretary, if he finds and so reports to the Congress in writing that the only economically, practicable method of recovering the ore so reserved is to provide for the salvage of any minerals that may be contained in the excavated materials removed from the tunnel during the normal process of construction. The net proceeds from any such sale or other disposition shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. The waters of Eklutna Lake and its tributaries which are required for the operation of the Eklutna project are hereby reserved for that purpose.

The continuation of construction of the Eklutna project beyond December 1, 1953, is hereby made contingent upon there being a finding by the Secretary by that date that he and the proper officials of the city of Anchorage, Alaska, have approved a form of contract whereby the city would agree to convey to the United States such hydroelectric and other properties, including water rights, as the Secretary has determined should be acquired by the United States in connection with the Eklutna project, and whereby in consideration therefor the United States would agree to deliver to said city electric energy

July 31, 1950

EKLUTNA PROJECT

1011

upon terms which in the Secretary's judgment would accord said city just compensation for the properties agreed to be conveyed. (64 Stat. 382; Act of August 13, 1953, 67 Stat. 574)

EXPLANATORY NOTE

**1953 Amendments.** The Act of August 13, 1953, 67 Stat. 574, amended section 1 by: (1) increasing the dollar amount appearing at the end of the first sentence from

\$20,365,400 to \$33,000,000; and (2) by adding the new paragraph which appears at the end of the section. The 1953 Act appears herein in chronological order.

**Sec. 2. [Disposition of power developed—Revenues to miscellaneous receipts of the Treasury—Continuing fund.]**—Electric power and energy generated at the Eklutna project, except that portion required in the operation of such project, shall be disposed of in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles and the maintenance of adequate electric service, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Such rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the project) of the cost of producing and transmitting the power and energy including the amortization of the capital investment as provided in section 1 hereof. Preference in the sale of such power and energy shall be given to all public bodies and cooperatives on the same terms, and to Federal agencies. It shall be a condition of every contract made under this Act for the sale of power and energy that the purchaser, if it be a purchaser for resale, will deliver power and energy to Federal agencies or facilities thereof within its transmission area at a reasonable charge for the use of its transmission facilities. All receipts from the transmission and sale of electric power and energy generated at said project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. (64 Stat. 382; Act of August 13, 1953, 67 Stat. 574)

EXPLANATORY NOTE

**1953 Amendment.** The Act of August 31, 1953, 67 Stat. 574, amended section 2 by adding a period after the word "receipts" in the last sentence of the section, and by deleting the remainder of that sentence which read as follows: " save and except that the Treasury shall set up and maintain

from the receipts for said project a continuing fund of \$200,000 to the credit of the Secretary and subject to expenditure by him, to defray emergency expenses and to insure continuous operation." The 1953 Act appears herein in chronological order.

NOTE OF OPINION

**1. Emergency fund**

The Emergency Fund authorized by the Act of June 26, 1948, is not available to the Eklutna project both because the Eklutna project is not a reclamation project and

because the provision of a separate emergency fund for the project in section 2 of the Act of July 31, 1950, precludes the use of the general fund. Memorandum of Assistant Commissioner Crosthwait, July 19, 1954.

**Sec. 3. [Agreements and contracts.]**—The Secretary is authorized to perform any and all acts and enter into such agreements as may be appropriate for the purpose of carrying the provisions of this Act into full force and effect, including

July 31, 1950

1012

EKLUTNA PROJECT

the acquisition of rights and property, and the Secretary, when an appropriation shall have been made for the commencement of construction or operation and maintenance of said project, may, in connection with the construction or operation and maintenance of such project, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor. (64 Stat. 383)

**Sec. 4. [Report to Congress on transfer of project to public ownership.]**—Upon completion of amortization of the capital investment allocated to power, the Secretary is authorized and directed to report to the Congress upon the feasibility and desirability of transferring the Eklutna project to public ownership and control in Alaska. (64 Stat. 383)

**Sec. 5. [Delegation of authority.]**—Wherever in this Act authority is vested in, or functions are to be performed by, the Secretary, such authority may be exercised, and functions performed, through such agencies of the Department of the Interior as he may designate. (64 Stat. 383)

**Sec. 6. [Appropriation.]**—There are authorized to be appropriated the sum of \$33,000,000 for the construction of the Eklutna project, and, in addition, such sums as may be necessary for the operation and maintenance of such project. (64 Stat. 383; Act of August 13, 1953, 67 Stat. 574)

EXPLANATORY NOTES

**Codification.** This Act was originally codified as 48 U.S.C. § 312, but was omitted from the U.S. Code after Alaska became a State.

**1953 Amendment.** The Act of August 13, 1953, 67 Stat. 574, amended section 6 by increasing the sum authorized to be appro-

priated from \$20,365,400 to \$33,000,000. The 1953 Act appears herein in chronological order.

**Legislative History.** H.R. 940, Public Law 628 in the 81st Congress. H.R. Rept. No. 856. S. Rept. No. 1754. H.R. Rept. No. 1008 (on H. Res. 279).

## RELIEF OF PARISH BROTHERS

An act for the relief of Parish Brothers. (Act of August 4, 1950, ch. 566, 64 Stat. A130)

[Secretary of Treasury to make payment.]—The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Parish Brothers, a partnership of Benicia, California, the sum of \$13,322.90. The payment of such sum shall be in full settlement of all claims of the said Parish Brothers against the United States for losses, exclusive of profits, incurred in the performance of Reclamation Bureau contract numbered 12r-17442. Such losses arose by reason of the failure of the United States to give adequate advance notice of the exhaustion of funds available for payment under the contract and by reason of the failure of the United States to furnish materials necessary for the performance of the contract: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (64 Stat. A130)

### EXPLANATORY NOTE

**Legislative History.** H.R. 4041, Private No. 1674. S. Rept. No. 1897.  
Law 700 in the 81st Congress. H.R. Rept.

August 5, 1950

1014

## **AMENDED CONTRACT WITH OGDEN RIVER WATER USERS' ASSOCIATION**

An act to approve a contract negotiated with the Ogden River Water Users' Association, to authorize its execution, and for other purposes. (Act of August 5, 1950, ch. 593, 64 Stat. 415)

[Secretary authorized to execute contract of May 23, 1950.]—The contract dated May 23, 1950, negotiated by the Secretary of the Interior with the Ogden River Water Users' Association pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), is approved, and the Secretary is hereby authorized to execute it on behalf of the United States. (64 Stat. 415)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** S. 3832, Public Law 666 in the 81st Congress. S. Rept. No. 2103. H.R. Rept. No. 2530 (on H.R. 8962).

## AMENDED CONTRACT WITH SOUTH CACHE WATER USERS' ASSOCIATION

An act to approve a contract negotiated with the South Cache Water Users' Association, to authorize its execution, and for other purposes. (Act of August 5, 1950, ch. 594, 64 Stat. 415)

[Secretary authorized to execute contract of May 24, 1950.]—The contract dated May 24, 1950, negotiated by the Secretary of the Interior with the South Cache Water Users' Association pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), is approved, and the Secretary is hereby authorized to execute it on behalf of the United States. (64 Stat. 415)

### EXPLANATORY NOTES

Not Codified. This Act is not codified in the U.S. Code.

Legislative History. S. 3833, Public Law 667 in the 81st Congress. S. Rept. No. 2104. H.R. Rept. No. 2529 (on H.R. 8961).

August 7, 1950

1016

### RELIEF OF JOHN W. WAGNER

An act for the relief of John W. Wagner. (Act of August 7, 1950, ch. 604, 64 Stat. A141)

[Secretary of Treasury directed to make payment.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John W. Wagner, of Browning, Montana, the sum of \$1,000, in full satisfaction of his claim against the United States for compensation for certain improvements belonging to him which were located on tribal lands of the Blackfeet Reservation which were acquired by the Bureau of Reclamation on August 13, 1915: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (64 Stat. A141)

#### EXPLANATORY NOTE

**Legislative History.** S. 1059, Private Law 728 in the 81st Congress. H.R. Rept. No. 2659. S. Rept. No. 1214.

## PERMANENT EASEMENTS ON RECLAMATION PROJECTS

An act to amend section 10 of the Reclamation Project Act of 1939. (Act of August 18, 1950, ch. 752, 64 Stat. 463)

[**Easements or rights-of-way.**]—Clause (b) of section 10 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1197) is hereby amended to read as follows: “grant leases and licenses for periods not to exceed fifty years, and easements or rights-of-way with or without limitation as to period of time affecting lands or interest in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project: *Provided*, That, if a water users’ organization is under contract obligation for repayment on account of the project or division involved, easements or rights-of-way for periods in excess of twenty-five years shall be granted only upon prior written approval of the governing board of such organization.” (64 Stat. 463; 43 U.S.C. § 387)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under section 10 of the Reclamation Project Act of Au-

**Legislative History.** H.R. 1922, Public Law 713 in the 81st Congress. H.R. Rept. No. 450. S. Rept. No. 1942.

gust 4, 1939.

September 2, 1950

1018

## CREDITS FOR COSTS, COLORADO RIVER FRONT WORK AND LEVEE SYSTEM

An act to authorize credits to certain public agencies in the United States for costs of construction and operation and maintenance of flood protective levee systems along or adjacent to the lower Colorado River in Arizona, California, and Lower California, Mexico. (Act of September 2, 1950, ch. 841, 64 Stat. 576)

[**Sec. 1. Credits to Yuma and Yuma Auxiliary projects—Imperial Irrigation District.**]—For the purpose of relieving certain public agencies of the United States of costs heretofore incurred or paid relating to the construction and operation and maintenance of flood protective levee systems along or adjacent to the lower Colorado River in Arizona, California, and Lower California, Mexico, there is hereby authorized:

(a) The transfer by the Secretary of the Interior from the account for the Yuma and Yuma Auxiliary irrigation projects to the accounts for the Colorado River Front Work and Levee System project, of all construction, operation, and maintenance costs, other charges and credits relating to the construction and operation and maintenance of the Colorado River Front Work and Levee System adjacent to the Yuma Federal irrigation project in Arizona and California; and

(b) A credit to and on behalf of Imperial Irrigation District of California to be applied against the next succeeding annual payments as the same become due and payable from said district to the United States under any repayment contract by and between Imperial Irrigation District and the United States in an amount not greater than 80 per centum of such items of construction, operation, and maintenance costs heretofore paid or incurred by said district for flood-protection works, including among others, levees, railroads, quarries, river rectification works for flood-control purposes, and appurtenant works and facilities, in, along, or adjacent to the Colorado River in Arizona, California, and Lower California, Mexico, as shall be determined and found to be equitable by the American Commissioner of the International Boundary and Water Commission, United States and Mexico, but in no event shall the total credit exceed \$3,000,000. (64 Stat. 576)

**Sec. 2. [Relief of other costs allocable to Yuma project.]**—Any other costs and charges allocable or assignable to the Yuma project and not repayable under existing contracts, under water-right applications heretofore or hereafter filed, nor otherwise recoverable, all as may be determined from time to time in any instance by the Secretary of the Interior shall, less applicable credits, be nonreimbursable, and the Secretary, in his discretion, may declare any lands temporarily suspended from a paying status at the date of this enactment to be permanently unproductive, and may adjust the balance of individual construction charge accounts accordingly: *Provided*, That such adjustment shall not include any refund or credit for payment theretofore made on account of lands so declared permanently unproductive. (64 Stat. 577)

September 2, 1950

COLORADO FRONT WORK AND LEVEE SYSTEM. 1019

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorizations.** (1) The Yuma project, Arizona-California, was authorized by the Secretary of the Interior on May 10, 1904, pursuant to the Reclamation Act of June 17, 1902. (2) The Yuma Auxiliary project, Arizona, was authorized by the Act of January 25, 1917, as amended, and the Joint Resolution of February 21, 1925. The Act of June 13, 1949, reduced the size of the project. Each of these Acts appears herein in chronological order. (3) The Colorado Front Work and Levee System was initially authorized by the Act of January 21, 1927, as amended by the Acts of July 1, 1940, June 28, 1946 and May 1, 1958. Each of these Acts appears herein in chronological order.

**Presidential Letter.** The following letter was sent to the Secretary of State by the President on September 2, 1950:

My DEAR Mr. SECRETARY:

I have today approved the enrolled bill, S. 1140, an Act "To authorize credits to certain public agencies in the United States for costs of construction and operation and maintenance of flood protective levee systems along or adjacent to the lower Colorado River in Arizona, California, and Lower California, Mexico."

I note that the bill authorizes a credit to and on behalf of the Imperial Irrigation district of California for certain flood protective works constructed by it on the Lower Colorado River as shall be determined and found to be equitable by the American Commissioner of the International Boundary and Water Commission, United States and Mexico.

As you know, Federal law does not provide for retroactive credits or reimbursements for flood control works performed either on a Federal project or a non-Federal project. Furthermore, local flood control projects constructed by the Federal Government require local interests to participate by providing all lands, easements and rights-of-way at their own expense, and by agreeing to operate and maintain the works after completion. I am sure you will agree that general acceptance of legislation which would authorize reimbursements or credits for flood control works constructed in prior years by public or private bodies, could not help but lead to questionable and extremely large expenditures by the Federal Government for facilities which may not have been proven to be justified. Because of the location of the works concerned in this case and the circumstances surrounding the history

of their construction, it would appear that the Federal Government should meet any obligations it may have to the Imperial Irrigation district. However, such obligations can be properly determined only on the basis of findings resulting from a detailed study. Similarly, such findings should take full account of the present national policies respecting the Federal Government's responsibilities in the construction, operation and maintenance of local flood control works.

I understand that the International Boundary and Water Commission is now developing an international plan for the improvement of the Lower Colorado River. I also understand that some of the Imperial district's lands and structures located in Mexico will be required in carrying out this plan.

It is my view that the Imperial Irrigation district is, under existing law, equitably entitled to credit only to the extent that its lands and the works constructed by it are utilized in the international plan. I suggest, therefore, that in the study and determination by the American Commissioner of the International Boundary and Water Commission of the amounts to be credited to the Imperial Irrigation district, he consider that policy. I also assume that such credits would be made only upon quit-claim deed by the Imperial Irrigation district of any rights, title and interest it may have to the works for which reimbursement is made and to the property upon which they are located. I believe this latter requirement is also necessary since the Act makes no provision for transfer of title or future responsibility for maintenance and operation.

I also wish that the study and recommendations of the American Commissioner of the International Boundary and Water Commission be submitted with your comments to me through the Director of the Bureau of the Budget for review before any credits are made to and on behalf of the Imperial Irrigation district as authorized by this Act.

I am also furnishing a copy of this letter to the Secretary of the Interior for his information.

Sincerely yours,

(Sgd) HARRY S TRUMAN.

The Honorable

THE SECRETARY OF STATE

**Legislative History.** S. 1140, Public Law 750 in the 81st Congress. S. Rept. No. 2240. H.R. Rept. No. 2929.

September 6, 1950

1020

## GENERAL APPROPRIATION ACT, 1951 (INTERIOR DEPARTMENT APPROPRIATION ACT, 1951)

[Extracts from] An act making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes. (Act of September 6, 1950, ch. 896, 64 Stat. 595)

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Government, for the fiscal year ending June 30, 1951, namely:

\* \* \* \* \*

### CHAPTER VII—DEPARTMENT OF THE INTERIOR

\* \* \* \* \*

#### BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau, as follows:

##### GENERAL INVESTIGATIONS

[General provisions.]—For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans [; \* \* \* formulating plans and preparing designs and specifications for authorized Federal reclamation projects or parts thereof prior to appropriations for construction of such projects or parts;] and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects [; \* \* \* *Provided further*, That \* \* \* no part of this appropriation shall be expended in the conduct of activities which are not authorized by law.] (64 Stat. 685)

##### EXPLANATORY NOTES

**Provision Repeated.** These provisions relating to general investigations are contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1006, with the following modifications: the Act of July 9, 1952, 66 Stat. 450, and subsequent acts insert “initial allocation of” between “prior to” and “appropriations”; the Act of July 15, 1955, 69 Stat. 357, but no other acts, contains “in each of the seventeen reclamation states and the Territory of Hawaii in their entirety”

after “water conservation and development plans”; the Act of July 2, 1956, 70 Stat. 475, and subsequent acts omit the proviso; the Act of September 2, 1960, 74 Stat. 746, and subsequent acts omit “formulating plans and preparing designs and specifications for authorized Federal reclamation projects or parts thereof prior to initial allocation of appropriations for construction of such projects or parts”; and the Act of October 24, 1962, 76 Stat. 1220, but no other acts, adds “and other projects for which the Secretary may have power marketing responsibilities under section 5 of the

September 6, 1950

INTERIOR DEPARTMENT APPROPRIATION ACT, 1951 1021

Flood Control Act of 1944" after "proposed Federal reclamation projects".

**Transfer Authority.** In 1957 the Appropriations Committees placed a limit of 15 per cent on transfers between various investigations items. H.R. Rept. No. 552, at 15; S. Rept. No. 609, at 31; H.R. Rept. No. 1049, at 11 (conference report); 85th Congress, 1st Sess. (1957). In 1963 this was

increased to 25 per cent. H.R. Rept. No. 902, 88th Cong., 1st Sess. 42 (1963).

**Cross Reference, Nonreimbursable Investigations and Research.** Standard language under the heading "Administrative Provisions" appearing later in this Act provides that certain expenses for reconnaissance, basin surveys, and general engineering and research are nonreimbursable.

CONSTRUCTION AND REHABILITATION

[**General provisions.**]—For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, to remain available until expended, \$ \* \* \* of which \$ \* \* \* shall be derived from the reclamation fund, \* \* \* (64 Stat. 686)

EXPLANATORY NOTES

**Provision Repeated.** These provisions relating to construction and rehabilitation are contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1006.

**Transfer Authority.** In 1958 the House

Appropriations Committee imposed a limit on the transfer of construction funds to a project of 15 percent of the funds available at the beginning of the fiscal year for projects with a total cost of more than \$500,000, and 25 percent for projects with a total cost of less than \$500,000. H.R. Rept. No. 1864, 88th Cong., 2d Sess. 3 (1958).

[**Hoover Dam expenditures—Interest computation.**]— \* \* \* *Provided*, That hereafter when funds appropriated under this head are transferred to the credit of the appropriate regional disbursing officer of the Treasury Department for expenditure in connection with Hoover Dam and related works, such funds, solely for the purpose of computing interest on advances under the provisions of section 2 of the Act of December 21, 1928, as amended (43 U.S.C. 617a(b), 617a(d), 618e), shall be considered as if advanced to the Colorado River Dam fund: \* \* \*. (64 Stat. 686)

EXPLANATORY NOTE

**Reference in Text.** The Act of December 21, 1928, cited in the text, is the

Boulder Canyon Project Act, which appears herein in chronological order.

\* \* \* \* \*

OPERATION AND MAINTENANCE

[**General provisions.**]—For operation and maintenance of reclamation projects or parts thereof and of other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, \$ \* \* \*, of which \$ \* \* \* shall be derived from the reclamation fund and \$ \* \* \* shall be derived from the Colorado River Dam fund: *Provided*, That funds advanced for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and

September 6, 1950

1022 INTERIOR DEPARTMENT APPROPRIATION ACT, 1951

the unexpended balances of such advances shall be credited to the appropriation for the next succeeding fiscal year. (64 Stat. 686)

EXPLANATORY NOTES

**Provision Repeated.** These provisions are contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1007, except that the Act of August 30, 1964, 78 Stat. 687,

and subsequent acts add "by water users" in the proviso after "funds advanced".

**Previous Practice.** In prior appropriation acts the item for soil and moisture conservation appears in the Office of the Secretary section of the act. This is the first time it appears in the Bureau of Reclamation section.

NOTE OF OPINION

1. Soil and moisture conservation

Budget justifications for soil and moisture conservation funds state that the operations are authorized and executed under the provisions of the Soil and Moisture Conservation Act of April 27, 1935, 49 Stat.

163, and Reorganization Plan No. IV of April 11, 1940, 54 Stat. 1234, and therefore have always been treated as non-reimbursable. Letter from Acting Assistant Commissioner Davis to Mr. R. S. Lindgren, General Accounting Office, April 27, 1961.

\* \* \* \* \*

SPECIAL FUNDS

[Reclamation fund—Colorado River Dam fund—Colorado River development fund.]—Sums herein referred to as being derived from the reclamation fund, the Colorado River dam fund, or the Colorado River development fund, are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391), the Act of December 21, 1928 (43 U.S.C. 617a), and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the heads "Operation and maintenance" and "General administrative expenses" shall revert and be credited to the special fund from which derived. (64 Stat. 687)

EXPLANATORY NOTE

**Provision Repeated.** This same paragraph is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each an-

nual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1008.

\* \* \* \* \*

ADMINISTRATIVE PROVISIONS

[Interstate compact representatives.]—Appropriations to the Bureau of Reclamation shall be available for \* \* \* payment, except as otherwise provided for, of compensation and expense of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiation and administration of interstate compacts without reimbursement or return under the reclamation laws; \* \* \* (64 Stat. 687)

September 6, 1950

INTERIOR DEPARTMENT APPROPRIATION ACT, 1951 1023

EXPLANATORY NOTE

**Provision Repeated.** This provision relating to the payment of the compensation and expenses of Bureau of Reclamation employees appointed as the Federal representative in the negotiation and administration of interstate compacts is contained in each

subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1009.

[General administrative, reconnaissance, basin surveys, and general engineering and research expenses nonreimbursable.]— \* \* \* *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred in behalf of specific reclamation projects except \$\_\_\_\_\_ under the head "General Administrative Expenses" and \$\_\_\_\_\_ (\$\_\_\_\_\_ for reconnaissance, \$\_\_\_\_\_ for basin surveys, and \$\_\_\_\_\_ for general engineering and research) under the head "General Investigations". (64 Stat. 688)

EXPLANATORY NOTES

**Provision Repeated.** A similar proviso is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1009.

**Reference in the Text.** The Act of April 19, 1945, referred to in the text, amends subsection 0 of the Fact Finders' Act of December 5, 1924. Both the 1924 and 1945 acts appear herein in chronological order.

NOTES OF OPINIONS

1. Research authority

Expenditures for weather modification research come under the heading of "general investigations" and are nonreimbursable, in accordance with subsection 0 of the Fact Finders' Act. The nonreimbursability of general research expenditures is also recognized in standard appropriation act language carried under the heading "Administrative Provisions" which recognizes that expenditures for "general engineering and research" from the appropriation for "General Investigations" are nonreimbursable under the Act of April 19, 1945, 43 U.S.C. § 377 (amending subsection 0). Letter of Solicitor Barry to Senator Jackson, June 11, 1964.

The Bureau of Reclamation is authorized

under reclamation law to expend appropriations made from the general funds of the Treasury under the heading "General Investigations—general engineering and research" for atmospheric water resources research that is of primary benefit to States other than the 17 Western States. Although expenditures from the Reclamation Fund may be made only for the benefit of the 17 Western States, expenditures from general fund appropriations are not so limited because section 2 of the Reclamation Act and section 8 of the Flood Control Act of 1944 evidence a Congressional intent to make the benefits of reclamation law available to all parts of the Nation notwithstanding the limitations on the use of the Reclamation Fund. Memorandum of Associate Solicitor Hogan, July 13, 1966.

\* \* \* \* \*

[Reimbursable funds.]—Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law. (64 Stat. 688)

EXPLANATORY NOTE

**Provision Repeated.** This same paragraph is contained in each subsequent annual Interior Department Appropriation Act

through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act

September 6, 1950

## 1024 INTERIOR DEPARTMENT APPROPRIATION ACT, 1951

of October 15, 1966, 80 Stat. 1009, except that the Acts of 1950 and 1951 did not include "reimbursable" before "functions" but

included "reimbursable or" before "returnable".

### NOTE OF OPINION

#### 1. Emergency fund

Expenditures from the emergency fund are reimbursable or returnable to the extent they are made for operation and main-

nance purposes that are reimbursable or returnable under reclamation law. Memorandum of Chief Counsel Fisher, July 6, 1953.

\* \* \* \* \*

[**Restriction on use of funds for lands in arrears in payments.**]—No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefit of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual, when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation. (64 Stat. 688; 43 U.S.C. § 377a)

### EXPLANATORY NOTES

**Provision Repeated.** This same paragraph is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of

October 15, 1966, 80 Stat. 1009.

**Earlier Provision.** A similar provision is contained in earlier appropriation acts beginning with the Act of January 12, 1927, 44 Stat. 958.

### NOTE OF OPINION

#### 1. Delivery of water

Water may not be delivered to any irrigation district on the Columbia Basin project or to any lands therein if the district is in arrears in the advance payment to the United States of its water rental charges pursuant to article 13 of the district's repayment contract, notwithstanding the provision in the Public Works Appropriation Act that the United States may still expend operation and maintenance funds for the bene-

fit of the district on any lands therein so long as the district is not in arrears more than 12 months in the payment of such charges. Review material on Columbia Basin Project, Submitted by Assistant Secretary Aandahl to Senate Committee on Interior and Insular Affairs, February 24, 1960, reprinted in *Columbia Basin Project Repayment Contract Review*, Committee Print CB-1, 86th Cong., 2d Sess. 151 (1960).

\* \* \* \* \*

### APPROPRIATION OF CERTAIN PAYMENTS

[**North Platte project—Payment to Farmers' Irrigation District.**]—The Secretary may, without further appropriation, pay from the reclamation fund to the Farmers' Irrigation District, Nebraska, such sums, but not more than \$8,000 per annum, as are required for water carriage in accordance with contracts between the United States and the Northport Irrigation District authorized by and entered into pursuant to law. The authority contained in this paragraph shall expire when the total of such payments shall be \$479,602. (64 Stat. 689; Act of August 13, 1957, 71 Stat. 342)

September 6, 1950

INTERIOR DEPARTMENT APPROPRIATION ACT, 1951 1025

EXPLANATORY NOTES

**Provision Amended.** The Act of August 13, 1957, 71 Stat. 342, amended the paragraph headed "Appropriation of Certain Payments" in Chapter VII, title I of this Act to read as it appears above. It formerly read: "There are hereby appropriated from the reclamation fund such sums as may be necessary after June 30, 1950, to make payments, to the extent authorized by the Act of May 25, 1948 (62 Stat. 273), to the Farmers' Irrigation District on behalf of the Northport Irrigation District (North Platte project, Nebraska-Wyoming) for water carriage in accordance with contracts entered into pursuant to said Act." The 1957 Act

appears herein in chronological order.

**Cross References, Northport Irrigation District.** Water to the Northport Irrigation District is transported through an extension of the Farmers' Irrigation District canal. The Northport District has annually reimbursed the Farmers' District for this carriage of water. Earlier statutory provisions authorized the use of power revenues from the North Platte project for this purpose. These provisions are found herein in chronological order under the Act of June 19, 1934, 48 Stat. 1034, and the Act of May 25, 1948, 62 Stat. 273.

REFUNDS AND RETURNS

[**Refunds and returns—Permanent appropriation.**]—There are hereby appropriated such amounts as may be necessary after June 30, 1950, for the Bureau of Reclamation to refund overcollections, and to return deposits in excess of amounts applied to the purposes for which the deposits were accepted, each such refund or return to be derived from the account into which such overcollection or deposit shall have been covered. (64 Stat. 689)

EXPLANATORY NOTE

**Earlier Provisions.** An annual appropriation item relating to refunds is contained in previous appropriation acts beginning with the Act of June 5, 1920, 41 Stat. 913.

TRANSFER OF EPHRATA AIR FORCE BASE

[**Surplus property, Ephrata Air Force Base.**]—For the purpose of assisting in the construction, operation, and maintenance, and settlement programs on the Columbia Basin project in the State of Washington, the Armed Services, General Services Administration, or other Federal agency having ownership or custody thereof or interest therein, is authorized and directed to transfer to the Bureau of Reclamation, without reimbursement or transfer of funds, all of their right, title, and interest to certain buildings, facilities, and equipment at the Ephrata Air Force Base, Ephrata, Washington, including the following buildings in accordance with block and building numbers: \* \* \* together with one sewage-disposal plant numbered 116, \* \* \* and sewer system, water lines, electric power lines, railroad spur and siding, road improvements, and all other facilities and equipment incident to the foregoing property, and including land and rights-of-way formerly under Reclamation withdrawal to other federally owned land on which said buildings are situate, which have heretofore or which may hereafter be declared surplus to the needs of the Armed Forces: *Provided*, That amounts equal to the value of all property transferred hereunder and used shall be charged, in the same manner as appropriations are charged, as part of the construction or appropriate other costs of the Columbia Basin project, such value to be determined by appraisal approved by the Administrator of General

September 6, 1950

## 1026 INTERIOR DEPARTMENT APPROPRIATION ACT, 1951

Services of the market value of such property current at the time of transfer hereunder less expenditures on such property by the Bureau of Reclamation prior to such transfer. (64 Stat. 689)

\* \* \* \* \*

**Sec. 105. [Emergency repairs.]**—Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted. (64 Stat. 695)

### EXPLANATORY NOTES

**Provision Repeated.** A similar provision relating to emergency work is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1011. The Act of August 31, 1951, 65 Stat. 264, and subsequent acts added the

words “for expenditure or transfer (within each bureau or office)”, and the Act of September 30, 1961, and subsequent acts include the word “aircraft”.

**Earlier Provisions.** A similar provision is contained in earlier appropriation acts beginning with the Act of May 24, 1922, 42 Stat. 586.

### NOTE OF OPINION

#### 1. Availability

Emergency funds are immediately available to the Bureau of Reclamation in Alaska under the emergency provision in the appropriation act; the proviso is not applica-

ble because the emergency fund established by the Act of June 26, 1948, does not apply in Alaska. Memorandum of Deputy Solicitor Weinberg, April 14, 1964.

**Sec. 106. [Forest or range fires.]**—The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior: *[Provided*, That appropriations made in this chapter for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year.] (64 Stat. 696)

### EXPLANATORY NOTE

**Provision Repeated.** A similar paragraph is repeated in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of October 15, 1966, 80 Stat. 1011, with the

exception that the Act of July 15, 1955, 69 Stat. 360, and subsequent acts omit the proviso, and the Act of August 31, 1951, and subsequent acts include the words “expenditure or transfer (within each bureau or office)” instead of “use”.

\* \* \* \* \*

**[Short title.]** This chapter may be cited as the “Interior Department Appropriation Act, 1951”. (64 Stat. 697)

September 6, 1950

INTERIOR DEPARTMENT APPROPRIATION ACT, 1951 1027

EXPLANATORY NOTES

**Change to Lump Sum Basis.** The 1951 Act constitutes a change from appropriations on a line item basis to appropriations on a lump sum basis. In commenting on this change, the House committee stated in part, "Assurance has been given by the Secretary of the Interior that the intent of Congress in approving appropriations and allocations of funds will be scrupulously observed even though the appropriation act does not so specify in detail." H.R. Rept. No. 1797, 81st Cong., 2d Sess. 159 (1950). The Senate committee expressed a similar understanding and added, "In order that unforeseen needs may be met, the committee is agreeable to the Secretary making minor adjustments required by changed operating conditions. It is understood that this authority for administrative adjustment in the use of funds will not permit undertaking construction of new major facilities not previously approved by Congress, the allocation of funds for purposes contrary to the ex-

pressed intent of Congress, or the transfer of funds from one project to accelerate the work of another project at a rate not contemplated in the program as submitted to Congress." S. Rept. No. 1941, 81st Cong., 2d Sess. 140 (1950).

**Pre-enactment Interpretation.** A Bureau of Reclamation statement introduced in the Senate hearings on the House-passed bill, H.R. 7786, expressed interpretations of the effect of language employed in the bill in a number of instances as the result of the change from a line item to a lump sum basis. *Hearings on the Interior Department Appropriations for 1951 Before a Subcommittee of the Senate Committee on Appropriations*, 81st Cong., 2d Sess., part 1, at 576 (1950). However, the Conference Report asserts specifically that the Bureau statement does "not necessarily" express the intent of Congress. H.R. Rept. No. 2991, 81st Cong., 2d Sess. 41 (1950).

\* \* \* \* \*

[Short title.]—This Act may be cited as the "General Appropriation Act, 1951". (64 Stat. 769)

EXPLANATORY NOTES

**Codification.** Except for the item with respect to restrictions on use of funds for lands in arrears in payments, the extracts shown here are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are

repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 7786, Public Law 759 in the 81st Congress. H.R. Rept. No. 1797. S. Rept. No. 1941. H.R. Rept. No. 2991 (conference report).

September 13, 1950

1028

## AMERICAN-MEXICAN TREATY ACT OF 1950

[Extract from] An act to facilitate compliance with the treaty between the United States of America and the United Mexican States signed February 3, 1944. (Act of September 13, 1950, ch. 948, 64 Stat. 846)

[**Sec. 1. Short title.**]—This Act may be cited as the “American-Mexican Treaty Act of 1950”. (64 Stat. 846; 22 U.S.C. § 277d-1, note)

### TITLE I—AUTHORIZATIONS FOR CARRYING OUT TREATY PROJECTS

**Sec. 101. [Relocation of properties.]**—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (herein referred to as the “Commission”), in connection with any project under the jurisdiction of the United States Section, International Boundary and Water Commission, United States and Mexico, is authorized: (a) to purchase, or condemn, lands, or interests in lands, for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which, in the judgment of the said Commissioner, is necessitated by the construction or operation and maintenance of any such project, and to perform any or all work involved in said relocations on said lands, or interests in lands, other lands, or interests in lands, owned and held by the United States in connection with the construction or operation and maintenance of any such project, or properties not owned by the United States; (b) to enter into contracts with the owners of the said properties whereby they undertake to acquire any, or all, property needed for said relocation, or to perform any, or all, work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey, or exchange Government properties acquired or improved under clause (a) above, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant term or perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary of State without regard to provisions of law governing the patenting of public lands. (64 Stat. 846; 22 U.S.C. § 277d-1)

**Sec. 102. [Access roads, housing and other related project facilities.]**—The United States Commissioner is authorized to construct, equip, and operate and maintain all access roads, highways, railways, power lines, buildings, and facilities necessary in connection with any such project, and in his discretion to provide housing, subsistence, and medical and recreational facilities for the officers, agents, and employees of the United States, and/or for the contractors and their employees engaged in the construction, operation, and maintenance of any such project, and to make equitable charges therefor, or deductions from the salaries and wages due employees, or from progress payments due contractors, upon such terms and conditions as he may determine to be to the best interest of the United States, the sums of money so charged and collected or deducted to be credited

to the appropriation for the project current at the time the obligations are incurred. (64 Stat. 846; 22 U.S.C. § 277d-2)

**Sec. 103. [Miscellaneous appropriation act authorities.]**—There are hereby authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of Section 15 of the Act of August 2, 1946 (5 U.S.C., sec. 55a), at rates for individuals not in excess of \$100 per diem and the United States Commissioner is hereby authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to the Classification Act of 1949, as amended, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 3679, 3732, and 3733 of the Revised Statutes or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress. (64 Stat. 847; § 402(a)(29), Act of August 19, 1964, 78 Stat. 494; 22 U.S.C. § 277d-3)

#### EXPLANATORY NOTE

1964 Amendment. Section 402(a)(29) of the Dual Compensation Act of August 19, 1964, 78 Stat. 494, eliminated the provision relating to the pay of retired Armed Forces personnel.

September 13, 1950

**Sec. 104. [Acquisition of Alamo Canal.]**—The United States Commissioner, in order to comply with the provisions of articles 12 and 23 of the treaty of February 3, 1944, between the United States and Mexico, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande below Fort Quitman, Texas, is authorized to acquire, in the name of the United States, by purchase or by proceedings in eminent domain, the physical properties owned by the Imperial Irrigation District of California, located in the vicinity of Andrade, California, consisting of the Alamo Canal in the United States, the Rockwood Intake, the Hanlon Heading, the quarry, buildings used in connection with such facilities, and appurtenant lands, and to reconstruct, operate and maintain such properties in connection with the administration of said treaty. (64 Stat. 847; 22 U.S.C. § 277d-4)

**Sec. 105. [Limitation to projects under 1944 Treaty.]**—Funds heretofore appropriated to the Department of State under the heading “International Boundary and Water Commission, United States and Mexico” shall be available for the purposes of this title: *Provided*, That authorizations under this title shall apply only to projects agreed upon by the two Governments in accordance with the treaty of February 3, 1944. (64 Stat. 848; 22 U.S.C. § 277d-5)

**EXPLANATORY NOTES**

**Titles II and III Omitted.** Titles II and III of the Act, which have been omitted here, authorize operation by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Aqua Prieta sanitation project, Arizona-Mexico, and the Calexico-Mexicali sanitation project, California-Mexico, respectively.

**International Boundary and Water Commission.** The International Boundary Commission was created originally pursuant to the Convention with Mexico of March 1, 1889 (effective December 24, 1890), 26 Stat. 1512. It was reconstituted the International Boundary and Water Commission, United States and Mexico, by the Treaty with Mexico of February 3, 1944 (effective

November 8, 1945), 59 Stat. 1219. The 1944 Treaty appears herein in chronological order.

**Cross References, Statutory Authority of the Commission.** The Act of August 19, 1935, which appears herein in chronological order, provides general authority for the work of the Commission, and the notes following the Act briefly summarize other statutory provisions relating to its program.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not relate primarily to activities of the Bureau of Reclamation.

**Legislative History.** S. 3934, Public Law 786 in the 81st Congress. S. Rept. No. 2095. H.R. Rept. No. 2741 (on H.R. 6304). H.R. Rept. No. 3018 (conference report).

## TRANSFER SEWERAGE SYSTEM TO TOWN OF MILLS

An act to authorize the Secretary of the Interior to transfer to the town of Mills, Wyoming, a sewerage system located in such town. (Act of September 25, 1950, ch. 1025, 64 Stat. 1031)

[Secretary directed to transfer sewerage system—Perpetual right of United States to use system—Limitation on town's liability to U.S.]—The Secretary of the Interior is authorized and directed to transfer to the town of Mills, Wyoming, all right, title, and interest of the United States in and to the twelve-inch main sewer and Imhoff tank constructed by the United States in and adjacent to such town, together with any rights-of-way therefor acquired or held by the United States. Such transfer shall be made on condition that the United States shall have a perpetual right to use the sewerage system, and that the town shall operate and maintain such system in a manner which will permit such use by the United States, without charge or liability whatsoever against the United States by reason of the construction, operation, maintenance, or use of the sewerage system: *Provided*, That the liability of the town to furnish sewerage service to the United States hereunder shall be limited to the continued use by the United States of that specific capacity in the sewerage system which is in use on the date of enactment of this proviso, and the liability of the town shall not extend beyond the useful life of the existing sewage-disposal facilities. The town of Mills and the Secretary of the Interior shall mutually agree to standards of maintenance for the sewerage facilities transferred to the town in keeping with recognized standards generally employed for maintenance of similar facilities. (64 Stat. 1031; Act of May 8, 1952, 66 Stat. 67)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1952 Amendment.** The Act of May 8, 1952, 66 Stat. 67, amended the Act by adding the proviso that appears in the text.

The 1952 Act appears herein in chronological order.

**Legislative History.** S. 3136, Public Law 832 in the 81st Congress. S. Rept. No. 2251. H.R. Rept. No. 3028.

September 26, 1950

1032

## SACRAMENTO VALLEY CANALS

An act to authorize Sacramento Valley Irrigation Canals, Central Valley Project, California. (Act of September 26, 1950, ch. 1047, 64 Stat. 1036)

[**Sec. 1. Central Valley Project reauthorized.**]—The entire Central Valley Project heretofore authorized under the Act of October 26, 1937 (50 Stat. 844, 850), and the Act of October 17, 1940 (54 Stat. 1198, 1199), is hereby reauthorized and declared to be for the purposes of improving navigation, regulating the flow of the San Joaquin River and the Sacramento River, controlling floods, providing for storage and for the delivery of the stored waters thereof, for construction under the provisions of the Federal reclamation laws of such distribution systems as the Secretary of the Interior deems necessary in connection with lands for which said stored waters are to be delivered, for the reclamation of arid and semiarid lands and lands of Indian reservations, and other beneficial uses, and for the generation and sale of electric energy as a means of financially aiding and assisting such undertakings, and in order to permit the full utilization of the works constructed to accomplish the aforesaid purposes. (64 Stat. 1036)

### EXPLANATORY NOTE

**Cross Reference, Central Valley Project, California.** The Central Valley Project, referred to in the text, was authorized by a finding of feasibility by the Secretary of the Interior, approved by the President on December 2, 1935. The Project was reauthorized by section 2 of the Act of August 26, 1937, 50 Stat. 850, and amended by the Act of October 17, 1940, to include distribution systems. The further reauthorization and declaration of purposes in section 1 of the Act of September 26, 1950, above is identical with the second proviso

of section 2 of the 1937 Act as so amended; presumably these authorized purposes were restated to eliminate any ambiguity that might have arisen because section 1 of the Act of October 14, 1949, in reauthorizing the Central Valley Project, omitted any reference to the 1940 amendment. The 1937, 1940 and 1949 Acts appear herein in chronological order. For references to other authorizations in the Central Valley Project, California, see the explanatory notes following section 2 of the 1937 Act.

**Sec. 2. [Features included.]**—The features herein authorized shall include an irrigation canal, generally known as the Tehama-Colusa Conduit, to be located on the west side of the Sacramento River and equipped with all necessary pumping plants and appurtenant works, beginning at the Sacramento River near Red Bluff, California, and extending southerly through Tehama, Glenn, and Colusa Counties so as to permit the most effective irrigation of the irrigable lands lying in the vicinity of said canal and supply water for industrial, domestic, and other beneficial uses for these lands in Tehama, Glenn, and Colusa Counties or such alternate canals and pumping plants as the Commissioner of Reclamation and the Secretary of the Interior may deem necessary to accomplish the aforesaid purposes.

The features herein authorized shall also include an irrigation canal, generally known as the Chico Canal, to be located on the east side of the Sacramento River and equipped with all necessary pumping plants and other appurtenant

September 26, 1950

SACRAMENTO VALLEY CANALS

1033

works, beginning at the Sacramento River near Vina, California, and extending through Tehama and Butte Counties to a point near Durham, California, so as to permit the most effective irrigation of the lands lying in the vicinity of said canal and supply water for industrial, domestic, and other beneficial uses for these lands lying within Tehama and Butte Counties or such alternate canals and pumping plants as the Commissioner of Reclamation and the Secretary of the Interior may deem necessary to accomplish the aforesaid purposes. (64 Stat. 1036)

**Sec. 3. [Consultation with local interests.]**—In locating and designing the works authorized for construction by section 2 of this Act, the Secretary of the Interior and the Commissioner of Reclamation shall give due consideration to the reports set forth in Bulletins numbered 13 and 26 of the Division of Water Resources of the Department of Public Works of the State of California, and shall consult the local interests to be affected by the construction and operation of said works, through public hearings or in such other manner as in their discretion may be found best suited to an expression of the views of such local interests. (64 Stat. 1036)

**Sec. 4. [Repayment of expenditures under reclamation law—Coordination with existing features.]**—The provisions of the reclamation law, as amended, shall govern the repayment of expenditures made for the works herein authorized for construction, and the Secretary of the Interior is directed to cause the operation of said works and repayment thereof to be coordinated and integrated with the operation of and repayment schedule for the existing features of the Central Valley Project in such manner as will effectuate the fullest and most economic utilization of the land and water resources of the Central Valley of California for the widest possible public benefit. (64 Stat. 1036)

**Sec. 5. [No expenditures until report and finding of feasibility submitted.]**—There are hereby authorized to be appropriated such funds as may be necessary to construct the works authorized in section 2 of this Act: *Provided*, That no expenditure of funds shall be made for construction of this Project until the Secretary of the Interior, with the approval of the President, has submitted to the Congress, with respect to such works, a completed report and finding of feasibility under the provisions of the Federal reclamation laws. (64 Stat. 1037)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 839 in the 81st Congress. H.R. Rept. No. the U.S. Code. 765. S. Rept. No. 2447.

**Legislative History.** H.R. 163, Public Law

September 26, 1950

1034

## **AMEND RECORDABLE CONTRACT PROVISIONS, COLUMBIA BASIN PROJECT ACT**

An act to amend the Columbia Basin Project Act with reference to recordable contracts.  
(Act of September 26, 1950, ch. 1048, 64 Stat. 1037)

[Extension of time to execute recordable contracts.]—The Columbia Basin Project Act (Act of March 10, 1943, ch. 14, 57 Stat. 14) be amended as follows:

(1) By adding a new paragraph, to be the second paragraph of subsection (c) of section 2, as follows:

“Notwithstanding the time limitations of the preceding paragraph but subject to such rules and regulations as may be prescribed therefor by the Secretary, the privilege of executing recordable contracts is hereby extended as follows: (i) To any landowner as to a tract of land to which he, or his ancestors or devisors if he holds as an heir or devisee, held legal or equitable title on October 28, 1947; (ii) to any landowner as to a tract of land as to which he has held legal or equitable title for not less than ten years (including the period of holding by his ancestors or devisors where title is held as an heir or devisee), or as to which he furnishes proof in writing satisfactory to the Secretary as to the terms of the transaction and consideration paid by him (or by his ancestors or devisors where title is held as an heir or devisee) for the tract and as to which there is a finding by the Secretary that the transaction was bona fide and for a consideration not in excess of the full fair market value of the tract, valued as of the date of that transaction without reference to or increment by reason of the project. Any such recordable contract may be executed only on or before December 31, 1951, or on or before a date to be fixed by the Secretary as to each irrigation block in which the lands are situated, such date to be approximately two years before the commencement of the development period for that block.” (64 Stat. 1037; 16 U.S.C. § 835a)

(2) By deleting the last sentence of subdivision (ii) of subsection (e) of section 2. (64 Stat. 1037; 16 U.S.C. § 835a)

(3) By amending subsection (a) of section 3 to read as follows:

“Fraudulent misrepresentation as to the true consideration involved in the conveyance of, or contract to convey, any freehold estate in land covered by recordable contract or which is sought to be covered by a recordable contract under subsection 2(c) hereof, in the affidavits required or which may be required under that subsection shall constitute a misdemeanor punishable by a fine not exceeding \$500 or by imprisonment not exceeding six months, or by both such fine and imprisonment.” (64 Stat. 1037; 16 U.S.C. § 835b)

(4) By amending the second sentence of subsection (b) of section 4 to read as follows:

“In addition, land sale and exchange contracts shall be on a basis that, in the Secretary's judgment, provides for the return, in a reasonable period of years of not less than the appraised value of the land and improvements thereon, and provides, in the case of any lands to be included in farm units, for the application

September 26, 1950

RECORDABLE CONTRACTS, COLUMBIA BASIN 1035

of provisions similar to those of the recordable contracts provided under subsection 2(c) hereof." (64 Stat. 1037; 16 U.S.C. § 835c)

**EXPLANATORY NOTES**

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Columbia Basin Project Act of March 10, 1943.

**Legislative History.** H.R. 8345, Public Law 840 in the 81st Congress. H.R. Rept. No. 2767. S. Rept. No. 2444.

September 27, 1950

1036

## VERMEJO PROJECT

An act to authorize the construction, operation, and maintenance of the Vermejo reclamation project, New Mexico. (Act of September 27, 1950, ch. 1057, 64 Stat. 1072)

[**Sec. 1. Secretary authorized to construct Vermejo project—Works of Maxwell Irrigation Company.**]—For the purposes of irrigating approximately seven thousand two hundred acres of semiarid lands in Colfax County, New Mexico, controlling floods, and providing for the preservation and propagation of fish and wildlife, as authorized by the Act of August 14, 1946 (60 Stat. 1080), the Secretary of the Interior, through the Bureau of Reclamation, is authorized to construct, operate, and maintain the Vermejo reclamation project, and, in so doing, to acquire lands and interests in lands, to rehabilitate, repair, and replace, to the extent necessary, existing works of the Maxwell Irrigation Company, and to acquire, upon terms and conditions satisfactory to him, such assets of said company or any successor in interest as may be required or proper for carrying out the purposes of the project, or for protecting the investment of the United States therein. (64 Stat. 1072)

**Sec. 2. [Repayment at maximum ability of contracting organization.]**—The Vermejo reclamation project shall, except as is otherwise provided, be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided*, That, of the cost of constructing the project, \$2,010,080, or so much of said amount as is approved for allocation to irrigation, shall be repaid under a contract or contracts satisfactory to the Secretary, at the maximum rate which, in his judgment, is consistent with the repayment ability of the contracting organization and over such period of years as, in his judgment, is consistent with the maximum repayment ability of the contracting organization. (64 Stat. 1072)

### EXPLANATORY NOTE

**Supplementary Provision.** Section 2 of the Act of July 27, 1954, 68 Stat. 570, provides that: "The limit upon the amount repayable by the contracting organization which is set forth in the proviso to section 2 of the Act of September 27, 1950, shall be ex-

clusive of any additional amount which the district undertakes to repay pursuant to section 1 of this Act." Section 1 of the Act amended this Act by adding section 6. The 1954 Act appears herein in chronological order.

**Sec. 3. [No construction until project report approved by President and establishment of acceptable contracting organization.]**—Construction of the Vermejo reclamation project shall not be commenced until the President shall have approved a project report and there shall have been established, pursuant to the laws of the State of New Mexico, an organization with powers satisfactory to the Secretary, including the power to tax real property, within its boundaries (which boundaries shall include the lands to be benefited by the project works) and the power to enter into a contract or contracts with the United States for payment or return, as the case may be, of the reimbursable costs of the project

and such contract or contracts shall have been duly executed. (64 Stat. 1072; Act of March 5, 1952, 66 Stat. 13)

#### EXPLANATORY NOTE

**1952 Amendment.** The Act of March 5, 1952, 66 Stat. 13, amended section 3 by deleting the phrase "both real and personal," which followed the word "prop-

erty," in the text, and by adding the word "real" before the word "property". The 1952 Act appears herein in chronological order.

**Sec. 4. [Management of fish and wildlife facilities.]**—The Secretary is authorized to enter into arrangements with appropriate Federal, State, or local agencies for the construction, operation, maintenance, administration, and management of the fish and wildlife facilities to be provided under the Vermejo reclamation project. (64 Stat. 1072)

**Sec. 5. [Appropriations authorized.]**—There are hereby authorized to be appropriated such sums as may be required to carry out the purposes of this Act. (64 Stat. 1072)

**Sec. 6. [Bonded indebtedness—Transfer of funds.]**—Upon the execution of a contract with the Vermejo Conservancy District supplementary to or amendatory of the contract dated August 7, 1952, between the district and the United States, pursuant to which supplementary or amendatory contract the district agrees to an increase in the total obligation repayable by it under the contract of August 7, 1952, in an amount equal to the face value of the outstanding bonds of the Maxwell Irrigation Company held by the Reconstruction Finance Corporation with unpaid interest, if any, accrued after July 1, 1953, and to a commensurate increase in the annual base charge provided in article 10 of said contract the entire obligation of said company to the Reconstruction Finance Corporation shall be fully discharged and said bonds shall be returned to the debtor for cancellation. Thereupon the Secretary of the Interior shall request, and the Secretary of the Treasury shall cause to be transferred on the books of the Treasury to the account of the Reconstruction Finance Corporation from moneys appropriated for carrying on the functions of the Bureau of Reclamation and available for constructing the Vermejo reclamation project, a sum equal to the face value of the outstanding bonds, with accrued interest, as aforesaid, of the Maxwell Irrigation Company held by the Reconstruction Finance Corporation. (Added by the Act of July 27, 1954, 68 Stat. 570)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

herein in chronological order.

**1954 Amendment.** The Act of July 27, 1954, 68 Stat. 570, amended the Act by adding section 6. The 1954 Act appears

**Legislative History.** S. 3517, Public Law 848 in the 81st Congress. S. Rept. No. 2507. H.R. Rept. No. 3043 (on H.R. 8309).

September 27, 1950

1038

## RECORDABLE CONTRACTS ON STATE LANDS, COLUMBIA BASIN PROJECT ACT

An act to amend the Columbia Basin Project Act with reference to State lands. (Act of September 27, 1950, ch. 1060, 64 Stat. 1074)

[**Purchaser of State lands not disqualified to execute recordable contract by reason of amount of purchase price—Time limitation on execution of recordable contracts.**]—The second paragraph of section 7 of the Columbia Basin Project Act (Act of March 10, 1943, ch. 14, 57 Stat. 14) be amended to read as follows:

“Legislation otherwise conforming to the standards above stated in this section will meet the requirements of the section even though, by reason of limitations in the State constitution, the contracts required under subsection 2(c) cannot be executed pursuant to such legislation as to the State's school and other public lands. As to such lands the provisions and requirements of subsection 2(c) shall remain effective, except that the purchaser of such State lands, his heirs and devisees, if otherwise qualified to execute a recordable contract, shall not be disqualified to execute such contract by reason of the amount of the purchase price paid or to be paid to the State for such lands; but the period in which the required recordable contracts may be executed shall be extended: (a) As to any of such lands remaining in the ownership of the State, until six months after the removal of the constitutional limitations above referred to; and (b) as to any of such lands which are offered for sale by the State in accordance with such program for the offering of State lands within the project as may be agreed to between the State and the Secretary, until six months after the State's conveyance or contract to convey is made, whichever is earlier.” (64 Stat. 1074; 16 U.S.C. § 835c-3)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Columbia Basin Project Act of March 10, 1943.

**Legislative History.** H.R. 1920, Public Law 851 in the 81st Congress. H.R. Rept. No. 449. S. Rept. No. 2498.

## PALISADES DAM AND RESERVOIR PROJECT; NORTH SIDE PUMPING DIVISION, MINIDOKA PROJECT; CONTRACTS FOR RESERVED CAPACITY, AMERICAN FALLS RESERVOIR

An act to authorize the Palisades Dam and Reservoir project, to authorize the North Side Pumping Division and related works, to provide for the disposition of reserved space in American Falls Reservoir, and for other purposes. (Act of September 30, 1950, ch. 1114, 64 Stat. 1083)

[**Sec. 1. Reauthorization of Palisades Dam.**]—The Palisades Dam and Reservoir project, Idaho, heretofore authorized under the provisions of the Federal reclamation laws by the presentation to the President and the Congress of the report of December 9, 1941 (House Document Numbered 457, Seventy-seventh Congress, first session) by the Secretary of the Interior (herein called the Secretary), is hereby reauthorized under the Federal reclamation laws for construction and operation and maintenance substantially in accordance with that report as supplemented and modified by the Commissioner's supplemental report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949, and as including, upon approval by the President, of a suitable plan therefor, facilities for the improvement of fish and wildlife along the headwaters of the Snake River, such facilities to be administered by the Fish and Wildlife Service: *Provided*, That, notwithstanding recommendations to the contrary contained in said report (a) the Secretary shall reserve not to exceed fifty-five thousand acre-feet of active capacity in Palisades Reservoir for a period ending December 31, 1952, for replacement of Grays Lake storage, but no facilities in connection with the proposed wildlife management area at Grays Lake shall be built and no allocation of construction costs of the Palisades Dam and Reservoir by reason of providing replacement storage to that area shall be made until the development and operation and maintenance of the wildlife management area has been authorized by Act of Congress, and (b) the nonreimbursable allocation on account of recreation shall be limited to the costs of specific recreation facilities in an amount not to exceed \$148,000. (64 Stat. 1083)

### EXPLANATORY NOTE

**Cross Reference, Purchase of Improvements.** The Act of July 27, 1954, 68 Stat. A129, authorized the Secretary of the Interior to purchase certain improvements lo-

cated on public lands within the boundaries of the Palisades project. The Act appears herein in chronological order.

### NOTE OF OPINION

#### 1. Grays Lake refuge

The proviso in section 1 prohibiting the development, operation, and maintenance of a wildlife management area as part of the project until authorized by Congress, applies to a proposal that was subsequently abandoned, and does not restrict the general authority of the Secretary of the In-

terior under the Migratory Bird Conservation Act to establish and develop refuges for migratory birds anywhere in the United States. Solicitor Barry Opinion, 70 I.D. 527 (1963), 71 I.D. 311 (1964), in re proposed refuge for migratory birds at Grays Lake, Idaho.

September 30, 1950

1040 PALISADES DAM; MINIDOKA PROJECT ADDITIONS

**Sec. 2. [Authorization of North Side Pumping Division of Minidoka project.]**—There are hereby authorized for construction and operation and maintenance under the Federal reclamation laws: (a) the North Side Pumping Division of the Minidoka project, this to be substantially in accordance with the Commissioner's report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949: *Provided*, That, notwithstanding recommendations to the contrary contained in said report, (1) lease or sale of that portion of the power service system extending from the substations to the pumping plants may be made to any entity on terms and conditions that will permit the United States to continue to provide power and energy to the pumping facilities of the division, and, in the event of lease or sale to a body not entitled to preference in the purchase of power under the Federal reclamation laws, will preserve a reasonable opportunity for subsequent lease or sale to a body that is entitled to such privilege, (2) no allocation of construction costs of the division shall be made on a nonreimbursable basis by reason of wildlife benefits, and (3) there shall be, in lieu of a forty-year period, a basic repayment period of fifty years for repayment, in the manner provided in the recommendations, of the irrigation costs assigned for repayment by the water users; and (b) for the furnishing of electric power for irrigation pumping to that division and for other purposes, power generating and related facilities at American Falls Dam. These generating and related facilities, to the extent the Secretary finds to be proper for pay-out and rate-making purposes, may be accounted for together with other power facilities operated by the Secretary that are interconnected with the American Falls Dam power facilities, excluding any power facilities the net profits of which are governed by subsection I of section 4 of the Act of December 5, 1924 (43 Stat. 703). The authorization set forth in the preceding sections 1 and 2 shall not extend to the construction of transmission lines, substations, or distribution lines unless such facilities are for the purposes of interconnecting the power plants herein authorized, or for the delivery of power and energy for use in connection with the construction, operation, and maintenance of the projects herein authorized. (64 Stat. 1083)

EXPLANATORY NOTE

**Reference in the Text.** Subsection I of section 4 of the Act of December 5, 1924 (43 Stat. 703), referred to in the text, is that subsection of the Fact Finders' Act

dealing with the use of profits from projects whose care, operation and maintenance have been taken over by the water users. The Act appears herein in chronological order.

NOTE OF OPINION

1. Power plant

Although a power plant of 30,000 kw capacity, as deemed to be authorized by section 2(b) of the Act of September 30, 1950, for construction at American Falls Dam, cannot be constructed within the \$6,600,000 authorization for appropriations contained in section 5 of the act, there is no legal objection to installation of 20,000

kw of capacity, which can be accomplished within the limitation, particularly where the partial project has engineering and financial feasibility and can be constructed in such manner as to permit later installation of the third 10,000 kw unit without material alteration or interference. Memorandum of Chief Counsel Fisher, October 28, 1952.

September 30, 1950

PALISADES DAM; MINIDOKA PROJECT ADDITIONS 1041

**Sec. 3. [American Falls Reservoir.]**—The Secretary is hereby authorized to contract, under the Federal reclamation laws, with water users and water users' organizations as to the use for their benefit of the heretofore reserved storage capacity in American Falls Reservoir. Not to exceed three hundred and fifteen thousand acre-feet of that capacity shall be made available to those who have heretofore had the use of reserved capacity under lease arrangements between the United States and the American Falls Reservoir district of Idaho, the distribution of this capacity among contractors to be determined by the Secretary after consultation with the interested water users' organizations or their representatives. Of the balance of the reserved capacity, forty-seven thousand five hundred and ninety-three acre-feet are hereby set aside for use under contract for the benefit of the lands comprising unit A of the North Side Pumping Division of the Minidoka project, and seventy-one thousand acre-feet are hereby set aside for use under contract for the benefit of those lands in the Michaud area which may hereafter be found to be feasible of development under irrigation. Contracts for the repayment of construction charges in connection with reserved capacity shall be made without regard to the second proviso of the tenth paragraph (Minidoka project, Idaho) under the heading "Bureau of Reclamation" of the Act of June 5, 1924 (43 Stat. 390, 417). Such contracts shall require the repayment of all costs determined by the Secretary to be allocable to the reserved capacity, less, in the case of the three hundred and fifteen thousand acre-feet of capacity above described, three hundred and eighty-six four-hundred-and-thirty-fourths of the revenues realized, after deduction of what the Secretary determines to be an appropriate share for operation, maintenance, and replacements, from the leasing of that capacity for irrigation purposes up to the time water first becomes available in Palisades Reservoir and, in the case of the capacity set aside for the North Side Pumping Division, all other revenues realized from or connected with the reserved capacity and which the Secretary determines to be available as a credit against the cost allocable to that division. (64 Stat. 1084)

EXPLANATORY NOTE

**Reference in the Text.** The second proviso of the tenth paragraph (Minidoka project, Idaho) under the heading "Bureau of Reclamation" of the Act of June 5, 1924 (43 Stat. 390, 417), referred to in the text, provides that no contractor shall secure a right to use of water from the American Falls reservoir except under a contract containing the provision that the contractor shall, as a part of the construction cost, pay

interest at the rate of 6 per centum per annum upon the contractor's proportionate share, as found by the Secretary of the Interior, of the moneys advanced by the United States on account of the construction of the reservoir prior to the date of the contract. The Act is the Interior Department Appropriation Act for 1925. Extracts from the Act, including the item referred to, appear herein in chronological order.

**Sec. 4. [Annual saving of winter water.]**—(a) The continuation of construction of Palisades Dam beyond December 31, 1951, or such later controlling date fixed by the Secretary as herein provided, is hereby made contingent on there being a finding by the Secretary by the controlling date that contracts have been entered with various water users' organizations of the Upper Snake River Valley in Idaho that, in his opinion, will provide for an average annual savings of one hundred and thirty-five thousand acre-feet of winter water. If in the Secretary's

September 30, 1950

1042 PALISADES DAM; MINIDOKA PROJECT ADDITIONS

judgment the failure of the requisite organizations so to contract by the controlling date at any time is for reasons beyond the control of those organizations, he may set a new controlling date but not beyond December 31, 1952.

(b) Repayment contracts made in connection with the use of capacity in either American Falls or Palisades Reservoir may include, among other things, such provisions as the Secretary determines to be proper to give effect to recommendations referred to in section 1 of this Act, and particularly those concerning the continued effectiveness of the arrangements as to the minimum average annual water savings. (64 Stat. 1084)

EXPLANATORY NOTE

**Supplementary Provision: Authority to Amend Contracts.** Section 4 of the Act of September 7, 1964, found herein in chronological order, authorizes the Secretary of the Interior to amend contracts made under this Act and the Act of August 31, 1954, also found herein in chronological order.

The 1964 Act provides that to the extent the annual obligations of the water users are reduced, the cost thereof shall be included in the cost to be absorbed by the power operations of the Federal power system in Idaho.

**Sec. 5. [Appropriations authorized.]**—There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sums of not to exceed \$76,601,000 for the Palisades Dam and Reservoir project, Idaho, \$11,395,000 for the Minidoka project North Side Pumping Division, Idaho, and \$6,600,000 for the American Falls power plant. (64 Stat. 1085)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** S. 2195, Public Law 864 in the 81st Congress. S. Rept. No. 1116. H.R. Rept. No. 1297 (on H.R. 5506). H.R. Rept. No. 3121 (conference report).

## DISASTER RELIEF ACT OF 1950

An act to authorize Federal assistance to States and local governments in major disasters, and for other purposes. (Act of September 30, 1950, Public Law 81-875, 64 Stat. 1109)

[**Sec. 1. Intent of Congress.**]—It is the intent of Congress to provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate suffering and damage resulting from major disasters, to repair essential public facilities in major disasters, and to foster the development of such State and local organizations and plans to cope with major disasters as may be necessary. (64 Stat. 109; 42 U.S.C. § 1855)

**Sec. 2. [Definitions.]**—As used in this Act, the following terms shall be construed as follows unless a contrary intent appears from the context:

(a) “Major disaster” means any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe in any part of the United States which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments in alleviating the damage, hardship, or suffering caused thereby, and respecting which the governor of any State (or the Board of Commissioners of the District of Columbia) in which such catastrophe may occur or threaten certifies the need for disaster assistance under this Act, and shall give assurance of expenditure of a reasonable amount of the funds of the government of such State, local governments therein, or other agencies, for the same or similar purposes with respect to such catastrophe;

(b) “United States” includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) “State” means any State in the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(d) “Governor” means the chief executive of any State;

(e) “Local government” means any county, city, village, town, district, or other political subdivision of any State, or the District of Columbia, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or local government or governmental agency;

(f) “Federal agency” means any department, independent establishment, government corporation, or other agency of the executive branch of the Federal Government, excepting, however, the American National Red Cross. (64 Stat. 109; Act of June 27, 1962, 76 Stat. 111; Act of Nov. 6, 1966, 80 Stat. 1317; 42 U.S.C. § 1855a)

September 30, 1950

EXPLANATORY NOTES

**1966 Amendment.** Subsection 6(a) of the Disaster Relief Act of 1966, approved November 6, 1966, amended subsection 2(e) by adding all that appears after the last comma in the subsection. While extracts from the 1966 Act appear herein in chronological order, the amending subsection is not included.

**Sec. 3. [Types of assistance authorized—Disposition of funds received a reimbursement—Federal government not liable for claims.]**—In any major disaster, Federal agencies are hereby authorized when directed by the President to provide assistance (a) by utilizing or lending, with or without compensation therefor, to States and local governments their equipment, supplies, facilities personnel, and other resources, other than the extension of credit under the authority of any Act; (b) by distributing, through the American National Red Cross or otherwise, medicine, food, and other consumable supplies; (c) by donating or lending equipment and supplies, determined under then existing law to be surplus to the needs and responsibilities of the Federal Government, to States for use or distribution by them for the purposes of this chapter including the restoration of public facilities damaged or destroyed in such major disaster and essential rehabilitation of individuals in need as the result of such major disaster; and (d) by performing on public or private lands protective and other work essential for the preservation of life and property, clearing debris and wreckage, making emergency repairs to and temporary replacements of public facilities of State and local governments damaged or destroyed in such major disaster, providing temporary housing or other emergency shelter for families who, as a result of such major disaster, require temporary housing or other emergency shelter, and making contributions to States and local governments for purposes stated in subsection (d). The authority conferred by this Act, and any funds provided hereunder shall be supplementary to, and not in substitution for, nor in limitation of, any other authority conferred or funds provided under any other law. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies. The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Government in carrying out the provisions of this section. (64 Stat. 1110; Act of Aug. 3 1951, 65 Stat. 173; Act of July 17, 1953, 67 Stat. 180; Act of June 27, 1962, 76 Stat. 111; 42 U.S.C. § 1855b)

EXPLANATORY NOTES

**1962 Amendment.** The Act of June 27, 1962, 76 Stat. 111, amended section 3 by inserting in clause (d), after the words "replacement of public facilities of" the words "States and".

**1953 Amendment.** The Act of July 17,

1953, 67 Stat. 180, amended subsection 3(c) to read as it appears in the text. The amended language makes clear that equipment and supplies which are surplus to the Federal government may be donated and loaned to States for use or distribution by them for

isaster relief. The subsection formerly read: "by donating to States and local governments equipment and supplies determined under then existing law to be surplus to his needs and responsibilities of the Federal Government".

**1951 Amendment.** Section 2 of the Act of August 3, 1951, 65 Stat. 173, amended subsection 3(d) by adding the provision which reads: "providing temporary housing or other emergency shelter for families who, as a result of such major disaster, re-

quire temporary housing or other emergency shelter."

**Supplemental Provision: Reimbursement.** A paragraph of the Public Works Appropriation Act, 1967, approved October 15, 1966, provides that expenditures by the Bureau of Reclamation under this act as administered by the Office of Emergency Planning shall be reimbursed in full by that Office. The provision appears herein in chronological order.

#### NOTES OF OPINIONS

##### **liability of construction contractor 1 Reimbursability 2**

###### **. Liability of construction contractor .**

Where a construction contract for an irrigation distribution system imposes liability in the contractor to repair damage caused by a flood prior to acceptance of the work by the Government, the request by the Office of Emergency Planning to the Bureau of Reclamation to restore damaged facilities does not serve to relieve the contractor from assuming any of the associated costs.

Dec. Comp. Gen. B-152747 (May 20, 1965), in re Dalles Irrigation District.

###### **2. Reimbursability**

The costs of emergency repairs and replacements performed by the Bureau of Reclamation on Federal reclamation projects at the request of the Office of Emergency Planning under the Federal Disaster Relief Act are not reimbursable under reclamation law. Memorandum of Associate Solicitor Hogan, September 9, 1964, in re Montana floods.

**Sec. 4. [Authority of the American National Red Cross.]**—In providing such assistance hereunder, Federal agencies shall cooperate to the fullest extent possible with each other and with States and local governments, relief agencies, and the American National Red Cross, but nothing contained in this Act shall be construed to limit or in any way affect the responsibilities of the American National Red Cross under the Act approved January 5, 1905 (33 Stat. 599), as amended. (64 Stat. 1110; 42 U.S.C. 1855c)

**Sec. 5. [Coordination of Federal activities for maximum mobilization.]**—  
 a) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency to utilize its available personnel, equipment, supplies, facilities, and other resources, in accordance with the authority herein contained.

(b) The President may, from time to time, prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate. (64 Stat. 1110; 42 U.S.C. § 1855d)

**Sec. 6. [Emergency restoration of Federal facilities—Funds available for such restoration.]**—If facilities owned by the United States are damaged or destroyed in any major disaster and the Federal agency having jurisdiction thereof lacks the authority or an appropriation to repair, reconstruct, or restore such facilities, such Federal agency is hereby authorized to repair, reconstruct, or restore such facilities to the extent necessary to place them in a reasonably usable condition

September 30, 1950

1046

DISASTER RELIEF ACT OF 1950

and to use therefor any available funds not otherwise immediately required *Provided, however,* That the President shall first determine that the repair, reconstruction, or restoration is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation therefor. If sufficient funds are not available to such Federal agency for use in repairing, reconstructing, or restoring such facilities as above provided, the President is authorized to transfer to such Federal agency funds made available under this Act in such amount as he may determine to be warranted in the circumstances. If said funds are insufficient for the purpose, there is hereby authorized to be appropriated to any Federal agency repairing, reconstructing, or restoring facilities under authority of this section such sum or sums as may be necessary to reimburse appropriated funds to the amount expended therefrom. (64 Stat. 1111; 42 U.S.C. § 1855e)

**Sec. 7. [Utilization of State and local government facilities and personnel—Hiring of temporary personnel authorized—Extent of obligations authorized to be incurred.]**—In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize with the consent of any State or local government, the services and facilities of such State or local government, or of an agency, officers, or employees thereof. Any Federal agency, in performing an activities under section 3 of this Act, is authorized to employ temporarily additional personnel without regard to the civil-service laws and the Classification Act of 1923, as amended, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, service materials, and supplies for shipping, drayage, travel and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by any agency in such amount as may be made available to it by the President out of the funds specified in section 8. The President may also, out of such funds, reimburse any Federal agency for any of its expenditure under section 3 in connection with a major disaster, such reimbursement to be in such amounts as the President may deem appropriate. (64 Stat. 1111; 42 U.S.C. § 1855f)

**Sec. 8. [Appropriation authorization—Reports to the Congress.]**—There is hereby authorized to be appropriated to the President a sum or sums, not exceeding \$5,000,000 in the aggregate, to carry out the purposes of this Act. The President shall transmit to the Congress at the beginning of each regular session a full report covering the expenditure of the amounts so appropriated with the amounts of the allocations to each State under this Act. The President may from time to time transmit to the Congress supplemental reports in his discretion, all of which reports shall be referred to the Committees on Appropriations and the Committees on Public Works of the Senate and the House of Representatives (64 Stat. 1111; 42 U.S.C. § 1855g)

**Sec. 9. [Statute repealed.]**—The Act of July 25, 1947 (Public Law 233 Eightieth Congress), entitled “An Act to make surplus property available for the alleviation of damage caused by flood or other catastrophe”, is hereby repealed (64 Stat. 1111)

September 30, 1950

DISASTER RELIEF ACT OF 1950

1047

EXPLANATORY NOTES

**Not Codified.** Section 9 of this Act is not codified in the U.S. Code.

**Supplementary Provision: Reimbursement of Appropriations.** The Public Works Appropriation Act, 1967, approved October 15, 1966, provides that "Any appropriations made heretofore or hereafter to the Bureau of Reclamation which are expended in connection with national disaster relief under Public Law 81-875 as administered by the Office of Emergency Planning shall be reimbursed in full by that Office to the account for which the funds were originally appropriated." The act appears herein in chronological order.

**Supplementary Provision: Disaster Relief**

**Act of 1966.** Section 9 of the Disaster Relief Act of 1966, approved November 6, 1966, authorizes appropriations for matching grants to States and local public agencies for repair or reconstruction of projects; and section 10 adjures agency heads to avoid duplication of benefits. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinion are included only to the extent deemed relevant to activities of the Bureau of Reclamation under this statute.

**Legislative History.** H.R. 8396, Public Law 81-875 in the 81st Congress. H.R. Rept. No. 2727. S. Rept. No. 2571. H. Res. 742; H.R. Rept. No. 2765.

December 29, 1950

1048

## CANADIAN RIVER PROJECT

An act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas. (Act of December 29, 1950, ch. 1183, 64 Stat. 1124)

**[Sec. 1. Secretary authorized to construct, operate, and maintain Canadian River project.]**—For the purposes of irrigating land, delivering water for industrial and municipal use, controlling floods, providing recreation and fish and wildlife benefits, and controlling and catching silt, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Canadian River reclamation project, Texas, described in the report of the Commissioner of Reclamation approved by the Secretary May 3, 1950, entitled "Plan for Development, Canadian River Project, Texas", Project Planning Report Number 5-12.22-1, at an estimated cost of \$86,656,000, the impounding works whereof shall be located at a suitable site on the Canadian River in that area known as the Panhandle of Texas. In addition to the impounding works, the project shall include such main canals, pumping plants, distribution and drainage systems, and other works as are necessary to accomplish the purposes of this Act. The use by the project of waters arising in the Ute and Pajarito Creeks, New Mexico, shall be only such use as does not conflict with use, present or potential, of such waters for beneficial consumptive purposes in New Mexico (64 Stat. 1124; 43 U.S.C. § 600b)

**Sec. 2. [Costs allocable to flood control and fish and wildlife nonreimbursable—No construction until Congress consents to Canadian River compact.]**—(a) Notwithstanding any recommendations in the above-mentioned report to the contrary, only the costs of construction allocable to flood control and, upon approval by the President of a suitable plan thereof, to the preservation and propagation of fish and wildlife, and operation and maintenance costs allocable to the same purposes, shall be nonreimbursable.

(b) Actual construction of the project herein authorized shall not be commenced, and no construction contract awarded therefor, until (1) the Congress shall have consented to the interstate compact between the States of New Mexico, Oklahoma, and Texas agreed upon by the Canadian River Compact Commission at Santa Fe, New Mexico, December 6, 1950, in conformity with Public Law 491, Eighty-first Congress, and (2) repayment of that portion of the actual cost of constructing the project which is allocated to municipal and industrial water supply and of interest on the unamortized balance thereof at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the average rate paid by the United States on its long-term loans outstanding at the time the repayment contract is negotiated minus the amount of such net revenues as may be derived from temporary water supply contracts or from other sources prior to the close of the repayment period, shall have been assured by a contract satisfactory to the Secretary, with one central repayment contract

organization, the term of which shall not exceed fifty years from the date of completion of the municipal and industrial water supply features of the project as determined by the Secretary.

(c) The repayment contract shall provide, among other things, (1) that the holder thereof shall have a first right, to which right the rights of the holders of any other type of contract shall be subordinate, to a stated share or quantity of the project's available water supply for use by its constituent industrial and municipal water users during the repayment period and a permanent right to such share or quantity thereafter subject to payment of such costs as may be incurred by the United States in its operation and maintenance of any part of the project works; (2) that, subject to such rules and regulations as the Secretary may prescribe, the care, operation, and maintenance of such portions of the pipeline and related facilities as are used solely for delivering such water to the contract holder and its constituent organizations shall, as soon as is practicable after completion of the municipal and industrial water supply features of the project, pass to the contract holder or to an organization which is designated by it for that purpose and which is satisfactory to the Secretary; and (3) that title to such portions of the pipeline and related facilities shall in like manner pass to the contract holder or its designee or designees upon payment to the United States of all obligations arising under this Act or incurred in connection with the project. (64 Stat. 1124; 43 U.S.C. § 600c)

#### EXPLANATORY NOTE

**Reference in the Text.** The interstate compact between the States of New Mexico, Oklahoma, and Texas apportioning the waters of the Canadian River agreed upon at Santa Fe, New Mexico, December 6, 1950, in conformity with Public Law 491,

Eighty-first Congress, referred to in the text, was consented to by the Congress by the Act of May 17, 1952. The Act including the text of the Compact, appears herein in chronological order.

**Sec. 3. [Appropriations authorized.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act. (64 Stat. 1125; 43 U.S.C. § 600b, note)

#### EXPLANATORY NOTES

**Supplementary Provision: Recreation Development at Sanford Reservoir.** The Act of August 31, 1964, 78 Stat. 744, authorizes general recreation development at the Sanford Reservoir area, and the Act of August 31, 1965, 79 Stat. 587, authorizes establishment of the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument in the area. Both acts appear herein in chronological order.

**Supplementary Provision: Lake Meredith.** The Act of August 31, 1965, designated the lake to be formed by the waters impounded by Sanford Dam, Canadian River Project, as "Lake Meredith." The Act appears herein in chronological order.

**Legislative History.** H.R. 2733, Public Law 898 in the 81st Congress. H.R. Rept No. 1096. S. Rept. No. 2110.

August 2, 1951

1050

## CONVEYANCE TO CITY OF KLAMATH FALLS

An act authorizing the Secretary of the Interior to convey to the city of Klamath Falls, Oregon, all right, title, and interest of the United States of America in certain lands in Klamath County, Oregon, and for other purposes. (Act of August 2, 1951, ch. 288, 65 Stat. 152)

[**Sec. 1. Conveyance of land in Klamath County, Oregon.**]—(a) The Secretary of the Interior is authorized and directed to convey to the city of Klamath Falls, Oregon, all right, title, and interest of the United States of America in and to the following-described land in Klamath County, Oregon:

(1) The right-of-way for the A-3-n lateral from the central quarter corner of section 22, township 39 south, range 9 east, Willamette meridian, to a point one thousand three hundred and thirty-six feet east of said quarter corner, as acquired from Charles E. Worden on August 6, 1912, and recorded on page 83, volume 38, of deed records of Klamath County, Oregon, and from E. E. Henry on December 27, 1912, and recorded on page 33 of volume 38 of deed records in Klamath County, Oregon.

(b) There shall be reserved to the United States, in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands serving buildings or other works operated by the United States or its successors or assigns in connection with the Klamath project. There shall be further reserved in said lands all rights-of-way for water lines, sewer lines, telephone and telegraph lines, power lines, and such other utilities as now exist, or may be or become necessary to the operation of said Klamath project. (65 Stat. 152)

**Sec. 2. [Relinquishment of right-of-way.]**—The Secretary of the Interior is authorized and directed to relinquish and surrender to the city of Klamath Falls, Oregon, all right, title, and interest of the United States in the right-of-way for the 1-E drain over and across the southwest quarter northeast quarter and the east half southeast quarter of section 22, township 39 south, range 9 east, Willamette meridian, and the west half southwest quarter of section 23 of aforesaid township and range, as described in the easements from Ernest J. Lang and Mary J. Lang, dated August 28, 1918, and from John N. Moore and Frances Moore, dated November 15, 1915, and from Mary L. Moore, dated October 27, 1918, recorded respectively, on page 430 of volume 49, page 235 of volume 45, and page 393 of volume 49 of deed records of Klamath County, Oregon. (65 Stat. 152)

**Sec. 3. [Conveyance of perpetual easement.]**—The Secretary of the Interior is authorized and directed to convey to the city of Klamath Falls, Oregon, a perpetual easement for highway purposes over a strip of land one hundred feet in width, or as near to that width as is practicable, immediately adjacent and parallel to the west boundary line of the existing Southern Pacific Railroad right-of-way across the south half northwest quarter and the northeast quarter southwest quarter of section 22, township 39 south, range 9 east, Willamette

August 2, 1951

CONVEYANCE TO CITY OF KLAMATH FALLS 1051

meridian. Such easement shall be subject to the prior right of the United States to construct, operate, and maintain ditches and canals, telephone, telegraph, and power transmission and distribution lines along and across said strip of land. (65 Stat. 152)

**Sec. 4. [Reduction of obligation of Klamath Irrigation District.]**—The Secretary of the Interior is authorized and directed to cancel all unaccrued construction charges amounting to \$19,590 against seven hundred eleven and fifty-five one-hundredths acres of class 5 land in sections 15, 22, 23, 26, and 27, township 39 south, range 9 east, Willamette meridian, Oregon, within the boundaries of the Klamath Irrigation District, being utilized by the city of Klamath Falls as a municipal airport, and to reduce by that amount the obligation of the Klamath Irrigation District under its contract with the United States of America of July 6, 1918, as amended; and to retain on behalf of the United States of America the accrued construction charges, amounting to \$11,733.27, which have been paid on said seven hundred eleven and fifty-five one-hundredths acres of class 5 lands, notwithstanding any other provision of law to the contrary. (65 Stat. 153)

**Sec. 5. [Condition precedent to conveyances and cancellation of charges.]**—The conveyances authorized in sections 1, 2, and 3 hereof and the cancellation authorized in section 4 hereof shall not be made until and unless—

(a) all of the lands within the Klamath Falls Municipal Airport, and also a strip of land thirty feet wide being the north thirty feet of the south half of the southwest quarter of section 15, township 39 south, range 9 east, Willamette meridian, lying within the territorial limits of the Klamath Irrigation District have been duly excluded from said district; and

(b) the aggregate of the sums payable on account of construction charges with respect to classes 1 to 4 lands owned by the city of Klamath Falls within the boundaries of the Klamath Falls Municipal Airport, and the aggregate of the sums due and unpaid as of the date upon which the class 1 to 5 lands included within the boundaries of the Klamath Falls Municipal Airport and the above-described thirty-foot strip are excluded from said district, on account of operation and maintenance charges against said lands have been paid to the United States. Amounts so received by the United States shall be credited against the obligation of the Klamath Irrigation District under its contract with the United States of America of July 6, 1918, as amended. (65 Stat. 153)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 103 in the 82d Congress. H.R. Rept. the U.S. Code. No. 577. S. Rept. No. 500 (on S. 540).

**Legislative History.** H.R. 3018, Public

August 16, 1951

1052

## RELIEF OF WALTER M. SMITH

An act for the relief of Walter M. Smith. (Act of August 16, 1951, ch. 320, 65 Stat. A79)

[Secretary of the Treasury directed to make payment.]—The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$112.15 to Walter M. Smith, 972 Chittenden Avenue, Columbus, Ohio, in full settlement of all claims against the United States as reimbursement for expenses incurred in travel from Columbus, Ohio, to Riverton, Wyoming, and return, on instructions from Bureau of Reclamation, Department of the Interior, in the month of June 1948: *Provided* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (65 Stat. A79)

### EXPLANATORY NOTES

**Background.** Mr. Smith was offered an appointment by the Bureau of Reclamation. However, after reporting for duty at Riverton, Wyoming, it was found that funds for undertaking the work upon which he was to be employed were lacking and therefore he could not be employed. The \$112.15

authorized to be paid Mr. Smith was to reimburse him for the expenses he incurred in reporting for duty.

**Legislative History.** H.R. 4226, Private Law 207 in the 82d Congress. H.R. Rept. No. 626. S. Rept. No. 592.

August 31, 1951

1053

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1952

**Extracts from]** An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1952, and for other purposes. (Act of August 31, 1951, ch. 375, 65 Stat. 248)

\* \* \* \* \*

### CONTINUING FUND, SOUTHEASTERN POWER ADMINISTRATION

[Continuing fund established.]—All receipts from the transmission and sale of electric power and energy under the provisions of section 5 of the Flood Control Act of December 22, 1944 (16 U.S.C. 825s), generated or purchased in the southeastern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of \$50,000, and said fund shall be placed to the credit of the Secretary, and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of Government facilities in said area: \* \* \*. (65 Stat. 249; 16 U.S.C. § 825s-2)

\* \* \* \* \*

### TRANSFER OF CERTAIN FACILITIES, DENISON DAM PROJECT

[Transfer of Denison-Payne transmission line to Secretary of the Interior.]—The jurisdiction and control of the Denison-Payne 132-kilovolt transmission line is hereby vested in the Secretary of the Interior, and the interdepartmental accounts shall be adjusted accordingly without transfer of funds. (65 Stat. 250)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

### CONSTRUCTION AND REHABILITATION

[Final payment to Grand Coulee School District.]—For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities and including a final payment of not to exceed \$282,275 to the Grand Coulee School District, Washington, to be made for school facilities, in accordance with the agreement between the Bureau of Reclamation and the Grand Coulee School District, based on enrollment of dependents of Bureau of Reclamation and contractor employees, such payment to constitute full and final discharge of all Federal responsibility arising out of enrollment of dependents of employees of the Bureau of Reclamation and its contractors) \* \* \*. (65 Stat. 255)

August 31, 1951

1054 INTERIOR DEPARTMENT APPROPRIATION ACT, 1952

[Keating amendment—Restriction against transmission facilities in areas served by wheeling contracts.]—\* \* \* *Provided*, That no part of this appropriation shall be used to initiate the construction of transmission facilities within those areas covered by power wheeling service contracts which include provision for service to Federal establishments and preferred customers, except those transmission facilities for which construction funds have been heretofore appropriated, those facilities which are necessary to carry out the terms of such contracts or those facilities for which the Secretary of the Interior finds the wheeling agency is unable or unwilling to provide for the integration of Federal projects or for service to a Federal establishment or preferred customer: \* \* \*. (65 Stat. 255)

EXPLANATORY NOTES

**Provision Repeated.** This proviso is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act through the most recent one, the Act of October 15, 1966,

80 Stat. 1007.

**Popular Name.** This proviso is popularly known as the Keating Amendment after its author in the House, Representative Kenneth B. Keating of New York. Keating later served as a Senator.

NOTES OF OPINIONS

Non-appropriated funds 3  
Waiver 1  
Wheeling contracts 2

1. Waiver

The Keating Amendment does not apply to the Bureau of Reclamation components of the Pacific Northwest-Pacific Southwest Intertie. Memorandum of Solicitor Barry to Assistant Secretary, Water and Power Development, August 5, 1964.

While there is no question that Congress can, advisedly and deliberately, make provision for Federal construction of transmission facilities which are inconsistent with the Keating amendment in an appropriation act to which the Keating amendment is appended, such intent must be shown either by an express provision in the act or by a clear showing in the legislative history that Congress was fully advised of the situation and specifically included funds for the facility in the appropriation notwithstanding the prohibition. Such a showing was not made with respect to the proposed substation to provide direct Federal service to the

City of Hillsboro, North Dakota, from Missouri River Basin project power. Dec. Comp. Gen. B153601 (September 24, 1964).

2. Wheeling contracts

The Bureau of Reclamation is not precluded by the Keating amendment provision in its annual appropriation acts from using available funds to initiate construction of electric transmission lines in Iowa as long as the area involved is not covered by an adequate wheeling service contract. Associate Solicitor Fisher Opinion, 66 I.D. 226 (1959).

3. Non-appropriated funds

The Keating amendment does not apply to facilities paid for through savings in operating costs and not through the use of appropriated funds. Dec. Comp. Gen. B-62789 (letter of Assistant Comptroller General Weitzel to Chairman John E. Moss, Special Subcommittee on Assigned Power and Land Problems, House Committee on Government Operations, June 28, 1960).

\* \* \* \* \*

TRANSFER OF CERTAIN FACILITIES, FORT PECK PROJECT, MONTANA

[Transfer of certain power facilities, Fort Peck project.]—The Secretary of the Army is hereby authorized to transfer to the Department of the Interior without exchange of funds, all of the right, title, and interest of the Department of the Army in and to the following facilities, including rights-of-way (except that portion of the rights-of-way within the Fort Peck Reservoir area), but

August 31, 1951

INTERIOR DEPARTMENT APPROPRIATION ACT, 1952 1055

there shall be reserved the right to use the power facilities for the purpose of transmitting power to the Fort Peck project during emergency periods when the Fort Peck plant is not functioning: (a) the Fort Peck-Rainbow (Great Falls) 161 kilovolt transmission line; (b) the Rainbow (Great Falls) terminal facilities; and (c) the Fort Peck-Whatley 50 kilovolt transmission line and substation. (65 Stat. 256)

\* \* \* \* \*

ADMINISTRATIVE PROVISIONS

[Archeological investigation and recovery.]—Appropriations to the Bureau of Reclamation shall be available for \* \* \* studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Act of August 21, 1935 (16 U.S.C. 461-467) \* \* \*. (65 Stat. 257)

EXPLANATORY NOTES

**Provision Repeated.** The same provision is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955, and each annual Public Works Appropriation Act thereafter through the most recent one, the Act of

October 15, 1966, 80 Stat. 1009.

**Reference in Text.** The Act of August 21, 1935, referred to in text, 49 Stat. 666, deals with the preservation of historic sites, buildings and objects of national significance.

\* \* \* \* \*

[Coachella Valley County Water District—Payment of additional costs.]—Not to exceed \$2,783,000 of the appropriation herein made for “Construction and rehabilitation, Bureau of Reclamation” shall be expended for completion of construction of the Coachella division of the All-American Canal system, Boulder Canyon project: *Provided*, That any sums thereof so expended in excess of the amount required to be repaid under the existing contract between the Coachella Valley County Water District and the United States shall be repayable by said district to the United States unless said district shall be judicially determined by a court of competent jurisdiction to be not liable therefor. (65 Stat. 258)

EXPLANATORY NOTE

**Additional Appropriation.** The Interior Department Appropriation Act, 1953, 66 Stat. 451, appropriated an additional \$1,419,000 to be expended for completion

of construction of the Coachella division “in accordance with the terms and conditions of the appropriation for the same purpose” in the 1952 act.

NOTES OF OPINIONS

Reimbursement of excess costs 1  
Supplemental repayment contract 2

1. Reimbursement of excess costs

The Coachella Valley County Water District is not required to pay for the additional costs—i.e., those in excess of the \$13,500,000 fixed in the repayment contract of December 22, 1947—inurred by the United States in completing the distri-

bution system pursuant to the provision in the Interior Department Appropriation Act, 1952, and subsequent appropriations. *United States v. Coachella Valley County Water District*, 111 F. Supp. 172 (S.D. Cal. 1953).

2. Supplemental repayment contract

The Interior Department Appropriation Act, 1952, authorizes the Secretary of the

August 31, 1951

1056 INTERIOR DEPARTMENT APPROPRIATION ACT, 1952

Interior to complete the Coachella division without first securing a supplemental repayment contract covering the costs in excess of the amount fixed in the repayment contract of December 22, 1947. Dec. Comp. Gen., B-106038 (December 7, 1951).

The specific provision in the Interior Department Appropriation Act, 1952, 65 Stat. 258, directing completion of the Coachella distribution works at a cost in excess of the repayment contract, but sub-

ject to the liability of the Coachella Valley County Water District to repay such excess costs unless judicially determined otherwise, suspends the prohibition in section 46 of the Omnibus Adjustment Act of 1926 against the delivery of water in the absence of a repayment contract covering the costs of the completed project. Memorandum of Solicitor Davis, May 11, 1953, reversing Solicitor White Opinion, M-36150 (November 21, 1952).

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Interior Department Appropriation Act, 1952". (65 Stat. 267)

EXPLANATORY NOTES

**Codification.** Except for the item on establishment of Continuing Fund, South-eastern Power Administration, extracts of this act shown are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are

repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 3790, Public Law 136 in the 82nd Congress. H.R. Rept. No. 339. S. Rept. No. 499. H.R. Rept. No. 888 (conference report).

## SECOND BARREL, SAN DIEGO AQUEDUCT

In act to authorize the Secretary of the Navy to enlarge existing water-supply facilities for the San Diego, California, area in order to insure the existence of an adequate water supply for naval installations and defense production plants in such area. (Act of October 11, 1951, ch. 494, 65 Stat. 404)

[**Sec. 1. Secretary of Navy authorized to construct San Diego Aqueduct.**]— Subject to the provisions of section 3 of this Act, the Secretary of the Navy, under the direction of the Secretary of Defense, is authorized and directed to provide or—

- (1) such enlargement of the existing aqueduct extending from the west end of the San Jacinto tunnel of the Metropolitan Water District of Southern California to the San Vicente Reservoir in San Diego County, California, as may be necessary to increase the rated capacity of such existing aqueduct from eighty-five cubic feet per second to not less than one hundred and sixty-five cubic feet per second, or
- (2) the construction of a new aqueduct paralleling such existing aqueduct and having a rated capacity of not less than eighty cubic feet per second.

(65 Stat. 404)

### EXPLANATORY NOTE

**Second Barrel.** This Act authorizes construction of the so-called Second Barrel or pipeline of the San Diego Aqueduct. Construction of the First Barrel was initiated

administratively and was ratified by the Act of April 15, 1948, which appears herein in chronological order.

**Sec. 2. [Use of water subject to certain compact, statutes, and treaty.]**—The use of all water diverted through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty and shall be included within and shall in no way increase the total quantity of water to the use of which the State of California is entitled and limited by said compacts, statutes, and treaty. (65 Stat. 405)

**Sec. 3. [Condition precedent to construction and expenditure of funds.]**—No construction shall be undertaken under the authority of section 1 of this Act and no funds shall be expended for the preparation of plans or specifications or any such construction unless and until the Secretary of the Navy has entered into a contract with the San Diego County Water Authority amending the contract (NOy-13300) of October 17, 1945 (providing for the completion of such existing aqueduct), to provide—

- (1) for the computation of the true cost of the work performed under the authority of section 1 of this Act in the same manner as provided for determining true cost in such contract of October 17, 1945;

- (2) for the repayment of the true cost of the work performed under the authority of section 1 of this Act, together with interest on such amount computed at the rate certified by the Secretary of the Treasury to be the average rate paid by United States on its long-term loans, within a period

October 11, 1951

of forty years after the completion and delivery to the San Diego County Water Authority of possession of the works constructed under the authority of this Act: *Provided*, That repayment shall be made in annual installments of not less than one-fortieth of the true cost due when computed as herein prescribed plus annually accrued interest;

(3) that the use of all water diverted through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty and shall be included within and shall in no way increase the total quantity of water to the use of which the State of California is entitled and limited by the said compact, treaty, and statutes;

(4) for the conveyance by the United States to the San Diego County Water Authority of title to the works constructed (including all rights-of-way and other interests in land used in connection with such works) under such contract of October 17, 1945, together with the works constructed under the authority of section 1 of this Act, upon repayment of the true cost of such works, including interest, computed as hereinabove set forth; and

(5) that after the effective date of this contract the member agencies of the San Diego County Water Authority, their successors or assigns as the distributors of the water, shall furnish to the Government on a preferential basis and at a rate no higher than that charged other users of comparable quantities of water, a quantity of water sufficient to meet the requirements of Government activities located and to be located in the area served by such agencies. (65 Stat. 405)

**Sec. 4. [Acquisition of lands.]**—For the purpose of enabling him to carry out the provisions of the first section of this Act, the Secretary of the Navy is authorized to acquire lands and rights pertaining thereto, or other interests therein, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise. (65 Stat. 406)

**Sec. 5. [Use of Colorado River water—Condition and covenant.]**—The United States and the San Diego County Water Authority and their respective permittees, licensees, and contractees and all users and appropriators of water of the Colorado River diverted or delivered through the existing aqueduct and the enlargement or addition thereto shall observe and be subject to the Colorado River Compact, the Boulder Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty in the diversion, delivery, and use of water of the Colorado River, anything in this Act to the contrary notwithstanding, and such conditions and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River. (65 Stat. 406)

**Sec. 6. [Construction provisions.]**—The Secretary of the Navy is authorized

to provide for the construction of the whole or any part of the work authorized by the first section of this Act (1) by contract, (2) by the use of facilities and personnel of the Navy Department, or (3) by the use of the facilities and personnel of any other department or agency of the United States with which an agreement may be entered into to perform or to have performed the whole or any part of such work. (65 Stat. 406)

**Sec. 7. [Appropriation authorized.]**—The appropriation of such sums as may be necessary to carry out the provisions of this Act is hereby authorized. (65 Stat. 406)

**Sec. 8. [Act subject to compact, statutes, and treaty.]**—This Act and all works constructed hereunder shall be subject to and controlled by the Colorado River Compact dated November 24, 1922, and proclaimed effective by the President June 25, 1929; the Boulder Canyon Project Act approved December 21, 1928; the California Limitation Act approved by the Governor of California March 4, 1929; and no right or claim of right to the use of the waters of the Colorado River shall be aided or prejudiced hereby. (65 Stat. 406)

**Sec. 9. [Transfer of jurisdiction to Interior Department.]**—As soon as practicable after completion of construction of the work authorized by the first section of this Act, the Secretary of the Navy and the Secretary of the Interior shall make such interdepartmental and other arrangements and enter into such contracts and amendments to existing contracts as they may find necessary or desirable for the purposes of effecting (1) the transfer to the Secretary of the Interior on behalf of the United States of jurisdiction over the aqueduct, and of the administration of the contract numbered NOy-13300 of October 17, 1945, and of all contracts amendatory thereof or supplementary or collateral thereto; and (2) the substitution and designation of an appropriate official of the Department of the Interior for the Secretary of the Navy and for the Contracting Officer therein. (Added by the Act of May 31, 1957, 71 Stat. 41)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1957 Amendment.** The Act of May 31, 1957, 71 Stat. 41, amended this Act by adding to it section 9. The 1957 Act appears herein in chronological order.

**Transfer of Jurisdiction.** Transfer of jurisdiction over the aqueduct and related contracts from the Department of the Navy to the Secretary of the Interior was effective midnight November 30, 1958, pursuant to the agreement between the two departments signed November 13, 1958. 23 Fed. Reg. 9146 (1958).

**References in Sections 2, 3, 4 and 8 of the Text.** (1) The Colorado River Compact and the Boulder Canyon Project Act (45 Stat. 1057), both referred to in the text, are found herein in chronological order under the date of December 21, 1928. (2) The California Self-Limitation statute, referred to in the text, was enacted by Cali-

fornia (Stats. Cal. 1929, ch. 16) pursuant to section 4(a) of the Boulder Canyon Project Act. The California Act provides that in consideration of the passage of the Boulder Canyon Project Act that the aggregate annual consumptive use (diversions less returns to the river) by California of the water of the Colorado River shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin states by the Colorado River Compact, plus not more than one-half of any surplus or excess waters unapportioned by the compact. (3) The Mexican Water Treaty, referred to in the text, was signed at Washington on February 3, 1944. The Treaty and Protocol appear herein in chronological order as of the date the Treaty was signed.

**Legislative History.** H.R. 5102, Public Law 171 in the 82d Congress. H.R. Rept. No. 907. S. Rept. No. 844. S. Rept. No. 745 (on S. 234).

October 20, 1951

1060

## RELIEF OF CHARLES COOPER

An act for the relief of Charles Cooper. (Act of October 20, 1951, ch. 525, 65 Stat. A126)

[Secretary of the Treasury directed to make payment.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Charles Cooper, of Winslow, Arizona, the sum of \$1,748.75, in full satisfaction of his claim against the United States for crop loss and for reimbursement of funds expended in the improvement of a reclamation homestead entry in the Yuma reclamation project, which entry was allowed by the Department of the Interior on April 8, 1948, but subsequently canceled on April 22, 1949, because entry of the land could be made only by a qualified veteran and the entryman was not a qualified veteran: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with this claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this Act in excess of 10 per centum thereof, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (65 Stat. A126)

### EXPLANATORY NOTE

Legislative History. S. 1713, Private Law H.R. Rept. No. 1062.  
339 in the 82d Congress. S. Rept. No. 692.

## YELLOWSTONE RIVER COMPACT

An act granting the consent of Congress to a compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River. (Act of October 30, 1951, ch. 629, 65 Stat. 663)

[**Sec. 1. Consent of Congress given to the compact.**]—The consent of the Congress is hereby given to an interstate compact relating to the waters of the Yellowstone River which was signed (after negotiations in which a representative of the United States duly appointed by the President participated) by the Commissioners for the States of Montana, North Dakota, and Wyoming on December 8, 1950, at Billings, Montana, and which was thereafter ratified by the legislatures of each of the States aforesaid as provided by Public Law 83, Eighty-first Congress, approved June 2, 1949, which compact reads as follows:

## YELLOWSTONE RIVER COMPACT

The State of Montana, the State of North Dakota, and the State of Wyoming, being moved by consideration of interstate comity, and desiring to remove all causes of present and future controversy between said States and between persons in one and persons in another with respect to the waters of the Yellowstone River and its tributaries, other than waters within or waters which contribute to the flow of streams within the Yellowstone National Park, and desiring to provide for an equitable division and apportionment of such waters, and to encourage the beneficial development and use thereof, acknowledging that in future projects or programs for the regulation, control and use of water in the Yellowstone River Basin the great importance of water for irrigation in the signatory States shall be recognized, have resolved to conclude a Compact as authorized under the Act of Congress of the United States of America, approved June 2, 1949 (Public Law 83, 81st Congress, First Session), for the attainment of these purposes, and to that end, through their respective governments, have named as their respective Commissioners:

For the State of Montana:

Fred E. Buck  
A. W. Bradshaw  
H. W. Bunston  
John Herzog  
John M. Jarussi  
Ashton Jones  
Chris. Josephson  
A. Wallace Kingsbury  
P. F. Leonard  
Walter M. McLaughlin  
Dave M. Manning  
Joseph Muggli

For the State of Montana—Con.

Chester E. Onstad  
Ed F. Parriott  
R. R. Renne  
Keith W. Trout

For the State of North Dakota:

I. A. Acker  
Einar H. Dahl  
J. J. Walsh

For the State of Wyoming:

L. C. Bishop  
Earl T. Bower  
J. Harold Cash  
Ben F. Cochrane

October 30, 1951

For the State of Wyoming—Con.

Ernest J. Goppert

Richard L. Greene

E. C. Gwillim

E. J. Johnson

Lee E. Keith

N. V. Kurtz

Harry L. Littlefield

For the State of Wyoming—Con.

R. E. McNally

Will G. Metz

Mark N. Partridge

Alonzo R. Shreve

Charles M. Smith

Leonard F. Thornton

M. B. Walker

who, after negotiations participated in by R. J. Newell, appointed as the representative of the United States of America, have agreed upon the following articles, to-wit:

#### ARTICLE I

A. Where the name of a State is used in this Compact, as a party thereto, it shall be construed to include the individuals, corporations, partnerships, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, appropriators, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone River System under the authority of said State.

B. Any individual, corporation, partnership, association, district, administrative department, bureau, political subdivision, agency, person, permittee or appropriator authorized by or under the laws of a signatory State, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone River System under the authority of said State, shall be subject to the terms of this Compact. Where the singular is used in this article, it shall be construed to include the plural.

#### ARTICLE II

A. The State of Montana, the State of North Dakota, and the State of Wyoming are hereinafter designated as "Montana," "North Dakota," and "Wyoming," respectively.

B. The terms "Commission" and "Yellowstone River Compact Commission" mean the agency created as provided herein for the administration of this Compact.

C. The term "Yellowstone River Basin" means areas in Wyoming, Montana, and North Dakota drained by the Yellowstone River and its tributaries, and includes the area in Montana known as Lake Basin, but excludes those lands lying within Yellowstone National Park.

D. The term "Yellowstone River System" means the Yellowstone River and all of its tributaries, including springs and swamps, from their sources to the mouth of the Yellowstone River near Buford, North Dakota, except those portions thereof which are within or contribute to the flow of streams within the Yellowstone National Park.

E. The term "Tributary" means any stream which in a natural state contributes to the flow of the Yellowstone River, including interstate tributaries and tributaries thereof, but excluding those which are within or contribute to the flow of streams within the Yellowstone National Park.

October 30, 1951

YELLOWSTONE RIVER COMPACT

1063

F. The term "Interstate Tributaries" means the Clarks Fork, Yellowstone River; the Bighorn River (except Little Bighorn River); the Tongue River; and the Powder River, whose confluences with the Yellowstone River are respectively at or near the city (or town) of Laurel, Big Horn, Miles City, and Terry, all in the State of Montana.

G. The terms "Divert" and "Diversion" mean the taking or removing of water from the Yellowstone River or any tributary thereof when the water so taken or removed is not returned directly into the channel of the Yellowstone River or of the tributary from which it is taken.

H. The term "Beneficial Use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man.

I. The term "Domestic Use" shall mean the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of a family garden or orchard not exceeding one-half acre in area.

J. The term "Stock Water Use" shall mean the use of water for livestock and poultry.

ARTICLE III

A. It is considered that no Commission or administrative body is necessary to administer this Compact or divide the waters of the Yellowstone River Basin as between the States of Montana and North Dakota. The provisions of this Compact, as between the States of Wyoming and Montana, shall be administered by a Commission composed of one representative from the State of Wyoming and one representative from the State of Montana, to be selected by the Governors of said States as such States may choose, and one representative selected by the Director of the United States Geological Survey or whatever Federal agency may succeed to the functions and duties of that agency, to be appointed by him at the request of the States to sit with the Commission and who shall, when present, act as Chairman of the Commission without vote, except as herein provided.

B. The salaries and necessary expenses of each State representative shall be paid by the respective State; all other expenses incident to the administration of this Compact not borne by the United States shall be allocated to and borne one-half by the State of Wyoming and one-half by the State of Montana.

C. In addition to other powers and duties herein conferred upon the Commission and the members thereof, the jurisdiction of the Commission shall include the collection, correlation, and presentation of factual data, the maintenance of records having a bearing upon the administration of this Compact, and recommendations to such States upon matters connected with the administration of this Compact, and the Commission may employ such services and make such expenditures as reasonable and necessary within the limit of funds provided for that purpose by the respective States, and shall compile a report for each year ending September 30 and transmit it to the Governors of the signatory States on or before December 31 of each year.

October 30, 195

D. The Secretary of the Army; the Secretary of the Interior; the Secretary of Agriculture; the Chairman, Federal Power Commission; the Secretary of Commerce, or comparable officers of whatever Federal agencies may succeed to the functions and duties of these agencies, and such other Federal officer and officers of appropriate agencies of the signatory States having services or data useful or necessary to the Compact Commission, shall cooperate, ex-officio with the Commission in the execution of its duty in the collection, correlation and publication of records and data necessary for the proper administration of the Compact; and these officers may perform such other services related to the Compact as may be mutually agreed upon with the Commission.

E. The Commission shall have power to formulate rules and regulations and to perform any act which they may find necessary to carry out the provision of this Compact, and to amend such rules and regulations. All such rules and regulations shall be filed in the office of the State Engineer of each of the signatory States for public inspection.

F. In case of the failure of the representatives of Wyoming and Montana to unanimously agree on any matter necessary to the proper administration of this Compact, then the member selected by the Director of the United States Geological Survey shall have the right to vote upon the matters in disagreement and such points of disagreement shall then be decided by a majority vote of the representatives of the states of Wyoming and Montana and said member selected by the Director of the United States Geological Survey, each being entitled to one vote.

G. The Commission herein authorized shall have power to sue and be sued in its official capacity in any Federal Court of the signatory States, and may adopt and use an official seal which shall be judicially noticed.

#### ARTICLE IV

The Commission shall itself, or in conjunction with other responsible agencies, cause to be established, maintained, and operated such suitable water gaging and evaporation stations as it finds necessary in connection with its duties.

#### ARTICLE V

A. Appropriative rights to the beneficial uses of the water of the Yellowstone River System existing in each signatory State as of January 1, 1950, shall continue to be enjoyed in accordance with the laws governing the acquisition and use of water under the doctrine of appropriation.

B. Of the unused and unappropriated waters of the Interstate tributaries of the Yellowstone River as of January 1, 1950, there is allocated to each signatory State such quantity of that water as shall be necessary to provide supplemental water supplies for the rights described in paragraph A of this Article V, such supplemental rights to be acquired and enjoyed in accordance with the laws governing the acquisition and use of water under the doctrine of appropriation, and the remainder of the unused and unappropriated water is allocated to each

October 30, 1951

YELLOWSTONE RIVER COMPACT

1065

state for storage or direct diversions for beneficial use on new lands or for other purposes as follows:

1. Clarks Fork, Yellowstone River
  - a. To Wyoming----- 60%
  - To Montana----- 40%
- b. The point of measurement shall be below the last diversion from Clarks Fork above Rock Creek.
2. Bighorn River(Exclusive of Little Bighorn River)
  - a. To Wyoming----- 80%
  - To Montana----- 20%
- b. The point of measurement shall be below the last diversion from the Bighorn River above its junction with the Yellowstone River, and the inflow of the Little Bighorn River shall be excluded from the quantity of water subject to allocation.
3. Tongue River
  - a. To Wyoming----- 40%
  - To Montana----- 60%
- b. The point of measurement shall be below the last diversion from the Tongue River above its junction with the Yellowstone River.
4. Powder River (including the Little Powder River)
  - a. To Wyoming----- 42%
  - To Montana----- 58%
- b. The point of measurement shall be below the last diversion from the Powder River above its junction with the Yellowstone River.

C. The quantity of water subject to the percentage allocations, in Paragraph B 1, 2, 3, and 4 of this Article V, shall be determined on an annual water year basis measured from October 1st of any year through September 30th of the succeeding year. The quantity to which the percentage factors shall be applied through a given date in any water year shall be, in acre-feet, equal to the algebraic sum of:

1. The total diversions, in acre-feet, above the point of measurement, for irrigation, municipal, and industrial uses in Wyoming and Montana developed after January 1, 1950, during the period from October 1st to that given date;
2. The net change in storage, in acre-feet, in all reservoirs in Wyoming and Montana above the point of measurement completed subsequent to January 1, 1950, during the period from October 1st to that given date;
3. The next change in storage, in acre-feet in existing reservoirs in Wyoming and Montana above the point of measurement, which is used for irrigation, municipal, and industrial purposes developed after January 1, 1950, during the period October 1st to that given date;
4. The quantity of water, in acre-feet, that passed the point of measurement in the stream during the period from October 1st to that given date.

D. All existing rights to the beneficial use of waters of the Yellowstone River in the State of Montana and North Dakota, below Intake, Montana, valid under

October 30, 195

the laws of these States as of January 1, 1950, are hereby recognized and shall be and remain unimpaired by this Compact. During the period May 1 to September 30 inclusive, of each year, lands within Montana and North Dakota shall be entitled to the beneficial use of the flow of waters of the Yellowstone River below Intake, Montana, on a proportionate basis of acreage irrigated. Waters of tributary streams, having their origin in either Montana or North Dakota situated entirely in said respective States and flowing into the Yellowstone River below Intake, Montana, are allotted to the respective States in which situated.

E. There are hereby excluded from the provisions of this Compact:

1. Existing and future domestic and stock water uses of water: *Provided*, That the capacity of any reservoir for stock water so excluded shall not exceed 20 acre-feet;

2. Devices and facilities for the control and regulation of surface water.

F. From time to time the Commission shall re-examine the allocations herein made and upon unanimous agreement may recommend modifications therein as are fair, just, and equitable, giving consideration among other factors to:

Priorities of water rights;

Acreage irrigated;

Acreage irrigable under existing works; and

Potentially irrigable lands.

## ARTICLE VI

Nothing contained in this Compact shall be so construed or interpreted as to affect adversely any rights to the use of the waters of Yellowstone River and its tributaries owned by or for Indians, Indian tribes, and their reservations.

## ARTICLE VII

A. A lower signatory State shall have the right, by compliance with the law of an upper signatory State, except as to legislative consent, to file applications for and receive permits to appropriate and use any waters in the Yellowstone River System not specifically apportioned to or appropriated by such upper State as provided in Article V; and to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such upper State for the purpose of conserving and regulating water that may be apportioned to or appropriated by the lower State: *Provided*, That such right is subject to the rights of the upper State to control, regulate, and use the water apportioned to and appropriated by it: *And provided further*, That should an upper State elect, it may share in the use of any such facilities constructed by a lower State to the extent of its reasonable needs upon assuming or guaranteeing payment of its proportionate share of the cost of the construction, operation, and maintenance. This provision shall apply with equal force and effect to an upper State in the circumstance of the necessity of the acquisition of rights by an upper State in a lower State.

B. Each claim hereafter initiated for an appropriation of water in one signatory State for use in another signatory State shall be filed in the Office of the

October 30, 1951

**YELLOWSTONE RIVER COMPACT**

1067

State Engineer of the signatory State in which the water is to be diverted, and a duplicate copy of the application or notice shall be filed in the office of the State Engineer of the signatory State in which the water is to be used.

C. Appropriations may hereafter be adjudicated in the State in which the water is diverted, and where a portion or all of the lands irrigated are in another signatory State, such adjudications shall be confirmed in that State by the proper authority. Each adjudication is to conform with the laws of the State where the water is diverted and shall be recorded in the County and State where the water is used.

D. The use of water allocated under Article V of this Compact for projects constructed after the date of this Compact by the United States of America or any of its agencies or instrumentalities, shall be charged as a use by the State in which the use is made: *Provided*, That such use incident to the diversion, impounding, or conveyance of water in one State for use in another shall be charged to such latter State.

**ARTICLE VIII**

A lower signatory State shall have the right to acquire in an upper State by purchase, or through exercise of the power of eminent domain, such lands, easements, and rights-of-way for the construction, operation, and maintenance of pumping plants, storage reservoirs, canals, conduits, and appurtenant works as may be required for the enjoyment of the privileges granted herein to such lower State. This provision shall apply with equal force and effect to an upper State in the circumstance of the necessity of the acquisition of rights by an upper State in a lower State.

**ARTICLE IX**

Should any facilities be constructed by a lower signatory State in an upper signatory State under the provisions of Article VII, the construction, operation, repairs, and replacements of such facilities shall be subject to the laws of the upper State. This provision shall apply with equal force and effect to an upper State in the circumstance of the necessity of the acquisition of rights by an upper State in a lower State.

**ARTICLE X**

No water shall be diverted from the Yellowstone River Basin without the unanimous consent of all the signatory States. In the event water from another river basin shall be imported into the Yellowstone River Basin or transferred from one tributary basin to another by the United States of America, Montana, North Dakota, or Wyoming, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in determining its share of the water apportioned in accordance with Article V herein.

**ARTICLE XI**

The provisions of this Compact shall remain in full force and effect until amended in the same manner as it is required to be ratified to become operative as provided in Article XV.

October 30, 1951

1068

## YELLOWSTONE RIVER COMPACT

### ARTICLE XII

This Compact may be terminated at any time by unanimous consent of the signatory States, and upon such termination all rights then established hereunder shall continue unimpaired.

### ARTICLE XIII

Nothing in this Compact shall be construed to limit or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal Court or the United States Supreme Court, for the protection of any right under this Compact or the enforcement of any of its provisions.

### ARTICLE XIV

The physical and other conditions characteristic of the Yellowstone River and peculiar to the territory drained and served thereby and to the development thereof, have actuated the signatory States in the consummation of this Compact, and none of them, nor the United States of America by its consent and approval, concedes thereby the establishment of any general principle or precedent with respect to other interstate streams.

### ARTICLE XV

This Compact shall become operative when approved by the Legislature of each of the signatory States and consented to and approved by the Congress of the United States.

### ARTICLE XVI

Nothing in this Compact shall be deemed:

- (a) To impair or affect the sovereignty or jurisdiction of the United States of America in or over the area of waters affected by such compact, any rights or powers of the United States of America, its agencies, or instrumentalities, in and to the use of the waters of the Yellowstone River Basin nor its capacity to acquire rights in and to the use of said waters;
- (b) To subject any property of the United States of America, its agencies, or instrumentalities to taxation by any State or subdivision thereof, nor to create an obligation on the part of the United States of America, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;
- (c) To subject any property of the United States of America, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the Compact.

### ARTICLE XVII

Should a Court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States of

October 30, 1951

YELLOWSTONE RIVER COMPACT

1069

America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE XVIII

No sentence, phrase, or clause in this Compact or in any provision thereof, shall be construed or interpreted to divest any signatory State or any of the agencies or officers of such States of the jurisdiction of the water of each State as apportioned in this Compact.

In witness Whereof the Commissioners have signed this Compact in quadruplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each signatory State.

Done at the City of Billings in the State of Montana, this 8th day of December, in the year of our Lord, One Thousand Nine Hundred and Fifty.

Commissioners for the State of Montana:

Fred E. Buck	P. F. Leonard
A. W. Bradshaw	Walter M. McLaughlin
H. W. Bunston	Dave M. Manning
John Herzog	Joseph Muggli
John M. Jarussi	Chester E. Onstad
Ashton Jones	Ed F. Parriott
Chris. Josephson	R. R. Renne
A. Wallace Kingsbury	Keith W. Trout

Commissioners for the State of North Dakota:

I. A. Acker	J. J. Walsh
Einar H. Dahl	

Commissioners for the State of Wyoming:

L. C. Bishop	N. V. Kurtz
Earl T. Bower	Harry L. Littlefield
J. Harold Cash	R. E. McNally
Ben F. Cochrane	Will G. Metz
Ernest J. Goppert	Mark N. Partridge
Richard L. Greene	Alonzo R. Shreve
E. C. Gwillim	Charles M. Smith
E. J. Johnson	Leonard F. Thornton
Lee E. Keith	M. B. Walker

I have participated in the negotiation of this Compact and intend to report favorably thereon to the Congress of the United States.

R. J. NEWELL,  
*Representative of the United States of America.*

EXPLANATORY NOTE

**Reference in the Text.** Public Law 83, Eighty-first Congress, approved June 2, 1949, referred to in the first paragraph of the text, is an act granting the consent of Congress to the States of Montana, North

Dakota, and Wyoming to negotiate a compact for the equitable apportionment between them of the waters of the Yellowstone River and its tributaries. The Act appears herein in chronological order.

October 30, 1951

1070

YELLOWSTONE RIVER COMPACT

**Sec. 2. [Reservation of rights.]**—The right to alter, amend or repeal section 1 of this Act is expressly reserved. This reservation shall not be construed to prevent the vesting of rights to the use of water pursuant to applicable law and no alteration, amendment, or repeal of section 1 of this Act shall be held to affect rights so vested. (65 Stat. 671)

**EXPLANATORY NOTE**

**Not Codified.** This Act is not codified in 231 in the 82nd Congress. S. Rept. No. 883, the U.S. Code. H.R. Rept. No. 1118 (on H.R. 3544).

**Legislative History.** S. 1311, Public Law

## CONSENT TO NEGOTIATE SABINE RIVER COMPACT

**A**ct granting the consent of the Congress to the negotiation of a compact relating to the waters of the Sabine River by the States of Texas and Louisiana. (Act of November 1, 1951, ch. 663, 65 Stat. 736).

[**Consent of Congress to negotiation of interstate compact.**]—The consent of the Congress is hereby given to the States of Texas and Louisiana to negotiate and enter into a compact, providing for an equitable apportionment among the said states of the waters of the Sabine River and its tributaries, upon the condition that one suitable person, not a resident of, not living in, and having no interests in, either Texas, or Louisiana, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make a report to the Congress of the proceedings and of any compact entered into. Said compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of the States aforesaid and approved by the Congress of the United States. (65 Stat. 736)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Sabine River Compact.** The Compact providing for an equitable apportionment among the States of Louisiana and Texas of the waters of the Sabine River and its tributaries authorized to be negoti-

ated and entered into by this Act, was approved by the Act of August 10, 1954. The Act appears herein in chronological order.

**Legislative History.** H.R. 4288, Public Law 252 in the 82d Congress. H.R. Rept. No. 691. S. Rept. No. 1044.

March 5, 195

1072

## AMEND VERMEJO PROJECT ACT

An act to amend Public Law 848, Eighty-first Congress, second session. (Act of March 1952, ch. 79, 66 Stat. 13)

[Amendment of section 3 of the Act of September 27, 1950.]—Section 3 of the Act of September 27, 1950, Public Law 848, Eighty-first Congress, amended to read as follows:

“SEC. 3. Construction of the Vermejo reclamation project shall not be commenced until the President shall have approved a project report and there shall have been established, pursuant to the laws of the State of New Mexico, an organization with powers satisfactory to the Secretary, including the power to tax real property within its boundaries (which boundaries shall include the lands to be benefited by the project works) and the power to enter into contract or contracts with the United States for payment or return, as the case may be, of the reimbursable costs of the project and such contract or contracts shall have been duly executed.” (66 Stat. 13)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.  
**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of September 27, 1950.  
**Legislative History.** H.R. 2398, Public Law 269 in the 82d Congress. H.R. Rep No. 979. S. Rept. No. 1144.

## EXTEND TIME FOR AMENDATORY REPAYMENT CONTRACTS

An act to extend the time during which the Secretary of the Interior may enter into amendatory repayment contracts under the Federal reclamation laws, and for other purposes. (Act of March 6, 1952, ch. 94, 66 Stat. 16)

[Extension of time for modification of repayment contracts.]—The authority vested in the Secretary of the Interior by sections 3 and 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1188), is hereby extended through December 31, 1960. (66 Stat. 16; Act of August 31, 1954, 68 Stat. 1044; Act of August 21, 1957, 71 Stat. 390; Act of August 8, 1958, 72 Stat. 543; Act of September 21, 1959, 73 Stat. 585; 43 U.S.C. § 485b, note)

### EXPLANATORY NOTES

**1959 Amendment.** The Act of September 21, 1959, deleted the phrase "and by section 3 of the Act of April 24, 1945 (59 Stat. 75, 76)" which followed the citation for the Reclamation Project Act in the text above. The 1945 Act extended the time for the modification of existing repayment contracts through December 31, 1950, or December 31 of the fifth full calendar year after the end of World War II—whichever period would be longer. It also authorized the Secretary of the Interior to defer repayment installments as he deems necessary to adjust such installments to amounts within the probable ability of the water users to pay. Both the 1945 and 1959 Acts appear herein in chronological order.

**1958 Amendment.** Section 3 of the Act of August 8, 1958, amended this Act by de-

leting the reference to section 4 of the Reclamation Project Act of 1939, which was repealed by the 1958 Act. The 1958 Act appears herein in chronological order.

**1954 and 1957 Amendments.** The Act of August 31, 1954, 68 Stat. 1044, amended this Act by striking out the year "1954," and inserting "1957". The Act of August 21, 1957, 71 Stat. 390, amended the 1954 Act by striking out "1957" and inserting "1960". Both acts appear herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under sections 3 and 7 of the Reclamation Project Act of August 4, 1939.

**Legislative History.** H.R. 5097, Public Law 273 in the 82d Congress. H.R. Rept. No. 1191. S. Rept. No. 1063.

May 8, 1952

1074

## LIMITATION ON SEWERAGE SERVICE, TOWN OF MILLS

An act to amend the Act of September 25, 1950, so as to provide that the liability of the town of Mills, Wyoming, to furnish sewerage service under such Act shall not extend to future construction by the United States. (Act of May 8, 1952, ch. 247, 66 Stat. 67)

[Limitation on liability of town to furnish sewerage service to U.S.]—The Act entitled “An Act to authorize the Secretary of the Interior to transfer to the town of Mills, Wyoming, a sewerage system located in such town”, approved September 25, 1950, is amended by inserting immediately before the period at the end thereof a colon and the following:

“*Provided*, That the liability of the town to furnish sewerage service to the United States hereunder shall be limited to the continued use by the United States of that specific capacity in the sewerage system which is in use on the date of enactment of this proviso, and the liability of the town shall not extend beyond the useful life of the existing sewage-disposal facilities. The town of Mills and the Secretary of the Interior shall mutually agree to standards of maintenance for the sewerage facilities transferred to the town in keeping with recognized standards generally employed for maintenance of similar facilities.” (66 Stat. 67)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act

of September 25, 1950.

**Legislative History.** H.R. 5698, Public Law 331 in the 82d Congress. H.R. Rept. No. 1388. S. Rept. No. 1203 (on S. 2658).

May 17, 1952

1075

## CANADIAN RIVER COMPACT

An act granting the consent of Congress to a compact entered into by the States of Oklahoma, Texas, and New Mexico relating to the waters of the Canadian River. (Act of May 17, 1952, ch. 306, 66 Stat. 74)

[Sec. 1. Consent of Congress to the compact.]—The consent of the Congress is hereby given to the compact authorized by the Act of April 29, 1950 (64 Stat. 93), signed by the commissioners for the States of Oklahoma, Texas, and New Mexico at Santa Fe, New Mexico, on December 6, 1950, and thereafter ratified and approved by the legislatures of the States of Oklahoma, Texas, and New Mexico, which compact reads as follows:

### CANADIAN RIVER COMPACT

The State of New Mexico, the State of Texas, and the State of Oklahoma acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting Canadian River as follows:

#### ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the States; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

#### ARTICLE II

As used in this Compact:

- (a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.
- (b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.
- (c) The term "Commission" means the agency created by this Compact for the administration thereof.
- (d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

May 17, 1952

**ARTICLE III**

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

**ARTICLE IV**

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of 200,000 acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

**ARTICLE V**

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the householders and domestic livestock actually living or kept on the property.

(b) Until more than 300,000 acre feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of North Canadian River shall be limited to 500,000 acre feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to 200,000 acre feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this Article, such excess shall be retained in storage until under the provisions of said paragraph Texas

May 17, 1952

CANADIAN RIVER COMPACT

1077

shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no State shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not exceeding twelve months; and provided further that no State or user of water within any State shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each State shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three Commissioners, one from each of the signatory States, designated or appointed in accordance with the laws of each such State, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three States and

May 17, 1952

be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each State into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Perform all functions required of it by this Compact and do all things necessary, proper, or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies.

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in cooperation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory States on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory State, on his request, any information within its possession at any time, and shall always provide access to its records by the Governors of the States, or their representatives, or by authorized representatives of the United States.

## ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

(b) Subjecting any property of the United States, its agencies or instrumentalities, to taxation or by any State or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact;

May 17, 1952

CANADIAN RIVER COMPACT

1079

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and approved by the Congress of the United States. Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governors of the other States and to the President of the United States. The President is hereby requested to give notice to the Governors of each State of approval by the Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have executed four counterparts hereof, each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

JOHN H. BLISS,

*Commissioner for the State of New Mexico.*

E. V. SPENCE,

*Commissioner for the State of Texas.*

CLARENCE BURCH,

*Commissioner for the State of Oklahoma.*

Approved:

BERKELEY JOHNSON,

*Representative of the United States of America.*

EXPLANATORY NOTES

**Quotation Marks Omitted.** As enacted at 66 Stat. 74-78, the foregoing compact appears in quotation marks. These have been omitted in this reproduction.

**Reference in the Text.** The Act of April 29, 1950 (64 Stat. 93), referred to in the first paragraph of the text, is an act author-

izing the States of Oklahoma, Texas and New Mexico to negotiate and enter into a compact providing for an equitable apportionment of the waters of the Canadian River and its tributaries. The Act appears herein in chronological order.

**Sec. 2. [Rights reserved.]**—The right to alter, amend, or repeal section 1 of this Act is expressly reserved. This reservation shall not be construed to prevent the vesting of rights to the use of water pursuant to applicable law and no alteration, amendment, or repeal of section 1 of this Act shall be held to affect rights so vested. (66 Stat. 78)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** S. 1798, Public Law

345 in the 82nd Congress. S. Rept. No. 1192. H.R. Rept. No. 1725 (on H.R. 4628).

June 23, 1952

1080

### AMENDED CONTRACTS, MISCELLANEOUS PROJECTS

An act to approve contracts negotiated with irrigation districts on the Owyhee, Riverton, Milk River, and Frenchtown Federal Reclamation Projects, to authorize their execution, and for other purposes. (Act of June 23, 1952, ch. 451, 66 Stat. 151)

[**Sec. 1. Execution of contracts by Secretary authorized.**]—The contracts referred to in sections 2 to 5 of this Act, which have been negotiated by the Secretary of the Interior, pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), are hereby approved, and the Secretary is authorized to execute them on behalf of the United States. (66 Stat. 151)

#### OWYHEE PROJECT, IDAHO-OREGON

**Sec. 2.** The amendatory repayment contract dated August 29, 1951, with the Gem Irrigation District, the Ridgeview Irrigation District, the Owyhee Irrigation District, the Ontario-Nyssa Irrigation District, the Advancement Irrigation District, the Payette-Oregon Slope Irrigation District, the Crystal Irrigation District, the Bench Irrigation District, and the Slide Irrigation District. (66 Stat. 152)

#### NOTE OF OPINION

##### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been approved

by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

#### RIVERTON PROJECT, WYOMING

**Sec. 3.** The contract with the Midvale Irrigation District, which contract was approved by the electors of the District on May 14, 1952. (66 Stat. 152)

#### MILK RIVER PROJECT, MONTANA

**Sec. 4.** The contract with the Malta Irrigation District which was executed by said district pursuant to the laws of the State of Montana and in conformity with the order of the District Court of the Seventeenth Judicial District of the State of Montana, in and for the County of Phillips, dated March 6, 1951, in the confirmation proceedings on said contract before said court; and the contract with the Glasgow Irrigation District which was executed by said district pursuant to the laws of the State of Montana and in conformity with the order of the District Court of the Seventeenth Judicial District of the State of Montana, in and for the County of Valley, dated October 1, 1951, in the confirmation proceedings on said contract before said court.

(a) The 1947 reclassification of the lands of the Malta Irrigation District and the Glasgow Irrigation District of the Milk River Project, Montana, made

June 23, 1952

AMENDED CONTRACTS, MISCELLANEOUS PROJECTS 1081

in accordance with the provisions of section 8 of the Reclamation Project Act of 1939 and approved by the Board of Commissioners of the Malta Irrigation District by resolution, dated June 24, 1948, and by the Board of Commissioners of the Glasgow Irrigation District by resolution, dated July 1, 1948, is approved.

(b) Contingent upon the execution of the contract with the Malta Irrigation District, approved in this section, there shall be deducted from the total costs of the project, as the Malta Irrigation District's share thereof, the sum of \$663,644 on account of twelve thousand one hundred and twenty-eight acres, within the Malta Irrigation District, found to be permanently unproductive by the 1947 reclassification of lands.

(c) Contingent upon the execution of the contract with the Glasgow Irrigation District, approved in this section, there shall be deducted from the total costs of the project, as the Glasgow Irrigation District's share thereof, the sum of \$5,691 on account of one hundred and four acres within the Glasgow Irrigation District, found to be permanently unproductive by the 1947 reclassification of lands.

(d) There shall be deducted from the total costs of the project on account of nondistrict lands found to be permanently unproductive by the 1947 reclassification of lands, which reclassification as to nondistrict lands is hereby approved, the sum of \$7,661 on account of one hundred and forty acres formerly excluded from the Glasgow Irrigation District and not intended to be included within said district.

(e) The Secretary is authorized, in his discretion, to cancel and deduct from the total costs of the Glasgow Division of the Milk River Project, Montana, the construction charge obligation against any of the lands within said division of said project which are not actually included within the Glasgow Irrigation District. The amount of said cancellation and deduction shall be computed by the Secretary by multiplying the total number of acres of land formerly intended to be included within the irrigation district but not so included by the sum of \$54.72 per acre.

(f) The Secretary, at any time subsequent to the execution of the contracts approved in this section, and not later than January 1, 1960, shall reclassify and designate as either class 1, 2, 3, 4, 4a, 4b, or 6, as provided in said contracts, all lands within the Malta and Glasgow Irrigation Districts designated as class 5 by the 1947 reclassification of lands, and the reclassification and designation as class 6 of any of said lands shall reduce the construction charge obligation of the district in which such class 6 lands are situated by the sum of \$54.72 per acre.

(g) The amounts deducted from the construction charge obligation of either or both the Malta and Glasgow Irrigation Districts, and from the total costs of the Milk River Project, as provided for herein and adjusted in the contracts approved in this section, shall be charged off as a permanent loss to the reclamation fund, but no adjustment shall be made by the United States by reason thereof with any individual landowner by way of refund of or credit on account of sums heretofore paid, repaid, returned, or due and payable to the United States, by way of exchange of land, or by any other method. (66 Stat. 152)

June 23, 1952

1082 AMENDED CONTRACTS, MISCELLANEOUS PROJECTS

FRENCHTOWN PROJECT, MONTANA

**Sec. 5.** The contract dated September 6, 1951, with the Frenchtown Irrigation District. (66 Stat. 153)

NOTE OF OPINION

**1. Excess lands**

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has

been approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinwall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

**Sec. 6. [Costs to be nonreimbursable and nonreturnable.]**—All costs and expenses incurred by the United States in negotiating and completing the contracts approved under sections 3 and 4 of this Act and in making the investigations in connection therewith and in future determinations under said contracts with respect to the productivity of temporarily unproductive lands shall, contingent upon the final confirmation and execution of the contracts, be nonreimbursable and nonreturnable under the Federal reclamation laws. The water rights formerly appurtenant to the permanently unproductive lands referred to in the contracts aforesaid shall be disposed of by the United States under the reclamation laws with a preference right to the water users on the respective reclamation projects. (66 Stat. 153)

**Sec. 7. [Act a part of Federal reclamation laws.]**—This Act is declared to be a part of the Federal reclamation laws as those laws are defined in the Reclamation Project Act of 1939. (66 Stat. 153)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 402 in the 82d Congress H.R. Rept. the U.S. Code. No. 1177. S. Rept. No. 1607.

**Legislative History.** H.R. 5633, Public

## EXCESS LANDS, SAN LUIS VALLEY PROJECT

An act providing that excess-land provisions of the Federal reclamation laws shall not apply to certain lands that will receive a supplemental or regulated water supply from the San Luis Valley project, Colorado. (Act of June 27, 1952, ch. 478, 66 Stat. 282)

[**Non-applicability of excess land provisions of Federal reclamation laws.**]—The excess-land provisions of the Federal reclamation laws shall not be applicable to lands or to the ownership of lands which receive a supplemental or regulated supply of water from the San Luis Valley project, Colorado: *Provided, however,* That in lieu of the acreage limitations contained in such provisions, no landowner shall receive from such project a supplemental or regulated water supply greater in quantity than that reasonably necessary to irrigate four hundred and eighty acres of land served by such project: *Provided further,* That the provisions of this Act are intended to meet the special conditions existing on the lands served or to be served by the San Luis Valley project, Colorado, and shall not be considered as altering the general policy of the United States with respect to the excess-land provisions of the Federal reclamation laws. (66 Stat. 282)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Earlier Bill Vetoed.** A similar bill in the 81st Congress, 1st Sess. S. 1385, was vetoed by President Truman on October 29, 1949.

**Authorization.** The San Luis Valley project, Colorado, was found feasible by the Secretary of the Interior pursuant to the Reclamation Project Act of 1939. The Platoro Reservoir of the Platoro unit, the first unit of the Conejos division, was re-

authorized by a supplemental finding of feasibility by the Secretary on March 7, 1949.

**Cross Reference, Supplemental Contract.** The supplemental repayment contract of June 3, 1958, was approved by Act of April 4, 1960, 74 Stat. 14, which appears herein in chronological order.

**Legislative History.** S. 2610, Public Law 415 in the 82d Congress. S. Rept. No. 1594. H.R. Rept. No. 2145.

July 3, 1952

1084

## COLLBRAN PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Collbran reclamation project, Colorado. (Act of July 3, 1952, ch. 565, 66 Stat. 325)

[Sec. 1. Project authorized.]—For the purpose of supplying water for the irrigation of approximately twenty-one thousand acres of land and for municipal, domestic, industrial, and stockwater uses and of producing and disposing of hydroelectric power and, as incidental to said purposes, for the further purpose of providing for the preservation and propagation of fish and wildlife, the Secretary of the Interior is authorized to construct the Collbran reclamation project, Colorado, substantially in accord with the plans set forth in the report of the Bureau of Reclamation approved by him, May 9, 1950, the estimated construction cost of which project is approximately \$16,086,000, and to operate and maintain the same. (66 Stat. 325)

Sec. 2. [50 year repayment period—Application of power revenues.]—In constructing, operating, and maintaining the Collbran project the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) except so far as these laws are inconsistent with this Act: *Provided*, That any contract entered into pursuant to subsection (d) of section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187) may provide that the general repayment obligation shall be spread in annual installments, in number and amounts satisfactory to the Secretary, over a period of not exceeding fifty years, exclusive of any development period as therein provided, for any project contract unit or for any irrigation block, if the project contract unit be divided into two or more irrigation blocks: *Provided further*, That, notwithstanding any provision of law to the contrary, net revenues derived from the sale of commercial power and from the furnishing of water for municipal, domestic, and industrial use shall be applied, first, to the amortization, with interest, of those portions of the actual cost of the construction of the project which are allocated, respectively, to commercial power and to municipal, domestic, and industrial water supply; and, thereafter, shall be applied to amortization of that portion of the cost allocated to irrigation which is beyond the ability of the irrigation water users to repay within the period specified above. Amortization of that portion of the construction cost allocated to commercial power shall include interest on the unamortized balance thereof at 3 per centum per annum. Repayment of that portion of the actual cost of constructing the project which is allocated to municipal, domestic, and industrial water supply and of interest on the unamortized balance thereof at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the average rate paid by the United States on its long-term loans outstanding at the time the repayment contract is negotiated minus the amount of such net revenues as may be derived from temporary water supply contracts or from other sources prior to the close of the repayment period, shall be assured by a contract or contracts satisfactory to the Secretary, the term of which shall not exceed fifty years from

July 3, 1952

COLLBRAN PROJECT

1085

the date of completion of the municipal and industrial water supply features of the project as determined by the Secretary. (66 Stat. 325)

EXPLANATORY NOTE

**Collbran Formula.** The second proviso in section 2 sets forth the so-called "Collbran Formula", whereby the net revenues from the power and municipal, and domestic and industrial water supply operations are applied first to amortize with interest the

project construction costs allocated to those purposes respectively and thereafter to payment of that part of the irrigation allocation which is beyond the ability of the water users to repay within the 50-year repayment period.

**Sec. 3. [Appropriations authorized.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, approximately \$16,086,000 to carry out the purposes of this Act. (66 Stat. 326)

**Sec. 4. [Act and works subject to existing compacts, law and treaty.]**—This Act and all works constructed hereunder shall be subject to and controlled by the Colorado River Compact dated November 24, 1922, and proclaimed effective by the President June 25, 1929, the Boulder Canyon Project Act approved December 2, 1928, the Upper Colorado River Basin Compact dated October 11, 1948, and the Mexican Water Treaty, and no right or claim of right to the use of the waters of the Colorado River shall be aided or prejudiced hereby. (66 Stat. 326)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Supplementary Provision: Reconveyance of Mineral Interests.** The Act of September 26, 1966, 80 Stat. 793, authorized the Secretary of the Interior to reconvey to the former owner thereof any mineral interest, including oil and gas, previously acquired for the project, whenever the Secretary determines such mineral interest is not required for public purposes. The Act appears herein in chronological order.

**References in the Text.** (1) The Colorado River Compact and the Boulder Canyon Project Act, referred to in the text, are found herein in chronological order as of the date of the approval of the Act, De-

cember 21, 1928. The date given in the text, December 2, 1928, is incorrect. (2) The Upper Colorado River Basin Compact, dated October 11, 1948, was consented to by the Congress by the Act of April 6, 1949. The Act, including the text of the Compact, appears herein in chronological order. (3) The Mexican Water Treaty was signed at Washington on February 3, 1944. The Treaty and Protocol appear herein in chronological order as of the date the treaty was signed.

**Legislative History.** H.R. 2813, Public Law 445 in the 82d Congress. H.R. Rept. No. 1051. S. Rept. No. 1719. H.R. Rept. No. 1843 (on H. Res. 635).

July 3, 1952

## CLAIM OF STAMEY CONSTRUCTION COMPANY

An act conferring jurisdiction upon the United States District Court for the Western District of Oklahoma to hear, determine, and render judgment upon the claim of the Stamey Construction Company and/or Oklahoma Paving Company. (Act of July 3, 1952, ch. 556, 66 Stat. A124)

[**Sec. 1. Jurisdiction conferred upon U.S.D.C. for Western District of Oklahoma.**]—Jurisdiction is hereby conferred upon the District Court of the Western District of Oklahoma to hear, determine, and render judgment according to law with respect to the loss, if any, sustained by Stamey Construction Company, Hutchinson, Kansas and/or Oklahoma Paving Company, Oklahoma City, Oklahoma, as their interests appear, under Reclamation Bureau contract (12 r-16294), Schedule of Specifications Numbered 1374, Altus project, Oklahoma, arising out of or attributable to the alleged failure of the Government to supply materials as provided for in said contract: *Provided*, That the passage of this Act shall not be construed as an inference of liability on the part of the Government of the United States. Such judgment shall be subject to appeal by either party pursuant to title 28, United States Code, section 1291, and action thereon by the court of appeals may be reviewed pursuant to title 28, United States Code, section 1254. (66 Stat. A124)

### EXPLANATORY NOTE

**References in the Text.** Title 28, United States Code, section 1291, referred to in the text, sets forth the jurisdiction of the courts of appeals, including jurisdiction of appeals from all final decisions of the district courts

of the United States. Title 28, United States Code, section 1254, also referred to in the text, sets forth the methods by which cases in the courts of appeals may be reviewed by the Supreme Court.

**Sec. 2. [Secretary of Treasury to pay amount of judgment.]**—If the court shall enter a final judgment in favor of the claimant, the court shall cause such findings and judgment to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings and judgment to the Stamey Construction Company and the Oklahoma Paving Company, as their interests may appear. (66 Stat. A124)

### EXPLANATORY NOTE

**Legislative History.** H.R. 1267, Private Law 778 in the 82d Congress. No. 1156. S. Rept. No. 1693. H.R. Rept.

## SALINE WATER RESEARCH

An act to provide for research into and development of practical means for the economical production, from sea or other saline waters, of water suitable for agricultural, industrial, municipal, and other beneficial consumptive uses, and for other purposes. (Act of July 3, 1952, ch. 568, 66 Stat. 328)

[**Sec. 1. Policy of Congress on conversion of saline water—Definition of “saline water” and “United States.”**]—In view of the increasing shortage of usable surface and ground water in many parts of the Nation and the importance of finding new sources of supply to meet its present and future water needs, it is the policy of the Congress to provide for the development of practicable low-cost means for the large-scale production of water of a quality suitable for municipal, industrial, agricultural, and other beneficial consumptive uses from saline water, and for studies and research related thereto. As used in this Act, the term “saline water” includes sea water, brackish water, and other mineralized or chemically charged water, and the term “United States” extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. (§ 1, 66 Stat. 328; § 1[§ 1] Act of Sept. 22, 1961, 75 Stat. 628; 42 U.S.C. § 1951)

**Sec. 2. [Duties of Secretary—Research—Pilot plant testing—Recommend demonstration plants—Economic studies.]**—In order to accomplish the purposes of this Act, the Secretary of the Interior shall—

- (a) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into water suitable for beneficial consumptive purposes;
- (b) conduct engineering research and technical development work to determine, by laboratory, module, component, and pilot plant testing, the results of the research and studies aforesaid in order to develop processes and plant designs to the point where they can be demonstrated on a large and practical scale;
- (c) recommend to the Congress from time to time authorization for construction and operation, or for participation in the construction and operation, of a demonstration plant for any process which he determines, on the basis of subsections (a) and (b) above, has great promise of accomplishing the purposes of this Act, such recommendation to be accompanied by a report on the size, location, and cost of the proposed plant and the engineering and economic details with respect thereto;
- (d) study methods for the recovery and marketing of commercially valuable byproducts resulting from the conversion of saline water; and
- (e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the leading saline water processes as compared with other standard methods. (§ 2, 66 Stat. 328; Act of June

July 3, 1952

29, 1955, 69 Stat. 198; § 1 [§ 2], Act of Sept. 22, 1961, 75 Stat. 628; Act of August 11, 1965, 79 Stat. 509; 42 U.S.C. § 1952)

EXPLANATORY NOTE

1965 Amendment. The Act of August 11, 1965, amends subsection (b) by adding the words "module, component," after "laboratory." For legislative history of the 1965 act see Public Law 89-118 in the 89th Congress; S. Rept. No. 319; H.R. Rept. No. 594 (on H.R. 7092); H.R. Rept. No. 720 (conference report).

**Sec. 3. [Powers of Secretary.]**—In carrying out his functions under section 2 of this Act, the Secretary may—

- (a) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;
- (b) enter into contracts with educational institutions, scientific organizations, and industrial and engineering firms;
- (c) make research and training grants;
- (d) utilize the facilities of Federal scientific laboratories;
- (e) establish and operate necessary facilities and test sites at which to carry on the continuous research, testing, development, and programming necessary to effectuate the purposes of this Act;
- (f) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;
- (g) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue bibliographical data with respect thereto;
- (h) cause on-site inspections to be made of promising projects, domestic and foreign, and, in the case of projects located in the United States, cooperate and participate in their development in instances in which the purposes of this Act will be served thereby;
- (i) foster and participate in regional, national, and international conferences relating to saline water conversion;
- (j) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and
- (k) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations. (§ 2, 66 Stat. 329; Act of June 29, 1955, 69 Stat. 198; § 1[§ 3], Act of Sept. 22, 1961, 75 Stat. 628; 42 U.S.C. § 1953)

**Sec. 4. [Cooperation with other Federal agencies—Patents.]**—(a) Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Department of Defense to the end that developments under this Act which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of this Act and to

July 3, 1952

SALINE WATER RESEARCH

1089

strengthen the civil economy of the Nation. The fullest cooperation by and with Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies shall also be carried out in the interest of achieving the objectives of this Act.

(b) All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder. (§ 3, 66 Stat. 329; § 3[§ 4], Act of Sept. 22, 1961, 75 Stat. 629; 42 U.S.C. § 1954)

**Sec. 5. [Disposal of water and byproducts—Disposition of money.]**—(a) The Secretary may dispose of water and byproducts resulting from his operations under this Act. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

(b) Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water. (§§ 4 and 5, 66 Stat. 329 § 1[§ 5], Act of Sept. 22, 1961, 75 Stat. 629; 42 U.S.C. § 1955)

**Sec. 6. [Reports to President and Congress.]**—The Secretary shall make reports to the President and the Congress at the beginning of each regular session of the action taken or instituted by him under the provisions of this Act and of prospective action during the ensuing year. (§ 6, 66 Stat. 329; § 1[§ 6], Act of Sept. 22, 1961, 75 Stat. 629; 42 U.S.C. § 1956)

**Sec. 7. [Rules and regulations.]**—The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this Act. (§ 7, 66 Stat. 329; § 1[§ 7], Act of Sept. 22, 1961, 75 Stat. 629; 42 U.S.C. § 1957)

**Sec. 8. [Appropriations—Expenditures in cooperation with foreign agencies.]**—There are authorized to be appropriated such sums, to remain available until expended, as may be necessary, but not more than \$90,000,000, plus such additional sums as the Congress may hereafter authorize and appropriate but not to exceed \$185,000,000, (a) to carry out the provisions of this Act during the fiscal years 1962 to 1972, inclusive; (b) to finance, for not more than two years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this Act; and (c) to finance, for not more than three years beyond the end of said period, such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this Act: *Provided*, That funds available in any one year for research and development may, subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, be expended in cooperation with public or private agencies in foreign countries in the development of processes useful to the program in the United States: *And provided further*, That every such contract or agreement made with any public or private agency in a

July 3, 1952

1090

## SALINE WATER RESEARCH

foreign country shall contain provisions effective to insure that the results or information developed in connection therewith shall be available without cost to the United States for the use of the United States throughout the world and for the use of the general public within the United States. (§ 8, 66 Stat. 329; Act of June 29, 1955, 69 Stat. 198; § 1[§ 8], Act of Sept. 22, 1961, 75 Stat. 629; Act of August 11, 1965, 79 Stat. 509; 42 U.S.C. § 1958)

### EXPLANATORY NOTES

**1965 Amendment.** The Act of August 11, 1965, amends section 8 by increasing the amount authorized to be appropriated from \$75,000,000 to \$90,000,000, plus such additional sums as the Congress may hereafter authorize and appropriate but not to exceed \$185,000,000, and extends the authorization period from through the fiscal year 1967 to through the fiscal year 1972. For legislative history of the 1965 Act see Public Law 89-118 in the 89th Congress; S. Rept. No. 319; H.R. Rept. No. 594 (on H.R. 7092); H.R. Rept. No. 720 (conference report).

**1961 Amendment.** Section 1 of the Act of September 22, 1961, 75 Stat. 628, substantially revised and rewrote the entire act to expand the scope and extend the life of the program generally and increase the authorization of appropriations. For legislative history of the 1961 Act, see H.R. 7916, Public Law 87-295 in the 87th Congress; House Report 908; Senate Report

780 (on S. 2156); House Report 1158 (conference report).

**1955 Amendment.** The Act of June 29, 1955, 69 Stat. 198, made certain technical amendments, added authority for cooperation with foreign agencies, increased the appropriation authorization and extended the program through fiscal year 1963. For legislative history of the 1955 Act, see H.R. 2126, Public Law 111 in the 84th Congress; House Report 89; Senate Report 370; House Report 861 (conference report).

**Cross Reference.** The Act of September 2, 1958, 72 Stat. 1706, authorizes the construction of five demonstration plants.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with activities of the Bureau of Reclamation.

**Legislative History, 1952 Act.** H.R. 6578, Public Law 448 in the 82d Congress. H.R. Rept. No. 1519. S. Rept. No. 1106 (on S. 5).

## RUFUS WOODS LAKE

An act to designate the lake to be formed by the waters impounded by the Chief Joseph Dam in the State of Washington as Rufus Woods Lake. (Act of July 9, 1952, ch. 596, 66 Stat. 444)

[Designation of Rufus Woods Lake, Washington.]—The lake to be formed by the waters impounded by the Chief Joseph Dam in the State of Washington shall hereafter be known as Rufus Woods Lake, and any law, regulation, document, or record of the United States in which such lake is designated or referred to shall be held to refer to such lake under and by the name of Rufus Woods Lake. (66 Stat. 444)

### EXPLANATORY NOTES

Not Codified. This Act is not codified in 469 in the 82d Congress. S. Rept. No. 1346. the U.S. Code. H.R. Rept. No. 2314.

### Legislative History. S. 1989, Public Law

July 9, 1952

1092

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1953

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1953, and for other purposes. (Act of July 9, 1952, ch. 597, 66 Stat. 445)

\* \* \* \* \*

### OFFICE OF THE SECRETARY

\* \* \* \* \*

#### CONSTRUCTION, SOUTHEASTERN POWER ADMINISTRATION

[Condition on construction of transmission lines.]—For construction and acquisition of transmission lines, substations, and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, to remain available until expended, \$959,500; *Provided*, That no part of the funds appropriated by this paragraph or any part of the unobligated balance appropriated under this heading in the Interior Department Appropriation Act for 1952 shall be available for the construction of transmission lines and related facilities in the Southeastern power area until (1) a contract with the affected power companies in the area of substantially the type which has heretofore been executed in other power areas for system wide transmission of electric power and energy from Government owned projects to preferred customers has been executed, or the said companies have refused to execute such contracts, and (2) the Secretary of the Interior has so informed the Congress. (66 Stat. 445)

\* \* \* \* \*

#### BUREAU OF RECLAMATION

\* \* \* \* \*

[Southwest Contra Costa County Water District System—Approval by Congress required.]—For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, \* \* \* *Provided*, That no part of this appropriation shall be available for other than the completion of field engineering, survey work, and preliminary designs of the Southwest Contra Costa County Water District System and no repayment contract shall be executed or construction begun until plans have been submitted to and approved by the Congress through its legislative and appropriation procedures, after submission of a report to the Congress by the Secretary of the Interior (1) on the cost and feasibility of said project, including the necessary distribution system and (2) on the rates required to be charged to the ultimate consumers: \* \* \*. (66 Stat. 450)

July 9, 1952

INTERIOR DEPARTMENT APPROPRIATION ACT, 1953 1093

EXPLANATORY NOTE

**Provision Repeated.** This same restriction is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual

Public Works Appropriation Act thereafter through the Act of September 2, 1958, 72 Stat. 1575.

[Savage Rapids Dam.]—\* \* \* *Provided further*, That not to exceed \$700,000 shall be available toward emergency rehabilitation of the Savage Rapids Dam to be repaid in full under conditions satisfactory to the Secretary of the Interior: \* \* \*. (66 Stat. 451)

EXPLANATORY NOTES

**Popular Name.** The Grants Pass project, of which Savage Rapids Dam is a part, is known as a Cordon amendment project, after Senator Guy Cordon of Oregon. The appropriations for the project constitute the authorization.

**Cross Reference.** Other appropriations for the Grants Pass project are contained

in the Act of October 12, 1949, 63 Stat. 780, and the Act of July 2, 1956, 70 Stat. 476 (fish protective facilities). The relevant provisions appear herein in chronological order. The Act of July 1, 1954, 68 Stat. 366, authorizes funds to be expended for rehabilitation of appurtenant canal protective works.

NOTE OF OPINION

1. Fish screens

The item in the Interior Department Appropriation Act, 1953, which authorizes the Department to undertake on a reimbursable basis the emergency rehabilitation of an existing structure which is neither owned by nor under the control of the Federal Government is not an authorization to a Federal agency to impound, divert or otherwise con-

trol waters within the meaning of section 2 of the Act of August 14, 1946, and therefore an appropriation request for the construction of fish screens on a nonreimbursable basis as part of the rehabilitation work would be subject to a point of order. Solicitor Davis Opinion, M-36160 (October 13, 1953), in re Savage Rapids Dam, Oregon.

\* \* \* \* \*

[Operation and maintenance of Palo Verde Weir.]—For operation and maintenance of reclamation projects or parts thereof and of other facilities, as authorized by law; \* \* \* of which \* \* \* \$2,143,000 shall be derived from the Colorado River Dam fund, including (notwithstanding the provisions of the First Deficiency Appropriation Act, 1944, relating thereto) operation and maintenance of Palo Verde Weir: \* \* \*. (66 Stat. 451)

EXPLANATORY NOTES

**Provision Repeated.** A similar provision is contained in each subsequent annual Interior Department Appropriation Act through fiscal year 1955 and each annual Public Works Appropriation Act thereafter through the Act of August 26, 1957, 71

Stat. 420.

**Reference in Text.** The First Deficiency Appropriation Act of 1944, referred to in text, is the Act of April 1, 1944, 58 Stat. 157. The relevant provision appears herein in chronological order.

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Interior Department Appropriation Act, 1953". (66 Stat. 463)

July 9, 1952

1094 INTERIOR DEPARTMENT APPROPRIATION ACT, 1953

EXPLANATORY NOTES

**Not Codified.** Extracts from this act shown here are not codified in the U.S. Code.

**Land Certification.** A provision requiring land certification for new projects was included in this Act at 66 Stat. 451. It was repeated with an amendment the following year in the Act of July 31, 1953, 67 Stat. 266, and appears herein under that date.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 7176, Public Law 470 in the 82d Congress, H.R. Rept. No. 1628. S. Rept. No. 1803. H.R. Rept. No. 2451 (conference report).

July 9, 1952

1095

## HARRY STRUNK LAKE

An act to change the name of Medicine Creek Reservoir in Frontier County of the State of Nebraska to "Harry Strunk Lake." (Act of July 9, 1952, ch. 606, 66 Stat. 480)

[Designation of Harry Strunk Lake.]—The reservoir behind Medicine Creek Dam in Frontier County of the State of Nebraska, heretofore known, designated, and referred to as "Medicine Creek Reservoir", shall hereafter be designated and referred to as "Harry Strunk Lake". Any law, regulation, document, or record of the United States in which such reservoir is designated or referred to under and by the name of "Medicine Creek Reservoir" shall be held and considered to refer to such reservoir under and by the name of "Harry Strunk Lake". (66 Stat. 480)

### EXPLANATORY NOTES

Not Codified. This Act is not codified in 474 in the 82d Congress. S. Rept. No. 1729.  
the U.S. Code. H.R. Rept. No. 2296 (on H.R. 51).

Legislative History. S. 103, Public Law

July 10, 1952

1096

## STATE, JUSTICE, COMMERCE AND THE JUDICIARY APPROPRIATION ACT, 1953

[Extracts from] An act making appropriations for the Departments of State, Justice, Commerce, and the Judiciary, for the fiscal year ending June 30, 1953, and for other purposes. (Act of July 10, 1952, ch. 651, 66 Stat. 549).

\* \* \* \* \*

### TITLE I—DEPARTMENT OF STATE

\* \* \* \* \*

#### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

\* \* \* \* \*

##### CONSTRUCTION

[**Anzalduas Dam—Repayment of costs.**]—For detailed plan preparation and construction of projects \* \* \* *Provided further*, That the Anzalduas Diversion Dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the costs of said dam as shall have been allocated to such purposes by the Secretary of State. (66 Stat. 552)

##### EXPLANATORY NOTES

**Not Codified.** This provision is not codified in the U.S. Code.

**Provision Repeated.** This proviso is repeated in most of the subsequent annual Department of State appropriation acts through the most recent one, the Act of November 8, 1966, 80 Stat. 1479.

**Anzalduas Dam.** The Anzalduas Dam is a diversion dam across the Rio Grande constructed by the International Boundary and Water Commission, United States and Mexico, as part of the Lower Rio Grande flood control project. United States participation in the project was authorized by the Act of August 19, 1935, 49 Stat. 660. This Act appears herein in chronological order.

[**Short title.**]—This title may be cited as the “Department of State Appropriation Act, 1953.” (66 Stat. 556)

\* \* \* \* \*

**International Boundary and Water Commission.** The International Boundary Commission was created originally pursuant to the Convention with Mexico of March 1, 1889 (effective December 24, 1890), 26 Stat. 1512. It was reconstituted the International Boundary and Water Commission, United States and Mexico, by the Treaty with Mexico which was signed at Washington on February 3, 1944. The 1944 Treaty appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because this provision does not deal primarily with activities of the Bureau of Reclamation.

July 10, 1952

STATE, JUSTICE, ETC. APPROPRIATION ACT, 1953 1097

TITLE II—DEPARTMENT OF JUSTICE

\* \* \* \* \*

**Sec. 208. [Joinder of United States as defendant in water rights suits.]—**  
(a) Consent is hereby given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: *Provided*, That no judgment for costs shall be entered against the United States in any such suit.

(b) Summons or other process in any such suit shall be served upon the Attorney General or his designated representative.

(c) Nothing in this Act shall be construed as authorizing the joinder of the United States in any suit or controversy in the Supreme Court of the United States involving the right of States to the use of the water of any interstate stream.

(d) None of the funds appropriated by this title may be used in the preparation or prosecution of the suit in the United States District Court for the Southern District of California, Southern Division, by the United States of America against Fallbrook Public Utility District, a public service corporation of the State of California, and others. (66 Stat. 560; 43 U.S.C. § 666)

EXPLANATORY NOTES

**Codification.** Subsection (d) is not included in 43 U.S.C. § 666.

**Popular Name.** Section 208 is popularly known as the McCarran Amendment, after Senator Pat McCarran.

**Editor's Note, Annotations.** Annotations of opinions are included only to the extent deemed relevant to activities of the Bureau of Reclamation under this statute.

NOTES OF OPINIONS

**Actions not consented to 2**

Purpose 1

Removal 3

**1. Purpose**

The adoption of the McCarran amendment consenting to the joinder of the United States as a defendant in an equitable action "for the adjudication of rights to the use of water of a river system or other source," indicates that Congress did not intend to expose government irrigation projects to the possibility of interruption by individual private injunction suits to determine water

rights. *Turner v. Kings River Conservation Dist.*, 360 F. 2d 184, 197 (9th Cir. 1966).

**2. Actions not consented to**

A suit by certain individuals claiming water rights in the San Joaquin River asking an injunction against the United States to refrain from interfering with such rights by the operation of Friant Dam, is not a case involving a general adjudication of "all of the rights of various owners on a given stream" (S. Rept. No. 755, 82d Cong., 1st Sess. 9 (1951)) within the meaning of the McCarran amendment, but rather is a private suit to determine water rights solely

July 10, 1952

1098 STATE, JUSTICE, ETC. APPROPRIATION ACT, 1953

between the claimants and the United States and the local Bureau of Reclamation officials. Consequently, the consent of the United States to the suit has not been given under the McCarran amendment, and the suit must be dismissed as to the United States. *Dugan v. Rank*, 372 U.S. 609, 617-19 (1963).

Section 208 of the Act of July 10, 1952, consenting to the joinder of the United States in a suit "for the adjudication of rights to the use of water of a river system or other source", does not apply to an action for a declaration of rights in certain drainage waters from the Rio Grande reclamation project and for an injunction restraining Bureau of Reclamation officials from interfering with such rights. *Miller v. Jennings*, 243 F. 2d 157 (5th Cir. 1957), cert. denied, 355 U.S. 827 (1957).

Nevada's suit seeking a declaration that the United States may not make use of underground waters developed by wells located on the Hawthorne Naval Ammunition Depot without applying therefore pursuant to State law was dismissed on the ground that consent to the suit had not been

granted by the McCarran Amendment and suit was therefore barred by the sovereign immunity of the United States. Nevada was not seeking, either for herself or for others, the jurisdictional establishment of any particular use of usufructuary right, as contemplated by the McCarran Amendment. Rather she sought a declaration of her sovereign proprietary right to the corpus or control of waters in general. *State of Nevada v. United States*, 279 F. 2d 699 (9th Cir. 1960)

3. Removal

The McCarran Amendment simply waived the immunity of the United States in the class of actions specified, and did not purport to be a grant of jurisdiction to any particular court or courts, state or federal. An action brought by the State Engineer in a Utah district court for the general determination of certain water rights under state law will not be removed to the Federal district court where there is no showing that the Federal Court had original jurisdiction or that a question of Federal law was involved. In re *Green River Drainage Area*, 147 F. Supp. 127 (D. Utah 1956).

\* \* \* \* \*

[Short title.]—This title may be cited as the "Department of Justice Appropriation Act, 1953." (66 Stat. 560)

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Departments of State, Justice, Commerce, and The Judiciary Appropriation Act, 1953." (66 Stat. 574)

EXPLANATORY NOTE

Legislative History. H.R. 7289. Public Law 495 in the 82d Congress. H.R. Rept. No. 1665. S. Rept. No. 1807, at 10. H.R. Rept. No. 2454 (1st conference report).

H.R. Rept. No. 2485 (2nd conference report). 98 Cong. Rec. 8109-10, 9444-47 (1952). See also S. Rept. No. 755 (on S. 18).

## DRY FALLS DAM

Joint resolution to change the name of the South Coulee Dam in the Columbia Basin project to Dry Falls Dam. (Act of July 10, 1952, ch. 656, 66 Stat. 576)

[Designation of Dry Falls Dam.]—The South Coulee Dam in the Columbia Basin project shall hereafter be known as Dry Falls Dam and any law, regulation, document, or record of the United States in which such dam is designated or referred to under the name South Coulee Dam shall be held to refer to such dam under and by the name of Dry Falls Dam. (66 Stat. 576)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 500 in the 82d Congress. S. Rept. No. 1728, H.R. Rept. No. 2457.

**Legislative History.** S.J. Res. 74, Public

July 14, 1952

1100

## HALOGETON GLOMERATUS CONTROL ACT

An act to provide for the eradication and control of Halogeton glomeratus on lands in the United States, and for other purposes. (Act of July 14, 1952, ch. 721, 66 Stat. 597)

**[Sec. 1. Halogeton Glomeratus Control Act.]**—This Act may be cited as the “Halogeton Glomeratus Control Act”. (66 Stat. 597; 7 U.S.C. § 1651, note)

**Sec. 2. [Federal policy to eradicate Halogeton glomeratus.]**—In order to protect the livestock industry from losses caused by the poisonous weed Halogeton glomeratus now or hereafter existing on lands in the several States, to provide for the maintenance and development of valuable forage plants on range and pasture lands, and to prevent destruction or impairment of range and pasture lands and other lands by the growth, spread, and development of the poisonous weed known as Halogeton glomeratus, it shall be the policy of the Federal Government, acting independently or in cooperation with the several States and political subdivisions thereof, private associations and organizations, and individuals, to control, suppress, and eradicate this weed, poisonous to livestock, on lands in the several States irrespective of ownership. (66 Stat. 597; 7 U.S.C. § 1651)

**Sec. 3. [Actions authorized.]**—(a) The Secretary of the Interior with respect to lands under his jurisdiction, including trust or restricted Indian lands, and the Secretary of Agriculture with respect to any other lands, either independently or in cooperation with any State or political subdivision thereof, private association or organization, or individual, are severally authorized, upon such conditions as they respectively deem necessary—

- (1) to conduct surveys to detect the presence and effect of Halogeton glomeratus on lands in such State;
- (2) to determine those measures and operations which are necessary to control, suppress, and eradicate such weed; and
- (3) to plan, organize, direct, and carry out such measures and operations as either of them may deem necessary to carry out the purposes of this Act.

(b) Measures and operations to control, suppress, or eradicate Halogeton glomeratus on lands under the jurisdiction of any department, agency, independent establishment, or corporation of the Federal Government shall not be conducted without the consent of the department, agency, independent establishment, or corporation concerned. (66 Stat. 598; 7 U.S.C. § 1652)

**Sec. 4. [Expenditures.]**—The Secretary of Agriculture in his discretion may allocate, out of any sums appropriated to him under authority of this Act, to any department, agency, independent establishment, or corporation of the Federal Government having jurisdiction over any land on which there exists Halogeton glomeratus, such amounts as he deems necessary for the control, suppression, and eradication of such weed by such department, agency, independent establishment, or corporation, as the case may be. Sums appropriated to the Secretary of the Interior under authority of this Act shall be expended

July 14, 1952

HALOGETON GLOMERATUS CONTROL ACT

1101

for work on, or of benefit to, lands under his jurisdiction, including trust or restricted Indian lands. Either Secretary may also accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available. (66 Stat. 598; 7 U.S.C. § 1653)

**Sec. 5. [Restriction.]**—In the discretion of the Secretary of Agriculture or the Secretary of the Interior, as the case may be, no expenditures shall be made from funds appropriated under this Act to control, suppress, or eradicate Halogeton glomeratus on lands in the several States until there have been made or agreed upon such contributions, in the form of funds, materials, services, or otherwise, by the States and political subdivisions thereof, private associations, and organizations and individuals, toward the work of controlling, suppressing, or eradicating such weed, as the Secretary of Agriculture or the Secretary of the Interior, respectively, may require. (66 Stat. 598; 7 U.S.C. § 1654)

**Sec. 6. [Appropriation.]**—(a) There are hereby authorized to be appropriated to the Secretary of Agriculture and to the Secretary of the Interior such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this Act.

(b) Any sums so appropriated shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, for the purchase, hire, maintenance, operation, and exchange of aircraft and passenger-carrying vehicles, and for such other expenses as may be necessary to carry out the purposes of this Act.

(c) Such sums shall not be used to pay the cost or value of any property injured or destroyed in carrying out the purposes of this Act. (66 Stat. 598; 7 U.S.C. § 1655)

**Sec. 7. [Scope of authority granted.]**—The authority contained in this Act shall be in addition to, and shall not limit or supersede, authority contained in existing law with respect to the control, suppression, and eradication of pests, plants, and plant diseases. (66 Stat. 599; 7 U.S.C. § 1656)

EXPLANATORY NOTE

Legislative History. S. 1041, Public Law H.R. Rept. No. 2447.  
529 in the 82d Congress. S. Rept. No. 578.

July 15, 1952

1102

## RELIEF OF HENLY CONSTRUCTION COMPANY

An act for the relief of the George B. Henly Construction Company. (Act of July 15, 1952, ch. 757, 66 Stat. A166)

[**Payment of \$22,929.69 by Secretary of Treasury.**]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the George B. Henly Construction Company, Boise, Idaho, the sum of \$22,929.69. The payment of such sum shall be in full settlement of all claims of the George B. Henly Construction Company, Incorporated, against the United States for additional compensation under the contract dated February 16, 1948 (numbered 12r-17891), between the United States and such company for the construction of earthwork and structures, Locket Gulch wastewater, according to specifications numbered 1252 of the Mitchell Butte division, Owyhee project, Oregon-Idaho. Such claims are based on additional expenses incurred by such company as a result of conditions not set forth in the specifications and plans for such construction and which could not reasonably have been anticipated: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (66 Stat. A166)

### EXPLANATORY NOTE

**Legislative History.** S. 1707, Private Law H.R. Rept. No. 2389.  
877 in the 82d Congress. S. Rept. No. 1572.

## CONSENT TO NEGOTIATE COLUMBIA RIVER COMPACT

An act granting the consent of Congress to the States of Idaho, Montana, Oregon, Washington, and Wyoming to negotiate and enter into a compact for the disposition, allocation, diversion, and apportionment of the waters of the Columbia River and its tributaries, and for other purposes. (Act of July 16, 1952, ch. 919, 66 Stat. 737)

[Consent of Congress to negotiate Columbia River Compact.]—The consent of Congress is hereby given to the States of Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming to negotiate and enter into a compact providing for the equitable division and apportionment of the waters of the Columbia River, and all of its tributaries in the States entering into such compact and for matters incidental thereto, upon condition that one qualified person shall be appointed by the President of the United States who shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact entered into: *Provided*, That any such compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by each of said States and approved by the Congress of the United States. (66 Stat. 737; Act of July 14, 1954, 68 Stat. 468)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1954 Amendment.** The Act of July 14, 1954, authorized Nevada and Utah to participate in the negotiation of the Columbia River Compact. For legislative history see

S. 3336, Public Law 484 in the 83rd Congress; S. Rept. No. 1494; H.R. Rept. No. 1895.

**Legislative History.** H.R. 2470, Public Law 572 in the 82d Congress. H.R. Rept. No. 1380. S. Rept. No. 1841.

July 17, 1952

1104

## STUDY OF IRRIGATION ASSISTANCE, CHIEF JOSEPH

An act to provide for authorization of a study and report of irrigation works in connection with Chief Joseph Dam. (Act of July 17, 1952, ch. 925, 66 Stat. 753)

[**Sec. 1. Study and report of proposed works.**]—The Secretary of the Interior is authorized to proceed in relation to the Chief Joseph Dam project on the Columbia River, Washington, initially authorized by section 1 of the Act of July 24, 1946 (60 Stat. 637), in accordance with the provisions of this Act to make a study and report to Congress on means of providing financial and other assistance in the reclamation of arid lands in the general vicinity of the project. In making such study and report the Secretary shall be guided by the provisions of applicable laws. (66 Stat. 753)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of July 24, 1946 (60 Stat. 637), referred to in the text, is the Rivers and Harbors Act of 1946, which included initial authorization for construction of the Chief Joseph Dam on the Columbia River by the Corps of Engineers.

**Sec. 2. [Contents of report.]**—The report of the Secretary of the Interior shall state, among other things, the construction cost of the proposed works, including said authorized project and proposed reclamation units; the portions of said cost allocable to various functions; the operation and maintenance costs of all functions (of the project); the amount of the construction cost allocable to irrigation which the irrigators may reasonably be expected to repay, together with the proposed charges for water service and proposed repayment period upon the irrigation allocation; the amount of the cost allocable to irrigation in excess of that which the irrigators can repay, which the Secretary proposes shall be recovered from power revenues; the proposed charges for power, and proposed repayment period on the amount allocable to power; the proposed interest rate on the power investment and the disposition which the Secretary proposes to make of the interest component and other components of the power revenues; the unrecovered cost to the Federal Treasury of the works proposed, in connection with the means of financing recommended by the Secretary; the ratio of net costs to net benefits; the ratio of net benefits per acre to irrigator's repayment per acre; and a complete financial analysis of repayment program together with all other data reasonably required to enable the Congress to pass upon the economic feasibility of the proposed works. (66 Stat. 753)

**Sec. 3. [No construction until authorized by Act of Congress.]**—Any such reclamation works proposed to be constructed under the study authorized by this Act may be undertaken only after the Secretary of the Interior has submitted a report and findings thereon under section 2 of this Act and section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187), and only if the works so reported on are thereafter specifically authorized by Act of Congress. (66 Stat. 753)

July 17, 1952

1105

STUDY OF IRRIGATION ASSISTANCE, CHIEF JOSEPH

**Sec. 4. [Existing laws.]**—Nothing in this Act shall modify in any way the requirements and provisions of existing laws with respect to the availability of funds for construction and operation and maintenance of the Chief Joseph Dam and power plant. (66 Stat. 754)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 577 in the 82d Congress. H.R. Rept. No. 2327. S. Rept. No. 2051 (on S. 2320).

**Legislative History.** H.R. 6163, Public

July 17, 1952

## AMENDED CONTRACTS, NORTH PLATTE PROJECT

An act to approve contracts negotiated with the Gering and Fort Laramie Irrigation District, the Goshen Irrigation District, and the Pathfinder Irrigation District, and to authorize their execution; and to authorize the execution of contracts with individual water right contractors on the North Platte Federal reclamation project, and for other purposes. (Act of July 17, 1952, ch. 926, 66 Stat. 754)

[**Sec. 1. Approval of contracts with Gering and Fort Laramie Irrigation District, Goshen Irrigation District and Pathfinder Irrigation District.**]—The contract with the Gering and Fort Laramie Irrigation District, which was approved by the district electors on November 15, 1951; the contract with the Goshen Irrigation District, which was approved by the district electors on November 15, 1951; and the contract with the Pathfinder Irrigation District, which was approved by the district electors on November 15, 1951, all of which have been negotiated by the Secretary of the Interior (hereinafter referred to as the Secretary), pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U.S.C. 485), are hereby approved and the Secretary is hereby authorized to execute them on behalf of the United States. (66 Stat. 754)

**Sec. 2. [Contracts with individual water users on North Platte Project.]**—The Secretary is hereby authorized to execute on behalf of the United States—

(a) contracts with individual water right contractors on the North Platte Federal reclamation project whose lands are not included within the boundaries of a project irrigation district which contracts shall provide, among other things, (i) that said water user shall relinquish his interest in the present and potential power revenues of or related to the North Platte project; (ii) that the power acquisition consideration for each contractor, which shall be the proportionate part of \$6,636,873 represented by the ratio of the contractor's irrigable acreage to the total irrigable acreage of the project, as determined by the Secretary, shall be applied as a credit upon the water user's obligation to the United States for construction charges and for future charges for operation and maintenance of project works; (iii) that the miscellaneous revenues accruing to the benefit of the water user, pursuant to subsections I and J of section 4 of the Act of December 5, 1924 (43 Stat. 672, 703), shall be retained by the United States for the establishment and maintenance of a fund in an amount fixed by the Secretary to be used by the Secretary for replacement and operation and maintenance of project works operated and maintained by the United States. (66 Stat. 754)

### EXPLANATORY NOTE

**Reference in the Text.** Subsection I and J of section 4 of the Act of December 5, 1924 (43 Stat. 672, 703), referred to in the text, provide, respectively, for (1) the distribution of the profits from projects

whose care, operation and maintenance have been taken over by the water users, and (2) the profits from the sale or rental of surplus water under the Warren Act of February 11, 1911, or from the connection

July 17, 1952

AMENDED CONTRACTS, NORTH PLATTE PROJECT 1107

of a new project with an existing project shall be credited to the project or division of the project to which the construction cost has been charged. The Act is the Fact Finders' Act which appears herein in chronological order.

**Sec. 3. [Contracts to be executed within 5 years.]**—The authority granted in section 2 of this Act to make contracts shall continue for five years from the effective date of this Act, but the power acquisition consideration provided in section 2 of this Act for the individual water right contractors shall be reduced by whatever amount of net power revenues shall have accrued to the benefit of such individual water right contractors after June 30, 1950, by virtue of their not having previously relinquished their respective interests in said power revenues. (66 Stat. 754)

**Sec. 4. [Deposition of revenues.]**—Miscellaneous revenues accruing pursuant to subsections I and J of section 4 of the Act of December 5, 1924, on behalf of those who have contracted with the United States pursuant to this Act shall be deposited in a special deposit account in the Treasury Department, and such revenues may be expended, as in such contracts provided, for the replacement of the project works operated and maintained by the United States and to supplement funds advanced by the water users to meet annual costs of operation and maintenance of such works. (66 Stat. 755)

EXPLANATORY NOTE

**Reference in the Text.** Subsections I and J of section 4 of the Act of December 5, 1924 (43 Stat. 672, 703), referred to in the text, provide, respectively, for (1) the distribution of the profits from projects whose care, operation and maintenance have been taken over by the water users, and (2) the profits from the sale or rental

of surplus water under the Warren Act of February 11, 1911, or from the connection of a new project with an existing project shall be credited to the project or division of the project to which the construction cost has been charged. The Act is the Fact Finders' Act which appears herein in chronological order.

**Sec. 5. [Act a part of Federal reclamation laws.]**—This Act is declared to be part of the Federal reclamation laws as these are defined in the Reclamation Project Act of 1939 (53 Stat. 1187). (66 Stat. 755)

**Sec. 6. [Hydroelectric plants.]**—No extension, enlargement, or addition of any hydroelectric plant, transmission line, or accompanying works on the Gering and Fort Laramie Irrigation District, the Goshen Irrigation District, the Pathfinder Irrigation District, or Northport Irrigation District shall be built or contracted for until such extension, enlargement, or addition have been authorized by Congress. (66 Stat. 755)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Northport Irrigation District.** An amendatory repayment between the United States and the Northport Irrigation District, North Platte project, referred to in the text, was authorized by the Act of May 25, 1948, 62 Stat. 273, and

further amendment of the contract was authorized by the Act of August 13, 1957, 71 Stat. 342. Both Acts appear herein in chronological order.

**Legislative History.** H.R. 6723, Public Law 578 in the 82d Congress. H.R. Rept. No. 2150.

July 17, 1952

1108 AMENDED CONTRACTS, NORTH PLATTE PROJECT

NOTE OF OPINION

**1. Excess lands**

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been

approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinwall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

## INDIAN LANDS, BOYSEN UNIT, MISSOURI RIVER BASIN PROJECT

An act to vest title in the United States to certain lands and interests in lands of the Shoshone and Arapaho Indian Tribes of the Wind River Reservation and to provide compensation therefor and for other purposes. (Act of July 18, 1952, ch. 946, 66 Stat. 780)

[Sec. 1. Conveyance of Indian lands to United States for Boysen Unit of Missouri River Basin project—Action on previous grants of rights-of-way confirmed.]—The Secretary of the Interior is authorized, for a reasonable consideration not to exceed \$458,000, to be paid from funds appropriated for the Missouri River Basin project, to convey and relinquish to the United States of America the property and rights of the Shoshone and of the Arapaho Indian Tribes needed by the United States for the construction and operation and maintenance of the Boysen Unit of the Missouri River Basin project. Action heretofore taken by the Secretary of the Interior in granting rights-of-way over Indian lands for the establishment or the relocation of roads, highways, and railroads, and telegraph, telephone, power transmission and pipelines in connection with the construction of the Boysen Unit of the Missouri River Basin project is hereby confirmed. (66 Stat. 780)

Sec. 2. [Conveyance in accordance with memorandum of understanding.]—The conveyances and relinquishments shall be, in all things, in accord with the memorandum of understanding between the Bureau of Reclamation and the Bureau of Indian Affairs as approved by the Secretary of the Interior on December 29, 1951, and as amended with his approval on May 1, 1952. (66 Stat. 780)

Sec. 3. [Moneys to credit of Shoshone and Arapaho Tribes.]—The moneys to be paid to the Shoshone and Arapaho Tribes hereunder shall be deposited in the Treasury of the United States of America to the credit and for the use of the respective tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208). (66 Stat. 780)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**References in the Text.** The Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), referred to in the text, is an act authorizing the segregation and expenditure of trust funds held in joint ownership by the Shoshone and Arapaho Tribes of the Wind River Reservation. The 1947 Act, as amended, is codified in 25 U.S.C. § 611–13.

**Cross Reference, Other Acts Affecting the Lands of the Wind River Reservation.** (1) The Act of August 15, 1953, 67 Stat. 592, provided for compensation to the Shoshone

and Arapahoe Tribes of Indians for certain lands ceded by them for the Riverton reclamation project. (2) The Act of August 3, 1956, 70 Stat. 987, authorized the Shoshone and Arapaho Tribes to convey to the United States, at a price agreeable to them and the Secretary of the Interior, certain lands of the Wind River Reservation, reserving mineral rights in the Tribes. The lands were needed for the Owl Creek Unit, Missouri River Basin project. Both acts appear herein in chronological order.

**Legislative History.** S. 3333, Public Law 591 in the 82d Congress. S. Rept. No. 1980.

May 13, 1953

1110

## CONVEYANCE OF LANDS FOR FAIRGROUNDS, KLAMATH PROJECT

An act authorizing the Secretary of the Interior to convey certain lands to the State of California for use as a fairground by the 10-A District Agricultural Association, California. (Act of May 13, 1953, ch. 36, 67 Stat. 26)

[**Sec. 1. State of California—Conveyance.**]—The Secretary of the Interior is hereby authorized to convey by quitclaim deed to the State of California all right, title, and interest of the United States in and to the following described land in Siskiyou County, California, containing an area of thirty-four and one-half acres, more or less:

South half of the south half of the southeast quarter of the southwest quarter, section 35, township 48 north, range 4 east, Mount Diablo Meridian, and lot 1, section 2, township 47 north, range 4 east, Mount Diablo Meridian, containing approximately thirty-nine and nine-tenths acres; less five and four-tenths acres containing rights-of-way for county road, Bureau of Reclamation laterals and drains, and treatment plant and sewer line to the city of Tulelake, California. (67 Stat. 26)

**Sec. 2. [Land use limitation—Reversion to the United States if land is used for non-public purposes.]**—The land conveyed pursuant to the provisions of this Act shall be used only for public purposes, including but not limited to such purposes as are authorized for a district agricultural association, and the conveyance herein authorized shall be made upon the expressed condition that if the land shall be used for other purposes, the conveyance shall be held to be forfeited and the title shall revert to the United States. The Secretary of the Interior is hereby authorized to determine the facts and declare such forfeiture and reversion and such determination and declaration shall be final and conclusive. (67 Stat. 26)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 25 in the 83d Congress. H.R. Rept. the U.S. Code. No. 155. S. Rept. No. 156.

**Legislative History.** H.R. 2936, Public

## CONVEYANCE OF LAND TO CITY OF RUPERT

An act directing the conveyance of certain property to the city of Rupert, Idaho. (Act of July 28, 1953, ch. 250, 67 Stat. 203)

[**Sec. 1. Rupert, Idaho—Conveyance.**]—The Secretary of the Interior is authorized and directed to convey by quitclaim deed, without consideration, to the city of Rupert, Idaho, all right, title, and interest of the United States in and to the lands described in section 2 of this Act: *Provided*, That such conveyance shall be subject to the continued use, without payment of ground or other rental therefor, of the improvements and necessary land presently used for veterans' temporary housing project IDA-V-10147, for so long as they may be needed, under the contract between the city of Rupert and the United States for such project, it being understood that the rights and obligations of the United States and the city of Rupert under said contract shall not be in any way affected by such transfer: *And provided further*, That such conveyance shall be considered a purchase of said land for the purpose of, and as having been made within any time limitation prescribed in section 601(b) of Public Law 849, Seventy-sixth Congress, as amended: *Provided further*, That said lands shall be used for public purposes only. (67 Stat. 203)

### EXPLANATORY NOTE

**Reference in the Text.** Section 601(b) of Public Law 849, Seventy-sixth Congress, as amended, referred to in the text, deals with the transfer of certain temporary Federal housing to State, county or local housing authorities, educational institutions, etc., for the use of the parents of deceased veter-

ans. Public Law 849 of the Seventy-sixth Congress is the Act of October 14, 1940, 54 Stat. 1125. Section 601 was added by the Act of April 20, 1950, 64 Stat. 59, as amended by the Act of October 26, 1951, 65 Stat. 648. The section is found in 42 U.S.C. § 1581.

**Sec. 2. [Legal description of the lands.]**—The lands referred to in the first section of this Act are more fully described as follows:

\* \* \* \* \*

(Legal description omitted, 67 Stat. 204)

\* \* \* \* \*

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Background.** Of the three tracts of public land conveyed by the Act, Tract 3 comprised a strip of land adjoining the west city limits of the City of Rupert and included a drain ditch constructed by the Bureau of Reclamation to remove sub-drainage water from the Rupert townsite.

The water from the drain is utilized by the Minidoka Irrigation District. The Act recognizes the right of the irrigation district and subjects the conveyance to the release of the United States from all responsibility for the maintenance of the drain.

**Legislative History.** S. 122, Public Law 155 in the 83d Congress. S. Rept. No. 471. H.R. Rept. No. 834.

July 31, 1953

1112

## ADJUST CHARGES, GREENFIELDS IRRIGATION DISTRICT

An act relating to certain construction-cost adjustments in connection with the Greenfields division of the Sun River irrigation project, Montana. (Act of July 31, 1953, ch. 284, 67 Stat. 241)

[**Sun River irrigation project, Mont.**]—The Secretary of the Interior is hereby empowered and directed to make certain construction-cost adjustments in connection with the Greenfields division of the Sun River irrigation project, Montana, in that the reimbursable construction costs relating to that part of the Greenfields main canal between station 0 and station 278 (five and twenty-six one-hundredths miles) in the amount of \$297,752 shall be deducted from the obligation undertaken by the Greenfields Irrigation District in its contract with the United States dated June 22, 1926. (67 Stat. 241)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Sun River project was authorized by the Secretary of the Interior on February 26, 1906, pursuant to the

Reclamation Act of June 17, 1902.

**Legislative History.** H.R. 1991, Public Law 165 in the 83d Congress. H.R. Rept. No. 554. S. Rept. No. 525.

## **AMENDED CONTRACT WITH ARCH HURLEY CONSERVANCY DISTRICT**

An act to extend the benefits of certain provisions of the Reclamation Project Act of 1939 to the Arch Hurley Conservancy District, Tucumcari reclamation project, New Mexico. (Act of July 31, 1953, ch. 291, 67 Stat. 243)

[**Tucumcari reclamation project, N. Mex.**]—The Secretary of the Interior is authorized to extend the benefits of subsection (b), section 7, of the Reclamation Project Act of 1939, to the Arch Hurley Conservancy District, New Mexico, notwithstanding the existence of a repayment contract entered into by that district under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) prior to August 4, 1939. The Secretary is further authorized, upon concurrence of the Arch Hurley Conservancy District, to amend its existing repayment contract to carry out the purposes of this Act. The authority herein conferred upon the Secretary shall be exercised only upon condition that the Arch Hurley Conservancy District obligate itself to take over the care, operation, and maintenance of such project works as the Secretary may designate at its own expense and without further obligation on the part of the United States. Any development period for the Arch Hurley Conservancy District fixed pursuant to the authority herein conferred shall terminate not later than the year 1958, and the district's charge for calendar year 1953 shall be added to and paid with the district's contract obligation. (67 Stat. 243)

### **EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Amendatory Repayment Contract.** The Act of August 14, 1958, 72 Stat. 615, authorized a further amendment of the Arch Hurley Conservancy District repayment contract. The Act appears herein in chronological order.

**Cross Reference, Project Authorization.** The Act of August 2, 1937, 50 Stat. 557,

conditionally authorized the construction of a Federal reclamation project to furnish a water supply for the lands of the Arch Hurley Conservancy District. The project is the Tucumcari project. The 1937 Act appears herein in chronological order.

**Legislative History.** S. 1433, Public Law 168 in the 83d Congress. S. Rept. No. 528. H.R. Rept. No. 715 (on H.R. 4153).

July 31, 1953

1114

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1954

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1954, and for other purposes. (Act of July 31, 1953, ch. 298, 67 Stat. 261)

\* \* \* \* \*

### OFFICE OF THE SECRETARY

\* \* \* \* \*

#### OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

\* \* \* \* \*

[Disposition of Clark Hill-Greenwood transmission facility.]—The Secretary of the Interior is hereby authorized to negotiate a disposition of all real and personal property acquired by contract or otherwise out of or by color of appropriations in either the 1952 or 1953 Interior Department Appropriation Acts under the heading “Construction, Southeastern Power Administration” for the Clark Hill-Greenwood transmission facility to the Greenwood County Electric Power Commission, a public agency of the State of South Carolina, having first completed payments due on property so acquired. The disposition of such property shall be on such terms as will reimburse the United States and the proceeds therefrom shall be deposited in the Treasury as miscellaneous receipts.

When said disposition has been effected the unexpended balance of the appropriation made in the Interior Department Appropriation Act, 1952 (65 Stat. 248), under the heading “Construction, Southeastern Power Administration,” and the unexpended balance of the appropriation made in the Interior Department Appropriation Act, 1953 (66 Stat. 445), under the same heading for the Clark Hill-Greenwood facilities, shall be carried to the surplus funds and covered into the Treasury. (67 Stat. 261)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

#### CONSTRUCTION AND REHABILITATION

[Dalton Gardens project—Avondale project.]—For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, \* \* \* *Provided*, That not to exceed \$268,000 shall be available toward the emergency rehabilitation of the Dalton Gardens Irrigation Project, Idaho, to be repaid in full under conditions satisfactory to the Secretary of the Interior: *Provided further*, That not to exceed \$222,000 shall be available toward the

July 31, 1953

INTERIOR DEPARTMENT APPROPRIATION ACT, 1954 1115

emergency rehabilitation of the Avondale Irrigation Project, Idaho, to be repaid in full under conditions satisfactory to the Secretary of the Interior; (67 Stat. 266)

EXPLANATORY NOTES

**Popular Name.** The Dalton Gardens and Avondale projects are known as Cordon amendment projects after Senator Guy Cordon of Oregon. The appropriation for the projects constitute their authorization.

**Cross Reference.** Additional appropriations for the Avondale project are contained

in the Act of July 1, 1954, 68 Stat. 365, and for both Avondale and Dalton Gardens in the Act of September 2, 1960, 74 Stat. 746. The Act of September 22, 1961, 75 Stat. 588, authorizes further replacement or improvement work for both projects. These Acts appear herein in chronological order.

[**Buford-Trenton project.**]—*Provided further*, That the Bureau of Reclamation is authorized to expend not to exceed \$300,000 for emergency flood protective work and minor completion work on the irrigation system of the Buford-Trenton Project of which the portion thereof found by the Secretary to be properly allocable to irrigation pursuant to allocations to be made under section 7(b) of the Reclamation Project Act of 1939 shall be repaid under terms satisfactory to the Secretary and to the water users: (67 Stat. 266)

[**Pactola Dam—Cost of water supply to Ellsworth Air Force Base nonreimbursable.**]—*Provided further*, That not to exceed \$1,000,000 of the amount appropriated herein for the Missouri River Basin project shall be nonreimbursable representing that portion of the cost of Pactola Dam allocated to furnishing a water supply for Ellsworth Air Force Base: \* \* \* (67 Stat. 266)

[**Soil survey and land classification required.**]—\* \* \* *Provided further*, That no part of this or any other appropriation shall be available for the initiation of construction under the terms of reclamation law of any dam or reservoir or water supply, or any tunnel, canal or conduit for water, or water distribution system related to such dam or reservoir until the Secretary shall certify to the Congress that an adequate soil survey and land classification has been made and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice: \* \* \*. (67 Stat. 266; 43 U.S.C. § 390a)

EXPLANATORY NOTES

**Similar Provision.** A similar provision is contained in the Interior Department Appropriation Act, 1953, Act of July 9, 1952, 66 Stat. 451.

**Codification.** This provision is codified as 43 U.S.C. § 390a. It was omitted from the 1964 issue of the United States Code Annotated because it was not repeated in later appropriation acts. The omission was questionable, however, in view of the positive application of the limitation to "this or any other appropriation" and the explanation by the House Committee the following year that it was being dropped because "it

is permanent legislation." H.R. Rept. No. 1460, 83d Cong., 2d Sess. 9 (1954). The provision was reinstated in the supplement to the U.S. Code Annotated, and reprinted in the supplement to the 1964 edition of the U.S. Code.

**Provision Waived.** The land certification requirement was waived for extensions to the distribution system for the Southern San Joaquin Municipal Utility District by the Act of August 26, 1957, 71 Stat. 419. The Act appears herein in chronological order.

\* \* \* \* \*

July 31, 1953

1116 INTERIOR DEPARTMENT APPROPRIATION ACT, 1954

[**Short title.**]—This Act may be cited as the “Interior Department Appropriation Act, 1954.” (67 Stat. 277)

EXPLANATORY NOTES

**Not Codified.** Extracts shown here, except for the land certification provision, are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts

appear herein only in the act in which first used.

**Legislative History.** H.R. 4828, Public Law 172 of the 83d Congress. H.R. Rept. No. 314. S. Rept. No. 445. H.R. Rept. No. 947 (conference report).

## CONSENT TO NEGOTIATE NIOBRARA RIVER, PONCA CREEK, AND GROUND WATER COMPACTS

An act granting the consent of Congress to the negotiation by the States of Nebraska, Wyoming, and South Dakota of certain compacts with respect to the use of waters common to two or more of said States. (Act of August 5, 1953, ch. 324, 67 Stat. 365)

[**Nebraska, Wyoming, and South Dakota—Water compacts.**]—The consent of Congress in hereby given—

- (1) to the States of Nebraska, Wyoming, and South Dakota to negotiate a compact providing for an equitable division and apportionment among the said States of the waters of the Niobrara River and its tributaries;
- (2) to the States of Nebraska and South Dakota to negotiate a compact providing for an equitable division and apportionment between said States of the waters of Ponca Creek and its tributaries; and
- (3) to the States of Nebraska, Wyoming, and South Dakota or any two of them to negotiate a compact or compacts relating to the extraction and use of ground waters from sources common to the compacting States.

No compact, the negotiation of which is authorized by this Act, shall be binding or obligatory upon any of the parties thereto unless the negotiations shall have been participated in by a suitable person or persons who shall be appointed by the President to represent the United States and shall make report to the Congress on the proceedings and on the compact and until that compact shall have been ratified by the legislatures of each of the States concerned and approved by the Congress. Nothing contained in any compact negotiated under this Act shall be construed as affecting the obligations of the United States of America to Indian tribes.

[**Expiration of authority.**]—The authority given by this Act shall, unless otherwise continued by the Congress, expire ten years from the date of its approval. (67 Stat. 365; Act of May 29, 1958, 72 Stat. 147; Act of August 30, 1961, 75 Stat. 412)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1958 and 1961 Amendments.** The Act of May 29, 1958, increased from five to eight years, and the Act of August 30, 1961, increased from eight to ten years, the time within which the States of Nebraska, Wyoming and South Dakota could negotiate Niobrara River, Ponca Creek and ground water compacts. For legislative history of

the 1958 and 1961 amendments, see (1) S. 2557, Public Law 85-427 in the 85th Congress; S. Rept. No. 1385; H.R. Rept. No. 1704. (2) S. 2445, Public Law 87-181 in the 87th Congress; S. Rept. No. 655; H.R. Rept. No. 952.

**Legislative History.** S. 1197, Public Law 191 in the 83d Congress. S. Rept. No. 527. H.R. Rept. No. 896.

August 13, 1953

## FARM UNIT EXCHANGE ACT

An act to permit the exchange and amendment of farm units on Federal irrigation projects, and for other purposes. (Act of August 13, 1953, ch. 428, 67 Stat. 566)

[**Sec. 1. Federal irrigation projects—Exchange of farm unit.**]—Any entryman on an unpatented farm unit on a Federal irrigation project which shall be found by the Secretary of the Interior, pursuant to a land classification, to be insufficient to support a family shall be entitled, upon timely application to the Secretary to exchange his farm unit for another farm unit of unentered public land within the same or any other such project, or, upon terms and conditions satisfactory to the Secretary, for any other available farm unit on the same or any other such project. He shall be given credit under the homestead laws for residence, improvement, and cultivation made or performed upon the original entry, and if satisfactory final proof of residence, improvement, and cultivation has been made on the original entry it shall not be necessary to submit such proof upon the lieu entry. Rights under this Act shall not be assignable. (67 Stat. 566; 43 U.S.C. § 451)

**Sec. 2. [Eligibility for benefits.]**—The benefits of section 1 of this Act shall, and those of the following sections may, be extended by the Secretary to (a) any lawful assignee of an unpatented farm unit on a Federal irrigation project who took the assignment in good faith not knowing and not having reason to believe the farm unit to be insufficient to support a family; and (b) any resident owner of private lands on any such project whose lands shall be found to be insufficient to support a family and (i) who, apart from his ownership of the lands to be conveyed pursuant to clause (iii) hereof and apart from his having previously exhausted his homestead right, if such be the case, is eligible to enter unappropriated public lands under Revised Statutes, section 2289, as amended (43 U.S.C. 161), (ii) who lawfully acquired his lands as an entire farm unit under the Federal reclamation laws from the United States or, in the case of a widow, widower, heir, or devisee, from a spouse or ancestor, as the case may be, who so acquired them, and (iii) who conveys, free from all encumbrances, to the United States all of his lands served by the project or such portion thereof as the Secretary may designate. (67 Stat. 566; 43 U.S.C. § 451a)

### EXPLANATORY NOTE

**Reference in the Text.** Revised Statutes, section 2289, as amended (43 U.S.C. 161), referred to in the text, is that section of the Homestead law authorizing entry of unappropriated public lands, "but no person who

is the proprietor of more than one hundred and sixty acres of land in any State or Territory, shall acquire any right under the homestead law." The provision appears herein in the appendix.

**Sec. 3. [Irrigation construction charges.]** —(a) If the entryman making an exchange under the provisions of this Act becomes the direct obligor for payment to the United States of irrigation construction charges for his lieu farm unit or undertakes a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary, to the extent to which

such charges upon the original farm unit or the equivalent thereof have actually been paid to the United States or to an irrigation district or other form of organization under contract with the United States, may give him credit for such charges upon the lieu unit.

(b) If an irrigation district or other form of organization within the boundaries of which is located the lieu farm unit of an entryman making an exchange under the provisions of this Act is or becomes the direct obligor for payment to the United States of irrigation construction charges or undertakes or has undertaken a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary may, to the extent to which it gives credit to the entryman for such charges or the equivalent thereof actually paid upon the original farm unit, give the district or other form of organization credit for payment of such charges. Upon the making of an exchange pursuant to the provisions of this Act, the Secretary may reduce (i) the reimbursable construction costs of the project or division thereof upon which the original farm unit was located by the amount of such costs which were properly assignable to the original farm unit and which were not then due and payable and (ii) the reimbursable construction costs of the project or division thereof upon which the lieu farm unit is located by the amount of credit which might be given under the provisions of this section.

(c) In any case in which the benefits of this Act are extended to an assignee of an unpatented farm unit or to a resident owner of private lands, as provided in subsection (b) of section 2 of this Act, an appropriate extension of benefits may also be made to an irrigation district or other form of organization under subsection (b) of this section. (67 Stat. 566; 54 U.S.C. § 451b)

Sec. 4. (a) [Cancellation of charges, etc.]—After his approval of any application for an exchange as provided in this Act, the Secretary may cancel and release, in whole or in part, any and all charges or liens against the entryman or against the relinquished farm unit which are within his administrative jurisdiction. In administering the provisions of this subsection the Secretary shall take into consideration other charges and liens and the rights and interests of other lien holders as to him may seem just and equitable.

(b) [Credits.]—An entryman making an exchange under the provisions of this Act may be given credit by the Secretary upon any land development charges made by the United States in connection with the lieu farm unit for any such charges paid to the United States in connection with the original unit. A resident owner making an exchange under the provisions of this Act may, to the extent to which he or, in the case of a widow, widower, heir, or devisee, his spouse or ancestor, as the case may be, has paid to the United States the purchase price of the original farm unit, be given credit by the Secretary upon the purchase price of his lieu farm unit; such credit may also be applied in the manner and circumstances provided in section 3 of this Act upon irrigation construction charges for or properly assignable to his lieu farm unit. (67 Stat. 567; 43 U.S.C. § 451c)

Sec. 5. [Disposal of improvements, etc.]—Within ninety days after receipt of notice of the approval by the Secretary of the application for exchange of entry

August 13, 1953

and subject to the rights and interests of other parties, the entryman may dispose of, and he or his transferee or vendee may remove, any and all improvements placed on the relinquished unit. Upon the making of an exchange under this Act, any water right appurtenant to the original lands under the Federal reclamation laws shall cease and the water supply theretofore used or required to satisfy such right shall be available for disposition under those laws.

[**Revertibility of relinquished land.**]—Any land relinquished or conveyed to the United States under this Act shall revert to or become a part of the public domain and be subject to disposition by the Secretary under any of the provisions of the Federal reclamation laws. (67 Stat. 567; 43 U.S.C. § 451d)

**Sec. 6. [Amendment of farm unit.]**—Upon timely application by an entryman on an unpatented farm unit on a Federal irrigation project, which shall be found by the Secretary, pursuant to a land classification, to be insufficient to support a family, the Secretary may, upon terms and conditions satisfactory to him, amend the farm unit of said entryman, combine all or a part of the lands of said farm unit with other contiguous or noncontiguous lands on the same project which are declared by the Secretary to be open to entry or purchase, and thereby form and designate an amended farm unit for said entryman, which in no event shall exceed three hundred and twenty acres of land containing not more than one hundred and sixty irrigable acres designated by the Secretary. The acceptance of the amended farm unit by the applicant shall be deemed an exchange within the meaning of this Act. In extending the benefits of this section to a resident owner of private lands as provided in section 2 of this Act, the Secretary may waive, in whole or in part, the provisions of clause (iii) of subsection (b) of that section. (67 Stat. 567; 43 U.S.C. § 451e)

**Sec. 7. [Mortgage contracts.]**—Any exchange pursuant to this Act of land that is subject to a mortgage contract with the Secretary of Agriculture under the Act of October 19, 1949 (63 Stat. 883; 7 U.S.C., 1946 edition, secs. 1006a and 1006b), and any disposition pursuant to this Act of property that is subject to such a mortgage contract, shall be effected only in such form and manner and upon such terms and conditions as are consistent with the authority of the Secretary of Agriculture over such mortgage contract and such property under the Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C., sec. 1000 et seq.), as amended, as supplemented by said Act of October 19, 1949. (67 Stat. 568; 43 U.S.C. § 451f)

EXPLANATORY NOTE

**References in the Text.** The Act of October 19, 1949 (63 Stat. 883; 7 U.S.C., 1946 edition, secs. 1006a and 1006b), referred to in the text, authorizes the Secretary of Agriculture to make loans to homestead entrymen. The Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C., sec. 1000, et seq.), as amended, also referred to

in the text, authorizes financial and other assistance to farm owners, tenants, sharecroppers, farm laborers and others to correct economic instability in the field of agriculture. The 1949 Act appears herein in chronological order. The Bankhead-Jones Farm Tenant Act does not appear herein.

**Sec. 8. [Veterans' preference.]**—Where there are two or more timely applicants for a farm unit on a particular project or division thereof under the provisions of this Act, one or more of whom is an ex-serviceman who would be entitled

under the applicable statutes to a preference in making entry of farm units on such project or division, the ex-serviceman, or one of them, shall have a preference in making such exchange. Any timely applicant for an exchange under the provisions of this Act shall be entitled to preference over any other applicant for a farm unit on the same project or division thereof. (67 Stat. 568; 43 U.S.C. § 451g)

**Sec. 9. [Establishment of farm units.]**—In administering section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 434), sections 1 and 5 of the Act of June 27, 1906 (34 Stat. 519; 43 U.S.C. 434, 448), as amended, and section 3 of the Act of August 9, 1912 (37 Stat. 265, 266; 43 U.S.C. 544), the Secretary may, to the extent found necessary as shown by a land classification to provide farm units sufficient in size to support a family, establish such units of not more than three hundred and twenty acres containing not more than one hundred and sixty irrigable acres designated by him and may permit entry and assignment under the homestead laws, and retention and assignment under the desert land laws, of such units. The lands included in farm units established pursuant to the authority of this section and entered under the homestead laws may be contiguous or noncontiguous. (67 Stat. 568; 43 U.S.C. § 451h)

#### EXPLANATORY NOTE

**References in the Text.** Section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 434), sections 1 and 5 of the Act of June 27, 1906 (34 Stat. 519; 43 U.S.C. 434, 448), as amended, and section 3 of

the Act of August 9, 1912 (37 Stat. 265, 266; 43 U.S.C. 544), referred to in the text, deal with various aspects of farm unit acreage limitations. Each of the Acts is found herein in chronological order.

**Sec. 10. [Repeal.]**—Subsection M of section 4 of the Act of December 5, 1924 (43 Stat. 672; 43 U.S.C., sec. 438), is hereby repealed. Nothing contained in this Act shall be held to repeal, supersede, or supplement the provisions for exchange and matters related thereto contained in the Act of May 25, 1926 (44 Stat. 636), as amended and supplemented. (67 Stat. 568; 43 U.S.C. § 423, note)

#### EXPLANATORY NOTES

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636), as amended and supplemented, referred to in the text, is the Omnibus Adjustment Act. The Act appears herein in chronological order.

**Reference in the Text.** Subsection M of section 4 of the Act of December 5, 1924

(43 Stat. 672; 43 U.S.C., sec. 438), repealed by section 10, dealt with the exchange of farm units construction payments credits, and exservicemen's preference. The Act is the Fact Finders' Act and appears herein in chronological order.

**Sec. 11. [Definition.]**—As used in this Act, the term "Federal irrigation project" means any irrigation project subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereto or supplementary thereto), to which laws this Act itself shall be deemed a supplement. (67 Stat. 568; 43 U.S.C. § 451i)

**Sec. 12. [General authority of Secretary.]**—The Secretary may perform any and all acts and make all rules and regulations necessary and proper for carrying out the purposes of this Act. (67 Stat. 568; 43 U.S.C. § 451j)

August 13, 1953

1122

## FARM UNIT EXCHANGE ACT

**Sec. 13. [Appropriations.]**—Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under this Act. Expenses incurred in carrying out the provisions of sections 1 to 7, inclusive, of this Act, shall be nonreimbursable and nonreturnable under the Federal reclamation laws. (67 Stat. 568; 43 U.S.C. § 451k)

### EXPLANATORY NOTE

**Legislative History.** S. 887, Public Law 258 in the 83d Congress. S. Rept. No. 531. H.R. Rept. No. 977.

### NOTES OF OPINION

Excess lands 1  
Relinquishment 3  
Residence 4  
Transfer of credits 2

#### 1. Excess lands

An entryman who first makes a proper entry in one reclamation project and then acquires another entry in a different project, both of which entries together have more than 160 irrigable acres, can dispel any possible objection to his first entry under the excess acreage provisions of the reclamation law by disposing of the second entry, such as by a conveyance to the United States under section 1 of the Act of March 10, 1964. *Ward v. Harris*, 72 I.D. 87 (1965).

#### 2. Transfer of credits

Under the act of August 13, 1953, a reclamation homestead entryman whose farm unit is found to be insufficient to support a family is entitled to relinquish his entry and to make a lieu entry on the same or another reclamation project or to obtain an amendment of his entry by the addition of sufficient adjacent irrigable land to constitute a farm unit which will support a

family, and he may have his residence, improvements, and cultivation on the original entry credited as performance of the requirements of the homestead and reclamation law on the lieu or amended entry. *Ward v. Harris*, 72 I.D. 87 (1965).

#### 3. Relinquishment

Where a reclamation homestead entryman relinquishes his entry and subsequently contracts to sell the improvements but reserves the right to farm the entry during the following crop season, he is not disqualified from making an exchange entry under the act of August 13, 1953. *Ward v. Harris*, 72 I.D. 87 (1965).

#### 4. Residence

Where a reclamation homestead entryman has met all the residence, improvement, and cultivation requirements under the homestead laws and then relinquishes his entry and makes an exchange entry under the act of August 13, 1953, it is erroneous to cancel the lieu entry on the ground that he is not living on the entry and does not have a bona fide intent to make the entry his home. *Ward v. Harris*, 72 I.D. 87 (1965).

### AMEND EKLUTNA PROJECT ACT

An act to amend the act of July 31, 1950 (64 Stat. 382), relating to appropriations for construction by the Secretary of the Interior of the Eklutna project, Alaska. (Act of August 13, 1953, ch. 430, 67 Stat. 574)

[Amendments to Eklutna Project Act.]—The Act of July 31, 1950 (64 Stat. 382), [is] amended as follows:

(1) By amending the first sentence of section 1 to read as follows: “That in order to encourage and promote the economic development of the Territory of Alaska, to foster the establishment of essential industries in said Territory, and to further the self-sufficiency of national defense installations located therein, the Secretary of the Interior (hereinafter referred to as the ‘Secretary’) is authorized to construct, operate, and maintain the Eklutna project in the vicinity of Anchorage, Alaska, consisting of a low dam at Lake Eklutna, a diversion tunnel and penstock, a power plant with an installed capacity of thirty thousand kilowatts, transmission lines to Anchorage and other load centers, and related works (except recreational facilities) substantially in accordance with the plans and recommendations in the report adopted by the Secretary of the Interior on January 18, 1949, on file with the Committee on Public Lands of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate at an estimated cost not to exceed \$33,000,000.”

(2) By adding a new paragraph to section 1, as follows: “The continuation of construction of the Eklutna project beyond December 1, 1953, is hereby made contingent upon there being a finding by the Secretary by that date that he and the proper officials of the city of Anchorage, Alaska, have approved a form of contract whereby the city would agree to convey to the United States such hydroelectric and other properties, including water rights, as the Secretary has determined should be acquired by the United States in connection with the Eklutna project, and whereby in consideration therefor the United States would agree to deliver to said city electric energy upon terms which in the Secretary’s judgment would accord said city just compensation for the properties agreed to be conveyed.”

(3) By amending the last sentence of section 2 to read as follows: “All receipts from the transmission and sale of electric power and energy generated at said project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.”

(4) By amending section 6 to read as follows: “There are authorized to be appropriated the sum of \$33,000,000 for the construction of the Eklutna project, and, in addition, such sums as may be necessary for the operation and maintenance of such project.” (67 Stat. 574)

August 13, 1953

1124

AMEND EKLUTNA PROJECT ACT

EXPLANATORY NOTES

**Codification.** This Act was originally codified as 48 U.S.C. § 312, but was omitted from the U.S. Code after Alaska became a State.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the

Act of July 31, 1950.

**Legislative History.** S. 2097, Public Law 260 in the 83d Congress. S. Rept. No. 383. H.R. Rept. No. 835. H.R. Rept. No. 902 (on H. Res. 349).

August 15, 1953

1125

## COMPENSATE INDIANS FOR LAND ON RIVERTON PROJECT

[Extracts from] An act to provide compensation to the Shoshone and Arapahoe Tribes of Indians for certain lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation, and for other purposes. (Act of August 15, 1953, ch. 509, 67 Stat. 592)

[Sec. 1. Shoshone and Arapahoe Tribes—Compensation—Wind River Indian Reservation—Ceded lands.]—There is hereby authorized to be transferred in the Treasury of the United States from funds now or hereafter made available for carrying on the functions of the Bureau of Reclamation and to be placed to the credit of the Shoshone and Arapahoe Tribes of Indians of the Wind River Indian Reservation in Wyoming, the sum of \$1,009,500, said sum shall be credited to and expended for the benefit of said tribes and their members as provided by the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress), and as may be hereinafter amended, and shall be deemed to constitute full, complete, and final compensation, except as provided in section 5 of this Act, for terminating and extinguishing all of the right, title, estate, and interest, including minerals, gas and oil, of said Indian tribes and their members of, in and to the lands, interests in lands, and any and all past and future damages arising out of the cession to the United States, pursuant to the Act of March 3, 1905 (33 Stat. 1016) of that part of the former Wind River Indian Reservation lying within the following described boundaries:

The perimeter boundaries of the tract of land, dealt with hereinabove, they being also the proposed exterior boundaries of the Riverton reclamation project, Fremont County, Wyoming, are described as follows:

\* \* \* \* \*

(Legal description omitted, 67 Stat. 592–612)

\* \* \* \* \*

[Purchase by member of tribe.]—*Provided*, That any member, or the heirs or assignees of any member, of either of said tribes, who on the 24th day of July 1952, had an existing and valid assignment on any part of the above-described land, shall have the right, at his or her option, within one year after the date of enactment of this Act, to enter into a contract with the United States, by and through the Bureau of Reclamation, for the purchase, at a price and on terms satisfactory to the Secretary of the Interior, of all or any contiguous part of such assignment, and upon final payment of the purchase price therefor, a fee patent accordingly shall be issued to such assignee, subject to reservations of all oil, gas, and minerals to the United States, and subject to section 5 of this Act, and if any part of the land so selected shall contain land irrigable under the Riverton reclamation project, then said patented land shall be subject to all irrigation charges, taxes, and liens imposed by Federal or State law, to the same extent and in like manner as other lands of the Riverton reclamation project: *Provided*

*further,* That all existing contracts relating to irrigation charges, with respect to such irrigable land, shall remain in full force and effect: *And provided further,* That nothing in this Act shall be construed to affect the rights and interests in and to any land embraced within the tract described herein that has been allotted to an individual member of either of the said tribes which, on the date of enactment of this Act, is held by the United States in trust for such member or his or her heirs. (67 Stat. 612)

#### EXPLANATORY NOTES

**Supplementary Provision.** The Act of August 27, 1958, 72 Stat. 935, provides that all right, title and interest of the United States in all minerals, including oil and gas, the Indian title to which was extinguished by this section shall be held by the United States in trust for the Shoshone and Arapahoe Tribes. The Act appears herein in chronological order.

**References in the Text.** The Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress), referred to in the text, is an act author-

izing the segregation and expenditure of trust funds held in joint ownership by the Shoshone and Arapahoe Tribes of the Wind River Reservation. The 1953 amendment is found at 67 Stat. 179. The 1947 Act, as amended, is codified in 25 U.S.C. § 611–13.

**Reference in the Text.** The Act of March 3, 1905 (33 Stat. 1016), referred to in the text, is an act ratifying, with modifications, an agreement made on April 21, 1904, between James McLaughlin, United States Indian inspector, and the Shoshone and Arapahoe Indian tribes of the Wind River Indian Reservation.

**Sec. 2. [Lands restored to public domain.]**—Subject only to the existing rights and interests which are not extinguished and terminated by this Act, all unentered and vacant lands within the area described in section 1 hereof, are hereby restored to the public domain for administration, use, occupancy, and disposal under the reclamation and public land laws of the United States: *Provided,* That the sale or other disposition of such lands shall be at rates and upon terms and conditions approved by the Secretary of the Interior: *Provided further,* That the average price of all such lands disposed of by sale shall be not less than \$6.25 per acre. (67 Stat. 612)

**Sec. 3. [Funds.]**—The sum transferred to the credit of the Shoshone and Arapahoe Tribes of Indians as aforesaid and the expenses of carrying out the provisions of this Act shall be nonreimbursable and nonreturnable under the reclamation laws of the United States. The net proceeds derived from the disposal of said lands shall be covered into the general fund of the Treasury or into the reclamation fund as the Secretary of the Interior shall find appropriate in the light of the source from which the funds transferred or expended in carrying out this Act are derived. (67 Stat. 613)

**Sec. 4. [Lands restored to tribes.]**—Subject to any outstanding rights and interests, all of the ceded lands of the Wind River Reservation withdrawn pursuant to the Act of June 17, 1902, for the development of the Riverton reclamation project, Wyoming, not included within the boundaries of the tract described in section 1 of this Act, are hereby restored to the ownership of said tribes to the same extent as the ownership provided by the Act of July 27, 1939 (53 Stat. 1128), with respect to vacant lands ceded to the United States under the provisions of the Act of March 3, 1905 (33 Stat. 1016), but not subsequently withdrawn for reclamation purposes: *Provided,* That the compensation authorized

August 15, 1953

INDIAN LANDS, RIVERTON PROJECT

1127

in section 1 hereof shall also be deemed to release the United States from any and all claims for damages whatsoever arising out of withdrawal of lands herein restored to tribal ownership. (67 Stat. 613)

EXPLANATORY NOTES

**Reference in the Text.** The Act of July 27, 1939 (53 Stat. 1128), referred to in the text, is an Act providing for the distribution of a judgment fund in favor of the Shoshone Tribe of the Wind River Indian Reservation.

**Reference in the Text.** The Act of

March 3, 1905 (33 Stat. 1016), referred to in the text, is an act ratifying, with modifications, an agreement made on April 21, 1904, between James McLaughlin, United States Indian inspector, and the Shoshone and Arapahoe Indian tribes of the Wind River Indian Reservation.

**Sec. 5. [Gross receipts from leases, etc.]**—Notwithstanding any other provision of law, the United States shall deposit in the Treasury of the United States to the credit of said tribes, to be available for expenditure for the benefit of said tribes, and their members, as provided by the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress), and as may be hereinafter amended, 90 per centum of the gross receipts of the United States, as they are received from time to time, from all leases, bonuses, royalties, or other proceeds derived under the mining and mineral-leasing laws of the United States from any and all lands in which all rights and interests of the tribes are terminated and extinguished by the terms and conditions of section 1 of this Act and which are embraced within the boundaries of the tract described in said section 1. Notwithstanding any other provision of law the remaining 10 per centum of such gross receipts shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. (67 Stat. 613)

EXPLANATORY NOTES

**Supplementary Provision.** The Act of August 27, 1958, 72 Stat. 935, provides that all right, title and interest of the United States in all minerals, including oil and gas, the Indian title to which was extinguished by this section shall be held by the United States in trust for the Shoshone and Arapahoe Tribes. The Act appears herein in chronological order.

**References in the Text.** The Act of May 19, 1947 (61 Stat. 102), as amended

by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress), referred to in the text, is an act authorizing the segregation and expenditure of trust funds held in joint ownership by the Shoshone and Arapahoe Tribes of the Wind River Reservation. The 1953 amendment is found at 67 Stat. 179. The 1947 Act, as amended, is codified in 25 U.S.C. § 611-13.

**Sec. 6. [Rejection privilege.]**—Should this Act become law subsequent to June 30, 1954, there is hereby reserved to the Shoshone and Arapahoe Tribes the privilege of rejecting, within one hundred and twenty days after the date of the Act, the terms and conditions of its sections 1, 4, and 5. If those terms and conditions are rejected, no part of the Act shall become effective. (67 Stat. 613)

**Sec. 7. [General authority of the Secretary.]**—The Secretary of the Interior is authorized to perform any and all acts to carry out the provisions and purposes of this Act. (67 Stat. 613)

August 15, 1953

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Riverton Reclamation Project.** The Riverton reclamation project was started as an Indian reclamation project pursuant to the Acts authorizing appropriations for the Bureau of Indian Affairs for the fiscal years 1918 and 1919, Acts of March 2, 1917 (39 Stat. 969, 993), and May 25, 1918 (40 Stat. 561, 590-591). The Act of June 5, 1920, placed the project under the jurisdiction of the Bureau of Reclamation. Extensions of the project were authorized by the Flood Control Acts of December 22, 1944, and July 24, 1946. Extracts from the 1920, 1944 and 1946 Acts appear herein in chronological order.

**Cross Reference. Easements over Wind River Reservation Lands for Riverton Project.** The Act of March 14, 1940, 54 Stat. 49, granted to the United States and its assigns, including its successors in control of the operation and maintenance of the Riverton reclamation project, Wyoming, a flowage easement and an easement for a

dam site over tribal and allotted lands of the Wind River Reservation. The 1940 Act appears herein in chronological order.

**Cross References. Other Acts Affecting the Lands of the Wind River Reservation.** (1) The Act of July 18, 1952, 66 Stat. 780, vested title in the United States to certain lands and interests in lands of the Wind River Reservation needed for the Boysen Unit, Missouri River Basin project, and provided compensation to the Shoshone and Arapahoe Tribes for the same. (2) The Act of August 3, 1956, 70 Stat. 987, authorized the Shoshone and Arapahoe Tribes to convey to the United States, at a price agreeable to them and the Secretary of the Interior, certain lands of the Wind River Reservation, reserving mineral rights in the Tribes. The lands were needed for the Owl Creek Unit, Missouri River Basin project. Both Acts appear herein in chronological order.

**Legislative History.** H.R. 4483, Public Law 284 in the 83d Congress. H.R. Rept. No. 269. S. Rept. No. 644.

## CREDITS TO CERTAIN IRRIGATION DISTRICTS

An act to provide that certain costs and expenses incurred in connection with certain repayment contracts with irrigation districts approved by the Acts of Congress of May 6, 1949 (63 Stat. 62), October 27, 1949 (63 Stat. 941), and June 23, 1952 (66 Stat. 151, 153), shall be nonreimbursable. (Act of January 30, 1954, ch. 1, 68 Stat. 3)

[**Certain contract costs to be nonreimbursable and nonreturnable.**]—All costs and expenses, not in excess of a total of \$100,000, incurred by the United States in negotiating and completing contracts with the Deaver, Prosser, and Belle Fourche irrigation districts approved by the Act of Congress of October 27, 1949 (63 Stat. 941), and with the Willwood, Bitterroot, Kittitas, and Okanogan irrigation districts approved by the Act of Congress of May 6, 1949 (63 Stat. 62), and with the Frenchtown irrigation district approved by the Act of Congress of June 23, 1952 (66 Stat. 151, 153) in making the investigation in connection therewith, and in future determinations under said contracts with respect to the productivity of temporarily unproductive lands shall be, to the extent that such costs and expenses have not been included in the restated repayment obligations of the irrigation districts involved, nonreimbursable and nonreturnable under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto). (68 Stat. 3)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**References in the Text.** The Acts of October 27, 1949 (63 Stat. 941), May 6, 1949 (63 Stat. 62), and June 23, 1952 (66 Stat. 151, 153), referred to in the text, are

acts approving and authorizing the execution of repayment contracts. Each of the Acts appears herein in chronological order.

**Legislative History.** S. 727, Public Law 289 in the 83d Congress. S. Rept. No. 530. H.R. Rept. No. 976.

March 17, 1954

1130

## RELIEF OF STEBBINS CONSTRUCTION COMPANY

An act for the relief of the Stebbins Construction Company. (Act of March 17, 1954, ch. 101, 68 Stat. A29)

[Sec. 1. Jurisdiction conferred on Court to decide claim.]—Jurisdiction is hereby conferred upon the United States District Court for the Western District of Oklahoma to hear, determine, and render findings of fact as to the amount of loss, if any, sustained by the Stebbins Construction Company, Tulsa, Oklahoma, for reclamation contract Number 12r-16727, arising out of or attributable to the alleged failure of the Government to supply materials, as provided for in said contract, and not arising out of or attributable to any disagreement between the Stebbins Construction Company and any third party which undertook to supply such materials.

Sec. 2. [Treasury Dept. authorized to pay claim.]—The court shall cause such findings to be certified to the Secretary of the Treasury, who is hereby authorized and directed to pay, out of any money not otherwise appropriated, the amount set forth in said findings to the Stebbins Construction Company: *Provided, however,* That the passage of this Act shall not be construed as an inference of liability on the part of the United States. (68 Stat. A29)

### EXPLANATORY NOTE

Legislative History. HR. 1967, Private No. 146. S. Rept. No. 978.  
Law 305 in the 83d Congress. H.R. Rept.

## WAIVER OF MINERAL RESERVATIONS, NORTH PLATTE PROJECT

An act to provide for the relief of certain reclamation homestead entrymen. (Act of April 17, 1954, ch. 152, 68 Stat. 56)

[**North Platte Reclamation Project—Mineral rights.**]—Where reclamation homestead entry was made prior to July 17, 1914, pursuant to the Act of June 17, 1902 (32 Stat. 389, 43 U.S.C., sec. 431), as amended and supplemented, for lands in the Northport Division or the Interstate Division of the North Platte Reclamation Project, and after such entry the lands have been or are hereafter withdrawn, classified, or reported as being valuable for any of the minerals named in the Act of July 17, 1914 (38 Stat. 509, 30 U.S.C., sec. 121–123), the Act of March 4, 1933 (47 Stat. 1570, 30 U.S.C., sec. 124), or the Act of March 3, 1909 (35 Stat. 844, 30 U.S.C., sec. 81), the patent shall not contain a reservation of such minerals. If any such mineral deposits on account of which the lands were withdrawn, classified or reported as being valuable have been leased by the United States, such patent shall be made subject to the rights of the lessee, but the patentee shall be subrogated to the rights of the United States under the lease. (68 Stat. 56; 30 U.S.C. § 125)

### EXPLANATORY NOTES

**References in the Text.** The Act of July 17, 1914 (38 Stat. 509, 30 U.S.C., sec. 121–123), and the Act of March 4, 1933 (47 Stat. 1570, 30 U.S.C., sec. 124), referred to in the text, authorize agricultural entries of lands that had been withdrawn or classified as containing certain minerals, but such entries are subject to a reservation of the minerals to the United States. The Act of March 3, 1909 (35 Stat. 844, 30 U.S.C., sec. 81), also referred to

in the text, authorizes a patent to be issued to any person who in good faith located, selected or entered under the non-mineral land laws lands that subsequently are classified, claimed or reported to be valuable for coal. Any patent so issued shall contain a reservation to the United States of all coal in the lands.

**Legislative History.** H.R. 3306, Public Law 337 in the 83d Congress. H.R. Rept. No. 1052. S. Rept. No. 1138.

May 6, 1954

1132

### RELIEF OF DARYL L. ROBERTS, ET AL.

An act for the relief of Daryl L. Roberts, Ade E. Jaskar, Terrence L. Robbins, Harry Johnson, and Frank Swanda. (Act of May 6, 1954, ch. 187, 68 Stat. A46)

[Payments for loss of personal effects authorized.]—The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Daryl L. Roberts of Juneau, Alaska, the sum of \$99.60; to Ade E. Jaskar, of Pacific Grove, California, the sum of \$152.60; to Terrence L. Robbins, of Juneau, Alaska, the sum of \$60; to Harry Johnson, of Juneau, Alaska, the sum of \$199.25; and to Frank Swanda, of Anchorage, Alaska, the sum of \$245.55, in full settlement of all claims against the Government of the United States as reimbursement for personal effects lost on July 12, 1950, aboard power boats while navigating the Susitna River, Alaska, while employed by and on actual duty with the Bureau of Reclamation: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (68 Stat. A46)

#### EXPLANATORY NOTE

Legislative History. H.R. 2018, Private No. 186. S. Rept. No. 1201.  
Law 350 in the 83d Congress H.R. Rept.

## REMOVE RESTRICTION ON CONVEYANCE TO UNIVERSITY OF WYOMING

An act to amend an act approved December 15, 1944, authorizing the Secretary of the Interior to convey certain land in Powell townsite, Wyoming, Shoshone reclamation project, Wyoming, to the University of Wyoming. (Act of May 17, 1954, ch. 205, 68 Stat. 100)

[Sec. 1. University of Wyoming—Trust terminated.]—Section 1 of the Act approved December 15, 1944, Public Law 487, Seventy-eighth Congress, chapter 590, second session, is hereby amended to terminate the trust imposed on the land caused to be conveyed by patent by the Secretary of the Interior to the University of Wyoming, under and by virtue of the authority of said Act, without affecting the reservation to the United States of all oil, coal, and other mineral deposits within said lands and the right to prospect for, mine, and remove the same, as in said Act provided, by striking out the following: “, in trust for use as an agricultural experiment station;”. (68 Stat. 100)

Sec. 2. [Section repealed.]—Section 2 of said Act of December 15, 1944, Public Law 487, Seventy-eighth Congress, chapter 590, second session, to accomplish the purposes aforesaid, is also amended by striking out the whole thereof. (68 Stat. 100)

Sec. 3. [Documentary evidence of conveyance.]—The Secretary of the Interior is hereby authorized and empowered to execute and deliver to the University of Wyoming any documentary evidence which he may determine to be necessary to carry out the intent of this Act. (68 Stat. 100)

### EXPLANATORY NOTES

Not Codified. This Act is not codified in the U.S. Code.

Editor's Note, Annotations. Annotations of opinions, if any, are found under the Act

of December 15, 1944.

Legislative History. H.R. 6988, Public Law 362 in the 83d Congress. H.R. Rept. No. 1443. S. Rept. No. 1225.

May 21, 1954

1134

### CLAIMS OF COLUMBIA BASIN ORCHARD, ET AL.

An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims of the Columbia Basin Orchard, the Seattle Association of Credit Men, and the Perham Fruit Corporation. (Act of May 21, 1954, ch. 219, 68 Stat. A53)

[Sec. 1. Jurisdiction conferred on Court to decide claims.]—Jurisdiction is hereby conferred upon the Court of Claims, notwithstanding the lapse of time or any provision of law to the contrary, to hear, determine, and render judgment upon all claims of the Columbia Basin Orchard, the Seattle Association of Credit Men, and the Perham Fruit Corporation (all corporations of Washington) against the United States arising out of the flooding, during the period beginning June 1, 1939, and ending April 30, 1940, of certain real property owned by the said Columbia Basin Orchard in Grant County, Washington, insofar as such flooding was the result of certain drilling operations carried out by the Bureau of Reclamation in the course of its investigations preliminary to the construction of a dam and an equalizing reservoir in the Grand Coulee: *Provided, however,* That nothing contained in this Act shall be construed as an inference of liability on the part of the United States Government. (68 Stat. A53)

Sec. 2. [Time within which suit may be brought.]—All claims against the United States within the purview of the first section of this Act shall be forever barred unless action is begun thereon within one year after the date of the enactment of this Act. (68 Stat. A53)

#### EXPLANATORY NOTE

Legislative History. H.R. 2033, Private No. 32. S. Rept. No. 1253.  
Law 370 in the 83d Congress. H.R. Rept.

## CONSOLIDATE PARKER DAM POWER PROJECT AND DAVIS DAM PROJECT

An act to consolidate the Parker Dam power project and the Davis Dam project. (Act of May 28, 1954, ch. 241, 68 Stat. 143)

[Sec. 1. Parker-Davis project, Ariz.-Calif.-Nev.]—For the purposes of effecting economies and increased efficiency in the construction, operation, and maintenance thereof and of accounting for the return of reimbursable costs, the Secretary of the Interior is authorized and directed to consolidate and administer as a single project to be known as the Parker-Davis project, Arizona-California-Nevada, the projects known as the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada: *Provided*, That nothing in this Act shall be construed to alter or affect in any way the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), or the treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico: *Provided further*, That nothing in this Act shall be construed to alter or affect in any way any right or obligation of the United States or any other party under contracts heretofore entered into by the United States. (68 Stat. 143).

Sec. 2. [Funds.]—Funds heretofore appropriated for the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada, shall be consolidated and shall be and remain available for the purposes for which they were appropriated. (68 Stat. 143).

### EXPLANATORY NOTES

**Codification.** This Act appears as a note at the beginning of Subchapter I, Chapter 12A (Boulder Canyon Project) title 43, United States Code.

**Authorizations.** The Parker Dam Power project was authorized by the Rivers and Harbors Act of August 30, 1935, 49 Stat. 1028. The Davis Dam project, formerly named "Bullhead Dam," was found feasible and authorized April 26, 1941, by the Secretary of the Interior under the Recla-

mation Project Act of August 4, 1939. The 1939 Act and extracts from the 1935 Act appear herein in chronological order.

**Cross Reference, Designation of Lake Mohave.** The Act of June 14, 1950, 64 Stat. 211, designated the waters to be impounded by the Davis Dam as Lake Mohave. The Act appears herein in chronological order.

**Legislative History.** H.R. 3598, Public Law 373 in the 83d Congress. H.R. Rept. No. 837. S. Rept. No. 1316.

May 28, 1954

## EXCHANGE OF LANDS, EDEN PROJECT

An act to authorize the Secretaries of Agriculture and Interior to transfer, exchange, and dispose of land in the Eden project, Wyoming, and for other purposes. (Act of May 28, 1954, ch. 245, 68 Stat. 155)

[Eden project, Wyo.—Exchange of lands, etc.]—In order to assure the most beneficial application of the available water supply to lands within the Eden project, Wyoming, established pursuant to the provisions of the item entitled “Water Conservation and Utility Projects” in the Interior Department Appropriation Act of May 10, 1939 (53 Stat. 685, 719), as amended, including the Act of June 28, 1949 (63 Stat. 277), and to facilitate land settlement and land use:

(a) The Secretary of the Interior is hereby authorized, in his discretion and when the public interest will be benefited thereby—

(1) to exchange public lands in the State of Wyoming, within or without the boundaries of the project, for non-Federal lands of approximately equal value within the exterior boundaries of the project which are adaptable for use in the construction, operation, or maintenance of project irrigation facilities;

(2) upon concurrence of the Secretary of Agriculture, to transfer to the jurisdiction of the Secretary of Agriculture public lands within the exterior boundaries of the project which are suitable for development and settlement; and

(3) for the purpose of consolidating Federal holdings of lands in the project, upon concurrence of the Secretary of Agriculture, to exchange public lands in the State of Wyoming, within or without the boundaries of the project, for non-Federal lands of approximately equal value within the exterior boundaries of the project which are suitable for development and, upon consummation of such exchange, the lands received in exchange shall thereupon become a part of the project and subject to the jurisdiction of the Secretary of Agriculture.

(b) The Secretary of Agriculture is hereby authorized and directed—

(1) when in his judgment the public interest will be benefited thereby, to exchange lands under his jurisdiction within the exterior boundaries of the project for non-Federal lands of approximately equal value within the boundaries of the project which he finds are suitable for project development and settlement; and

(2) upon concurrence of the Secretary of the Interior, to transfer to the jurisdiction of the Secretary of the Interior lands or interests in lands which are adaptable for use in the construction, operation, or maintenance of project irrigation facilities, or are unsuited for incorporation into farm units and are surplus to the needs of the project.

(c) (1) The lands transferred to the jurisdiction of the Secretary of Agriculture under the provisions of section (a) (2) and received in exchange under the provisions of section (a) (3) and (b) (1) shall be developed, settled, disposed of

May 28, 1954

EXCHANGE OF LANDS, EDEN PROJECT

1137

and otherwise administered in the same manner as acquired project lands; and (2) the lands transferred to the jurisdiction of the Secretary of the Interior under the provisions of section (b) (2) shall be administered under the public land laws, excepting lands transferred for use in the construction, operation, or maintenance of project irrigation facilities which, together with the lands received in exchange under the provisions of section (a) (1), shall be administered by the Secretary of the Interior in all respects the same as other project lands under his jurisdiction. (68 Stat. 155)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**References in the Text.** The item entitled "Water Conservation and Utility Projects" in the Interior Department Appropriation Act of May 10, 1939 (53 Stat. 685, 719), as amended, and the Act of June 28, 1949 (63 Stat. 277), referred to in the text, appear herein in chronological

order. The 1949 Act authorized completion of construction of the Eden project, Wyoming, which was begun under authority of the 1939 Act. A so-called Great Plains project, its completion was held up by World War II.

**Legislative History.** H.R. 7057, Public Law 377 in the 83d Congress. H.R. Rept. No. 1305. S. Rept. No. 1317.

June 18, 1954

1138

## AMENDED CONTRACTS, UMATILLA PROJECT

An act to approve repayment contracts negotiated with the Hermiston and West Extension Irrigation Districts, Oregon, and to authorize their execution, and for other purposes. (Act of June 18, 1954, ch. 308, 68 Stat. 254)

[**Sec. 1. Repayment contracts approved.**]—The repayment contracts negotiated as provided in subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187), by the Secretary of the Interior with the Hermiston Irrigation District dated September 9, 1952, and the West Extension Irrigation District dated September 6, 1952, are approved and the Secretary is authorized to execute them on behalf of the United States. (68 Stat. 254)

[**Sec. 2: [Land reclassification approved—Charge off against reclamation fund authorized.]**—The reclassifications of the lands of the Hermiston Irrigation District and the West Extension Irrigation District of the Umatilla project, Oregon, made in accordance with the provisions of section 8 of the Reclamation Project Act of 1939, and approved by the boards of directors of the irrigation districts, are approved. The Secretary, upon execution of said contracts, is authorized to charge off as a permanent loss to the reclamation fund all costs of the Umatilla project except the amounts provided for return to the United States in the contracts approved in section 1 of this Act or in other outstanding contracts, but no adjustment shall be made by the United States by reason thereof with any individual by way of refund of or credit on sums heretofore paid, repaid, returned, or due or payable to the United States. (68 Stat. 255)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 404 in the 83d Congress. S. Rept. No. 1313. the U.S. Code. H.R. Rept. No. 1669 (on H.R. 7194).

**Legislative History.** S. 2761, Public Law

### NOTE OF OPINION

#### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has

been approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

## MARKETING OF POWER FROM FALCON DAM

An act to authorize the transmission and disposition by the Secretary of the Interior of electric energy generated at Falcon Dam on the Rio Grande. (Act of June 18, 1954, ch. 310, 68 Stat. 255)

[**Sec. 1. Falcon Dam—Transmission and disposition of electric energy—Rate schedules—Preference.**]—The electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the treaty of February 3, 1944, between the United States and Mexico (Treaty Series 994), which is made available to the United States under the provisions of said treaty and under such special agreements as may be concluded between the two Governments pursuant to the provisions of said treaty and not required in the operation of such international projects, all as determined by the Commissioner of the United States Section, International Boundary and Water Commission, shall be delivered to the Secretary of the Interior (hereinafter referred to as the Secretary) who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power by the Secretary, in collaboration with the Secretary of State, over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary for the integration of the Falcon and Amistad projects and in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. (68 Stat. 255; § 1, Act of December 23, 1963, 77 Stat. 475)

### EXPLANATORY NOTE

**1963 Amendment.** Section 1 of the Act of December 23, 1963, 77 Stat. 475, added the references to power from Amistad Dam. The Act appears herein in chronological order.

**Sec. 2. [Receipts.]**—All receipts from the sale of electric power and energy disposed of by the Secretary pursuant to this Act shall be covered into the Treasury of the United States to the credit of miscellaneous receipts as shall also moneys received from the Government of Mexico for any energy which might be delivered to that Government by the United States Section of the International

June 18, 1954

1140 MARKETING OF POWER FROM FALCON DAM

Boundary and Water Commission pursuant to any special agreement concluded in accordance with article 19 of the said treaty. (68 Stat. 255)

**Sec. 3. [Authority of Secretary.]**—The Secretary is authorized to perform any and all acts including the acquisition of rights and property, and to enter into such agreements as may be appropriate for the purpose of carrying out the provisions of this Act applicable to him; and with respect to construction and supply contracts and the acquisition, exchange, and disposition of lands and other property, and the relocation thereof, the Secretary shall have the same authority which he has under sections 12 and 14 of the Reclamation Project Act of 1939. (68 Stat. 256)

**Sec. 4. [Priorities in release of water.]**—The release of United States water from the Falcon and Amistad Dams for the production of hydroelectric energy shall be such as not to interfere with United States vested rights to the use of water for municipal, domestic, irrigation, and industrial purposes or with storage of water for these purposes. (Added by Section 2 of the Act of December 23, 1963, 77 Stat. 475)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1963 Amendment.** Section 2 of the Act of December 23, 1963, 77 Stat. 475, added section 4. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations

of opinions are not included because none were found dealing primarily with the activities of the Bureau of Reclamation under this statute.

**Legislative History.** S. 3090, Public Law 406 in the 83d Congress. S. Rept. No. 1340. H.R. Rept. No. 1678 (on H.R. 8328).

## AMENDED CONTRACT WITH ROZA IRRIGATION DISTRICT

An act to approve the repayment contract negotiated with the Roza Irrigation District, Yakima project, Washington, and to authorize its execution, and for other purposes. (Act of June 30, 1954, ch. 436, 68 Stat. 359)

[**Sec. 1. Roza Irrigation District—Repayment contract.**]—The repayment contract negotiated as provided in subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187) by the Secretary of the Interior with the Roza Irrigation District, and substantially in the form approved by the electors of that district at a water users election held on May 29, 1953, is approved and the Secretary is authorized to execute it on behalf of the United States. (68 Stat. 359)

**Sec. 2. [Reclamation laws.]**—This Act is declared to be part of the Federal reclamation laws as those laws are defined in the Reclamation Project Act of 1939 (53 Stat. 1187). (68 Stat. 360)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 462 in the 83d Congress. H.R. Rept. the U.S. Code. No. 1668. S. Rept. No. 1619.

**Legislative History.** H.R. 6487, Public

### NOTE OF OPINION

#### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been

approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

July 1, 1954

1142

## INTERIOR DEPARTMENT APPROPRIATION ACT, 1955

[Extracts from] An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1955, and for other purposes. (Act of July 1, 1954, ch. 446, 68 Stat. 361)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

#### CONSTRUCTION AND REHABILITATION

[Avondale project—Crescent Lake Dam project.]—For construction and rehabilitation of authorized Reclamation projects or parts thereof (including power transmission facilities) and for other related activities authorized by law, \* \* \* \* \* *Provided further*, That not to exceed \$53,000 shall be available toward the emergency rehabilitation of the Avondale irrigation project, Idaho, to be repaid in full under conditions satisfactory to the Secretary of the Interior: *Provided further*, That not to exceed \$297,000 shall be available toward the emergency rehabilitation of the Crescent Lake Dam project, Oregon, to be repaid in full under conditions satisfactory to the Secretary of the Interior: (68 Stat. 365)

#### EXPLANATORY NOTES

**Popular Name.** The Avondale and Crescent Lake Dam projects are known as Cordon amendment projects after Senator Guy Cordon of Oregon. The appropriations for these projects constitute their authorization.

**Cross Reference, Avondale Project.** Other appropriations for the Avondale project are contained in the Act of July 31, 1953, 67 Stat. 266, and the Act of September 2, 1960, 74 Stat. 746. The Act of Septem-

ber 22, 1961, 75 Stat. 588, authorizes additional improvement work. The relevant extracts appear herein in chronological order.

**Cross Reference, Crescent Lake Dam Project.** The Second Supplemental Appropriation Act, 1961, Act of September 8, 1960, 74 Stat. 828, increases the amount available for the emergency rehabilitation of the Crescent Lake Dam Project from \$297,000 to \$305,000.

[Alamogordo Dam—Spillway capacity increase for flood control nonreimbursable.]—*Provided further*, That sums made available for increasing spillway capacity at Alamogordo Dam, Carlsbad project, New Mexico, for the purpose of removing the existing flood hazard, be nonreimbursable and nonreturnable: \* \* \* (68 Stat. 365)

#### EXPLANATORY NOTE

**Provision Repeated.** The same proviso is contained in the Public Works Appropriation Act, 1956, Act of July 15, 1955, 69 Stat. 357.

[Jamestown unit—Public use and safety facilities.]—\* \* \* *Provided further*, That not to exceed \$45,000 of the unexpended funds heretofore appropriated for the Jamestown unit (North Dakota), Missouri River Basin project,

July 1, 1954

INTERIOR DEPARTMENT APPROPRIATION ACT, 1955 1143

shall be available for public use and safety facilities at said unit: \* \* \*. (68 Stat. 366)

\* \* \* \* \*

[Short title.]—This Act may be cited as the “Interior Department Appropriation Act, 1955”. (68 Stat. 376)

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Editor's Note. Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first

used.

**Legislative History.** H.R. 8680, Public Law 465 in the 83d Congress. H.R. Rept. No. 1460. S. Rept. No. 1506. H.R. Rept. No. 1926 (conference report).

July 14, 1954

1144

## **CLAIMS FOR SHASTA DAM DAMAGE, CENTRAL VALLEY PROJECT**

An act conferring jurisdiction on the United States District Court for the Northern District of California to hear, determine, and render judgment upon certain claims of the State of California. (Act of July 14, 1954, ch. 477, 68 Stat. 471)

[**Sec. 1. Sacramento River levee damage claims, Calif.**]—Jurisdiction is hereby conferred upon the United States District Court for the Northern District of California, sitting without a jury, to hear, determine, and render judgment upon the claims of the State of California against the United States for reimbursement of the amounts expended and to be expended in repairing the damage to levees and other flood-control works of the Sacramento River alleged to have resulted from the closing of the outlet gates on Shasta Dam by the Bureau of Reclamation, Department of the Interior, during May 1948. (68 Stat. 471)

**Sec. 2. [Time within which suit may be instituted.]**—Notwithstanding any statute of limitations or lapse of time, suit upon such claims may be instituted at any time within one year after the date of enactment of this Act. (68 Stat. 471)

**Sec. 3. [Suit proceedings and determination of liability.]**—In any suit brought pursuant to this Act (whether sounding in tort or in contract) proceedings shall be had, and the liability, if any, of the United States shall be determined, in accordance with the provisions of law applicable in the case of contract claims, or under the Federal Tort Claims Act, as amended, respectively, against the United States: *Provided*, That the passage of this legislation shall not be construed as an inference of liability on the part of the United States Government. (68 Stat. 471)

### **EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in Law 488 in the 83d Congress. H.R. Rept. the U.S. Code. No. 660. S. Rept. No. 1309.  
**Legislative History.** H.R. 3191, Public

## POWER REVENUE CREDITS FOR SHOSHONE IRRIGATION DISTRICT

An act to credit the Shoshone Irrigation District with a share of the net revenues from the Shoshone powerplant, and for other purposes. (Act of July 14, 1954, ch. 478, 68 Stat. 471)

[**Sec. 1. Shoshone Irrigation District, Wyo.—Powerplant revenue contract.**]—The Secretary of the Interior is authorized, on behalf of the United States to enter into a contract with the Shoshone Irrigation District, Wyoming, containing appropriate provisions whereby—

(a) the United States shall credit the district with the sum of \$426,000 which sum shall be applied toward the payment of the annual construction payments of the district under its contract with the United States dated November 4, 1926, or any amendment thereof, as the same become due for the year 1954 and subsequent years until such credit is exhausted. Until such credit is exhausted the United States consents to the expenditure by the district of money collected by the district, as part of the district's 1954 and subsequent budgets for the purpose of defraying annual construction payments to the United States, for such purposes of construction, reconstruction, rehabilitation, and operation and maintenance as may be approved by the appropriate State court in the manner provided by the applicable laws of the State of Wyoming;

(b) the district relinquishes and releases any and all of its claims, demands, and causes of action against the United States, from whatever cause or for whatever reason arising, with respect to any revenues heretofore or hereafter realized from, or with respect to control over, power facilities of the Shoshone Federal reclamation project heretofore or hereafter constructed, including the Shoshone power plant;

(c) there are effected changes, modifications, and financial adjustments in the district's contract with the United States dated November 4, 1926, to the extent required by a finding, based upon reclassifications of the lands of the Garland division, Shoshone Federal reclamation project, that thirty-five thousand nine hundred fifty and forty-four one-hundredths acres of the lands in said division are irrigable and that four hundred thirteen and six one-hundredths acres, formerly classified as irrigable, are now included in drain rights of way. Construction charges against the said four hundred thirteen and six one-hundredths acres shall continue to be included in the contractual obligation of the district and in the accounts of the Garland division, but the existing repayment contract of the district may be amended to relieve such lands from future assessment by the district. The provisions of this subsection shall be effective as of January 1, 1953;

(d) the district's obligation with respect to payment of its share of the cost of storage works of the Shoshone reclamation project is fixed at \$340,500, which amount the district shall continue to pay, along with other

July 14, 1954

1146 POWER CREDITS, SHOSHONE IRR. DISTRICT

portions of the construction charge obligation except as otherwise provided in this Act, in accordance with the terms and conditions of its contract of November 4, 1926, aforesaid; and

(e) the district's obligation under its contract of November 4, 1926, aforesaid, is reduced, to the extent that such reduction has not already been made, by that portion of the unexpended balances of construction charges heretofore authorized and duly announced or promulgated which the Secretary, taking account of all lands to which said charges were applicable when they were announced or promulgated, shall determine is the ratable share of those balances applicable to the irrigable lands of the district and to the lands of the district, formerly classified as irrigable, which are now included in drain rights of way as hereinbefore provided. No part of the cost of the Shoshone powerplant, its distribution system, or any appurtenant features of said powerplant shall be charged against the district or land-owners therein. (68 Stat. 471)

**Sec. 2. [Participation in net revenues of Shoshone powerplant.]**—The proviso affecting the application of net revenues of the Shoshone powerplant, as contained in the Act of March 4, 1929 (45 Stat. 1562, 1592), and the Act of April 9, 1938 (52 Stat. 210), are hereby modified to the extent necessary to permit \$426,000 of the net revenues of the Shoshone powerplant to be applied compatibly with the provisions of this Act. (68 Stat. 472)

EXPLANATORY NOTE

**Reference in the Text.** The proviso in Stat. 210), both referred to in the text, are the Act of March 4, 1929 (45 Stat. 1562, 1592), and the Act of April 9, 1938 (52 Stat. 210), found herein in chronological order.

**Sec. 3. [Landowner or entrymen barred from credit or refund as result of reclassification of land—Water delivery and preference.]**—No landowner or entryman holding land found by the reclassifications aforesaid to be permanently unproductive shall be entitled to credit from, or refund by, the United States for construction or other charges which, prior to the effective date of subsection (c), section 1, of this Act, had been paid, or become due and payable on account of such land. Any water right appurtenant to said lands which has been acquired under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) shall cease and the water supply heretofore used or required to satisfy such right shall be available for disposition by the Secretary under those laws, but the water users on the Garland division shall have a preference right to the use of such water. (68 Stat. 472)

**Sec. 4. [Time limitation.]**—If a contract in accordance with the provisions of subsections (a), (b), and (d) of section 1 of this Act shall not have been entered into within two years from the date of its enactment, the authority to enter into such a contract granted by this Act shall cease to be operative and shall be of no further force or effect. (68 Stat. 473)

July 14, 1954

POWER CREDITS, SHOSHONE IRR. DISTRICT

1147

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Additional Provisions.** For additional provisions relating to the power system and power revenues of the Shoshone project, see the Act of March 4, 1929, 45 Stat. 1592, and the notes thereunder.

**Cross Reference, Annual Appropriation Acts.** For a number of years the annual appropriation acts made funds from power revenues of the Shoshone project available

for operation and maintenance of the commercial system, as explained in the note under the Act of March 7, 1928, 45 Stat. 230.

**Cross Reference, Sale of Facilities.** The Act of May 14, 1930, 46 Stat. 309, authorizes the sale of power facilities no longer needed for the Shoshone project. The Act appears herein in chronological order.

**Legislative History.** H.R. 6893, Public Law 489 in the 83d Congress. H.R. Rept. No. 1663. S. Rept. No. 1661.

July 16, 1954

1148

## GLENDÖ UNIT, MISSOURI RIVER BASIN PROJECT

Joint resolution to provide for construction by the Secretary of the Interior of the Glendo Unit, Wyoming, Missouri River Basin Project. (Act of July 16, 1954, ch. 532, 68 Stat. 486)

Whereas construction by the Secretary of the Interior of a dam and reservoir at the Glendo site on the North Platte River in Wyoming was authorized by section 9, subsection (c) of the Act of December 22, 1944 (58 Stat. 641, 653); and

Whereas the Interior Department Appropriation Acts for 1954 and several previous years have provided that "in order to promote agreement among the States of Nebraska, Wyoming, and Colorado, and to avoid any possible alteration of existing vested water rights, no part of this or any prior appropriation shall be used for construction or for further commitment for construction of the Glendo unit or any feature thereof, until a definite plan report thereon has been completed, reviewed by the States of Nebraska, Wyoming, and Colorado, and approved by Congress"; and

Whereas a definite plan report was completed by the Bureau of Reclamation in December 1952, reviewed by the States aforesaid, and approved by Wyoming on March 5, 1953, by Colorado on March 31, 1953, and by Nebraska on May 19, 1953; thus substantially complying with the provision of section 1 of the Flood Control Act of 1944; and

Whereas the said definite plan report was approved by the Secretary of the Interior on February 19, 1954, and transmitted to the Congress by him on April 2, 1954; and

Whereas the Secretary of the Interior has found the Glendo unit to be economically and financially feasible and has recommended its early construction; and

Whereas, as appears in the stipulation signed on behalf of the States of Nebraska, Wyoming, and Colorado and of the United States on January 14, 1953, the prospect of construction of the Glendo unit as now proposed played an important part in the negotiations of said parties looking toward an amicable modification of the decree of the United States Supreme Court entered in the case of Nebraska versus Wyoming (325 U.S. 665); and

Whereas the United States Supreme Court has approved said stipulation and modified its decree in accordance therewith (345 U.S. 981):

Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

[Sec. 1. Glendo unit, Wyo.—Congressional approval.]—That the definite plan report on the Glendo unit, Missouri River Basin project, approved by the Secretary of the Interior on February 19, 1954, is hereby approved by the Congress, and the Secretary is authorized to construct and operate said unit in accordance with said report and with the modified decree of the United States

July 16, 1954

GLENDO UNIT, MISSOURI RIVER BASIN PROJECT 1149

Supreme Court in the case of Nebraska versus Wyoming (345 U.S. 981) and, through its physical and financial coordination and integration with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944 (58 Stat. 641, 653), as amended and supplemented, with the financial objective of returning its reimbursable costs during a fifty-year payment period. (68 Stat. 486; 33 U.S.C. § 701-1, note)

**Sec. 2. [Waiver.]**—With respect to the Glendo unit, the provisions of section 1(c) of the Flood Control Act of 1944 are hereby waived. (68 Stat. 486; 33 U.S.C. § 701-1, note)

EXPLANATORY NOTES

**Supplementary Provision: Sewage System.** The Act of August 9, 1955, 69 Stat. 560, authorized increased capacity in the sewage system for the Government construction camp and housing facility at Glendo Dam and Reservoir so that it also serve the Town of Glendo, Wyoming. The Act appears herein in chronological order.

**Supplementary Provision: Gray Reef Dam.** The Act of August 20, 1958, 72 Stat. 687, modified the Glendo unit to provide for the construction and operation of the small regulating Gray Reef Dam and Reservoir on the North Platte River downstream from Alcova Dam. The Act appears herein

in chronological order.

**Reference in the Text.** Extracts from the Flood Control Act of 1944 (enacted December 22, 1944), including section 1(c) referred to in the text, appear herein in chronological order. Section 1(c) provides that a plan of development for irrigation or purposes incidental thereto shall not be deemed authorized if objections are submitted by an affected state or by the Secretary of War, except upon approval by an Act of Congress.

**Legislative History.** S.J. Res. 165, Public Law 503 in the 83d Congress. S. Rept. No. 1615. H.R. Rept. No. 1944.

July 27, 1954

1150

## AMENDED CONTRACT WITH PINE RIVER IRRIGATION DISTRICT

An act to authorize the Secretary of the Interior to execute an amendatory repayment contract with the Pine River Irrigation District, Colorado, and for other purposes. (Act of July 27, 1954, ch. 578, 68 Stat. 534)

[**Pine River Irrigation District, Colo.—Repayment contract.**]—The reimbursable construction cost of the Pine River reclamation project, Colorado, is hereby fixed at \$1,500,000, and the Secretary of the Interior is authorized to execute, on behalf of the United States, the amendatory repayment contract negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192) and approved at an election of the district held November 30, 1953, under which contract the unpaid balance of five-sixths of the reimbursable construction cost of the Pine River project (the remaining one-sixth being properly chargeable to the lands of the Pine River Indian (Southern Ute) project as set out in a memorandum of understanding between the Bureau of Reclamation and the Bureau of Indian Affairs dated January 3, 1940) is repayable by the district in thirty fixed annual installments or, if the district elects to use a variable payment formula as set forth in said contract, in as many installments as may be required to return the portion of the aforesaid balance then remaining unpaid. (68 Stat. 534)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 533 in the 83d Congress. H.R. Rept. the U.S. Code. No. 1897. S. Rept. No. 1796.

**Legislative History.** H.R. 7466, Public

## FOSTER CREEK DIVISION, CHIEF JOSEPH DAM PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the irrigation works comprising the Foster Creek division of the Chief Joseph Dam project, Washington. (Act of July 27, 1954, ch. 585, 68 Stat. 568)

[Sec. 1. Chief Joseph Dam project, Wash.—Foster Creek division construction, etc.]—As an initial step in supplementing the Act of July 17, 1952 (Public Law 577, Eighty-second Congress), and in order to provide water for the irrigation of approximately six thousand acres of land along the Columbia and Okanogan Rivers in the vicinity of Chief Joseph Dam, Washington, the Secretary of the Interior is authorized to construct, operate, and maintain the Foster Creek division of the Chief Joseph Dam project substantially in accordance with the report of the Secretary of the Interior dated January 7, 1954, and printed as House Document Numbered 374, Eighty-third Congress. (68 Stat. 568)

Sec. 2. [Repayment period—Irrigators' payment capacity—Financial assistance to irrigators from power revenues.]—In the construction, operation, and maintenance of the Foster Creek division, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) except that (a) the period provided in subsection (d), section 9, of the Reclamation Project Act of 1939 (53 Stat. 1187), for repayment of construction costs properly chargeable to any block of lands and assigned to be repaid by the irrigators may be extended to fifty years, exclusive of a development period, from the time water is first delivered to that block or to as near that number of years as is consistent with the adoption and operation of a variable payment formula as hereinafter provided; (b) any repayment contract entered into may provide that the amounts to be paid annually thereunder shall be determined in accordance with a formula, mutually agreeable to the parties, which reflects economic conditions pertinent to the irrigators' payment capacity; and (c) all construction costs which are beyond the ability of the irrigators to repay as hereinbefore provided shall be charged to, and returnable to the reclamation fund from, net revenues derived from the sale of power from the Chief Joseph Dam project which are over and beyond those required to amortize the power investment in said project and to return interest on the unamortized balance thereof. Power and energy required for irrigation pumping for the Foster Creek division authorized shall be made available by the Secretary from the Chief Joseph Dam powerplant and other Federal plants interconnected therewith at rates not to exceed the cost of such power and energy from the Chief Joseph Dam taking into account all costs of the dam, reservoir, and powerplant which are determined by the Secretary under the provisions of the Federal reclamation laws to be properly allocable to such irrigation pumping power and energy. (68 Stat. 569)

Sec. 3. [Reports on additional reclamation units.]—Reports on additional reclamation units in the vicinity of the Chief Joseph Dam project proposed to be constructed as units of the project shall be submitted by the Secretary from

July 27, 1954

1152

FOSTER CREEK DIVISION, CHIEF JOSEPH

time to time in accordance with the provisions of the Act of July 17, 1952, supra. (68 Stat. 569)

**Sec. 4. [Appropriations.]**—There are hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, \$4,798,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the cost of said type of construction without endangering the economic feasibility of the Foster Creek division of the Chief Joseph Dam project, Washington. (68 Stat. 569)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of July 17, 1952 (Public Law 577, Eighty-second Congress), referred to in sections 1 and 3, authorizes a study and a report to Congress on the reclamation possibilities of arid lands in the general vicinity of Chief Joseph Dam.

The Act appears herein in chronological order.

**Legislative History.** H.R. 4854, Public Law 540 in the 83d Congress. H.R. Rept. No. 1016. S. Rept. No. 1625 (on S. 446). H.R. Rept. No. 1883 (on H. Res. 587). H.R. Rept. No. 2274 (conference report).

### AMEND VERMEJO PROJECT ACT

An act to amend the Act of September 27, 1950, relating to construction of the Vermejo reclamation project. (Act of July 27, 1954, ch. 587, 68 Stat. 570)

[**Sec. 1. Vermejo reclamation project. N. Mex.**]—The Act of September 27, 1950 (64 Stat. 1072), as amended, is further amended by adding thereto a new section reading as follows:

“**SEC. 6. [Bonded indebtedness—Transfer of funds.]**—Upon the execution of a contract with the Vermejo Conservancy District supplementary to or amendatory of the contract dated August 7, 1952, between the district and the United States, pursuant to which supplementary or amendatory contract the district agrees to an increase in the total obligation repayable by it under the contract of August 7, 1952, in an amount equal to the face value of the outstanding bonds of the Maxwell Irrigation Company held by the Reconstruction Finance Corporation with unpaid interest, if any, accrued after July 1, 1953, and to a commensurate increase in the annual base charge provided in article 10 of said contract the entire obligation of said company to the Reconstruction Finance Corporation shall be fully discharged and said bonds shall be returned to the debtor for cancellation. Thereupon the Secretary of the Interior shall request, and the Secretary of the Treasury shall cause to be transferred on the books of the Treasury to the account of the Reconstruction Finance Corporation from moneys appropriated for carrying on the functions of the Bureau of Reclamation and available for constructing the Vermejo reclamation project, a sum equal to the face value of the outstanding bonds, with accrued interest, as aforesaid, of the Maxwell Irrigation Company held by the Reconstruction Finance Corporation.” (68 Stat. 570)

**Sec. 2. [Repayment limitation.]**—The limit upon the amount repayable by the contracting organization which is set forth in the proviso to section 2 of the Act of September 27, 1950, shall be exclusive of any additional amount which the district undertakes to repay pursuant to section 1 of this Act. (68 Stat. 570)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note. Annotations.** Annotations of opinions, if any, are found under the Act

of September 27, 1950.

**Legislative History.** H.R. 6882. Public Law 542 in the 83d Congress. H.R. Rept. No. 1896. S. Rept. No. 1784.

July 27, 1954

1154

## LICENSING OF PRIEST RAPIDS DAM

An act to provide for the development of the Priest Rapids site on the Columbia River, Washington, under a license issued pursuant to the Federal Power Act. (Act of July 27, 1954, ch. 589, 68 Stat. 573)

[**Sec. 1. Private development of Priest Rapids site authorized.**]—The Flood Control Act of 1950 (64 Stat. 170, 179), insofar as it adopted and authorized to be prosecuted the Priest Rapids Dam on the Columbia River, Washington, substantially in accordance with the plans recommended in the report of the Chief of Engineers dated June 28, 1949, contained in House Document Numbered 531, Eighty-first Congress, second session, is hereby modified to permit the development of the Priest Rapids site by Public Utility District Number 2, of Grant County, Washington, or such district or its successor in combination with such other utilities as it may legally affiliate with or by any division, subdivision, agency, or commission of the State of Washington under and in accordance with the terms and conditions of a license duly issued pursuant to the Federal Power Act and in accordance with this Act. (68 Stat. 573)

### EXPLANATORY NOTE

**Reference in the Text.** While extracts from the Flood Control Act of May 17, 1950 (64 Stat. 170, 179), referred to in the text, appear herein in chronological order,

the item authorizing construction of the Priest Rapids Dam is not included inasmuch as it was authorized as a Corps of Engineers project.

**Sec. 2. [Optimum capabilities of the site to be developed—FPC license requirements.]**—The Priest Rapids Reservoir site shall be developed to utilize the optimum capabilities of the site as a part of the comprehensive plan for economically feasible control and utilization of the water resources for flood control, navigation, power, and other beneficial purposes. Before a license is issued, an applicant for a license shall submit a report on the details of its plans for development to the Federal Power Commission with particular reference to the integration of the proposed Priest Rapids development as a part of the comprehensive plan. (68 Stat. 573)

**Sec. 3. [Review of plans by Department of the Army.]**—The Department of the Army shall review any plans submitted to the Federal Power Commission for the purpose of acquiring a license to develop the Priest Rapids site or any other site in connection therewith and shall make recommendations with respect to such plans to the Commission with particular regard to flood control and navigation. (68 Stat. 573)

**Sec. 4. [Addition of navigation and flood control features at Federal expense authorized.—Federal financial contribution.]**—The license may provide for the addition of navigation locks and flood-control features by the Department of the Army at Federal expense, either as a part of the initial construction or at a later date. In the event that nonpower features are to be provided as part of the initial construction, an allocation of costs to such features shall be approved by

the Federal Power Commission taking into consideration recommendations by the Department of the Army and licensee, and funds to cover such costs may be appropriated and may be transferred by the Chief of Engineers to the licensee. If such navigation and flood-control facilities are not provided initially the licensee shall provide at its own expense the basic features for future installation of navigation and flood-control facilities. (68 Stat. 573)

Sec. 5. [Corps of Engineers may act as constructing agency, acquire lands, etc., and subsequently convey to licensee.]—Upon request by the licensee the Corps of Engineers under direction of the Secretary of the Army shall be authorized to receive contributed funds and act as constructing agency for part or all of the project, including acquisition of lands, easements, rights-of-way, or other interests in land in accordance with Federal laws and procedures governing flood-control projects and subsequent conveyance thereof to the licensee. (68 Stat. 573)

Sec. 6. [Reasonable regulation by Secretary of the Army—Sale of power—Disagreements to be resolved by FPC—Surplus power sales to Bonneville Power Administration.]—The operation and maintenance of a project under license pursuant to this Act shall be subject to reasonable rules and regulations by the Secretary of the Army in the interest of flood control and navigation. To assure that there shall be no discrimination between States in the area served by the project, such license shall provide that the licensee shall offer a reasonable portion of the power capacity and a reasonable portion of the power output of the project for sale within the economic market area in neighboring States and shall cooperate with agencies in such States to insure compliance with this requirement: *Provided*, That in the event of disagreement between the licensee and the power marketing agencies (public or private) in any of the other States within the economic market area, the Federal Power Commission may determine and fix the applicable portion of power capacity and power output to be made available hereunder and the terms applicable thereto. Power surplus to the requirements of the licensee and other non-Federal marketing agencies (public or private) within the economic marketing area, as may be economically usable to the Federal system, may be made available to and may be purchased by the Bonneville Power Administrator at rates not higher than the rates charged such non-Federal marketing agencies, and under such terms and conditions as shall be mutually agreeable to the licensee and the Secretary of the Interior. Such power may be co-mingled with power from Federal dams in the Columbia River system for which the Bonneville Power Administrator has been designated marketing agent and shall be sold by the Administrator in accordance with the provisions of the Bonneville Project Act at established rate schedules. (68 Stat. 574)

Sec. 7. [Application for a license must be prosecuted with due diligence before FPC.]—If an application for a preliminary permit for a license under the Federal Power Act to authorize the development of the Priest Rapids site is not prosecuted with reasonable diligence before the Federal Power Commission and in any event if the license application is not filed with the Federal Power Commission prior to the date which is two years after the date of the enactment

July 27, 1954

1156

## LICENSING OF PRIEST RAPIDS DAM

of this Act, the provisions of this Act shall not be effective after such date and the authorization for the development of the Priest Rapids site contained in the Flood Control Act of 1950 shall have the same status it would have had if this Act had not been enacted. In the event an application for a license is made and denied by the Federal Power Commission, or if construction under a license is not carried out in a reasonable period of time as determined by the Federal Power Commission, the authorization in the Flood Control Act of 1950 will have the same status it would have had if this Act had not been enacted. Notwithstanding any other provision of law, the Federal Power Commission shall act, on any such application filed with it prior to such date, within one year after the date on which such application is filed. (68 Stat. 574)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the

activities of the Bureau of Reclamation.

**Legislative History.** H.R. 7664, Public Law 544 in the 83d Congress. H.R. Rept. No. 1601. S. Rept. No. 1656. H.R. Rept. No. 1613 (on H. Res. 552).

## PAYMENT FOR IMPROVEMENTS ON PUBLIC LANDS, PALISADES PROJECT

An act authorizing the Secretary of the Interior to purchase improvements or pay damages for removal of improvements located on public lands of the United States in the Palisades project area, Palisades reclamation project, Idaho. (Act of July 27, 1954, ch. 590. 68 Stat. A129)

[Purchase of certain improvements within project boundaries.]—The Secretary of the Interior is authorized and directed to pay, out of any moneys appropriated for the construction of the Palisades project, Idaho, as the purchase price for certain improvements located on public lands of the United States within the boundaries of said project, or as damages for the removal of such improvements therefrom: to Lloyd William Schofield and Anna Maria Schofield, not to exceed the sum of \$400, for a summer home owned by said parties; and to Henry Hill, not to exceed the sum of \$3,000, for a house owned by him: *Provided*, That no part of any payment provided for herein shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection therewith, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (68 Stat. A129)

### EXPLANATORY NOTES

**Authorization.** The Palisades project, Idaho-Wyoming, was authorized by the Secretary of the Interior on December 9, 1941, pursuant to section 9 of the Reclamation Project Act of 1939 (enacted August 4, 1939). The project was reauthorized by the

Act of September 30, 1950, 64 Stat. 1083. Both Acts appear herein in chronological order.

**Legislative History.** H.R. 6786, Private Law 561 in the 83d Congress. H.R. Rept. No. 1465. S. Rept. No. 1797.

July 28, 1954

1158

## SANTA MARGARITA PROJECT

An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes. (Act of July 28, 1954, ch. 593, 68 Stat. 575)

[Sec. 1. **De Luz Dam, Calif.—Construction, etc.**]—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, as far as those laws are not inconsistent with the provisions of this Act, is authorized to construct, operate, and maintain such dam and other facilities as may be required to make available for irrigation, municipal, domestic, military, and other uses the yield of the reservoir created by De Luz Dam to be located immediately below the confluence of De Luz Creek with Santa Margarita River on Camp Joseph H. Pendleton, San Diego County, California, for the Fallbrook Public Utility District and such other users as herein provided. The authority of the Secretary to construct said facilities is contingent upon a determination by him that—

(a) [Fallbrook Public Utility District repayment contract.]—The Fallbrook Public Utility District shall have entered into a contract under subsection (d), section 9, of the Reclamation Project Act of 1939 undertaking to repay to the United States of America appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining such dam and other facilities, together with interest as hereinafter provided; and under no circumstances shall the Department of the Navy be subject to any charges or costs except on the basis of its proportional use, if any, of such dam and other facilities, as determined pursuant to section 2(b) of this Act;

(b) [California permits.]—The officer or agency of the State of California authorized by law to grant permits for the appropriation of water shall have granted such permits to the United States of America and shall have granted permits to the Fallbrook Public Utility District for rights to the use of water for storage and diversion as provided in this Act; including, as to the Fallbrook Public Utility District, approval of all requisite changes in points of diversion and storage and purposes and places of use;

(c) [Claim against U.S.—Equal priority in use of water.]—The Fallbrook Public Utility District shall have agreed that it will not assert against the United States of America any prior appropriative right it may have to water in excess of that quantity deliverable to it under the provisions of this Act, and will share in the use of the waters impounded by the De Luz Dam on the basis of equal priority and in accordance with the ratio prescribed in section 3(a) of this Act; this agreement and waiver and the changes in points of diversion and storage, required by the preceding paragraph, shall become effective and binding only when the dam and other facilities herein provided for shall have been completed and put into opera-

July 28, 1954

SANTA MARGARITA PROJECT

1159

tion: *Provided, however,* That the enactment of this legislation does not constitute a recognition of, or an admission that, the Fallbrook Public Utility District has any rights to the use of water in the Santa Margarita River, which rights, if any, exist only by virtue of the laws of the State of California; and

(d) [Feasibility.]—The De Luz Dam and other facilities herein authorized have economic and engineering feasibility. (68 Stat. 575)

Sec. 2. (a) [Water rights.]—In the interest of comity between the United States of America and the State of California and consistent with the historic policy of the United States of America of Federal noninterference with State water law, the Secretary of the Navy shall promptly comply with the procedures for the acquisition of appropriative water rights required under the laws of the State of California as soon as he is satisfied, with the advice of the Attorney General of the United States, that such action will not adversely affect the rights of the United States of America under the laws of the State of California.

(b) [Navy Department charges.]—The Department of the Navy will not be subject to any charges or costs in connection with the De Luz Dam or its facilities, except upon completion and then shall be charged in reasonable proportion to its use of the facilities under regulations agreed upon by the Secretary of the Navy and Secretary of the Interior. (68 Stat. 576)

Sec. 3. (a) [Dam operation, etc.—Water allotment—Temporary contracts.]—The operation of the dam and other facilities herein provided shall be by the Secretary of the Interior, under regulations satisfactory to the Secretary of the Navy with respect to the Navy's share of the impounded water and national security. In that operation, 60 per centum of the water impounded by De Luz Dam is hereby allotted to the Secretary of the Navy; 40 per centum of the water impounded by De Luz Dam is hereby allotted to the Fallbrook Public Utility District. The Department of the Navy and the Fallbrook Public Utility District will participate in the water impounded by De Luz Dam on the basis of equal priority and in accordance with the ratio prescribed in the preceding sentence: *Provided, however,* That at any time the Secretary of the Navy certifies that he does not have immediate need for any portion of the aforesaid 60 per centum of the water, the official agreed upon to administer the dam and facilities is empowered to enter into temporary contracts for the delivery of water subject, however, to the first right of the Secretary of the Navy to demand that water without charge and without obligation on the part of the United States of America upon thirty days' notice as set forth in any such contract with the approval of the Secretary of the Navy: *Provided, further,* That all moneys paid in to the United States of America under any such contract shall be covered into the general fund of the Treasury, and shall not be applied against the indebtedness of the Fallbrook Public Utility District to the United States of America. In making any such temporary contracts for water not immediately needed by the Navy, the first right thereto, if otherwise consistent with the laws of the State of California, shall be given the Fallbrook Public Utility District.

July 28, 1954

1160

SANTA MARGARITA PROJECT

(b) [Repayment obligation.]—The general repayment obligation of the Fallbrook Public Utility District (which shall include interest on the unamortized balance of construction costs of the project allocated to municipal and domestic waters at a rate equal to the average rate, which rate shall be certified by the Secretary of the Treasury, on the long-term loans of the United States outstanding on the date of this Act) to be undertaken pursuant to section 1 of this Act shall be spread in annual installments, which need not be equal, over a period of not more than fifty-six years, exclusive of a development period, or as near thereto, as is consistent with the operation of a formula, mutually agreeable to the parties, under which the payments are varied in the light of factors pertinent to the irrigators' ability to pay. The development period shall begin in the year in which water for use by the district is first available, as announced by the Secretary, and shall end in the year in which the conservation storage space in De Luz Reservoir first fills but shall, in no event, exceed seventeen years. During the development period water shall be delivered to the district under annual water rental notices at rates fixed by the Secretary and payable in advance, and any moneys collected in excess of operation and maintenance costs shall be credited to repayment of the capital costs chargeable to the district and the repayment period fixed herein shall be reduced proportionately. The Secretary may transfer to the district the care, operation, and maintenance of the facilities constructed by him under conditions satisfactory to him and to the district and, with respect to such of the facilities as are located within the boundaries of Camp Pendleton, satisfactory also to the Secretary of the Navy.

(c) [U.S. rights under California law.]—For the purposes of this Act the basis, measure, and limit of all rights of the United States of America pertaining to the use of water shall be the laws of the State of California: *Provided*, That nothing in this Act shall be construed as a grant or a relinquishment by the United States of America of any of its rights to the use of water which is acquired according to the laws of the State of California either as a result of its acquisition of the lands comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of said acquisition, or through actual use or prescription or both since the date of that acquisition, if any, or to create any legal obligation to store any water in De Luz Reservoir, to the use of which it has such rights, or to require the division under this Act of water to which it has such rights.

(d) [Dam to be operated to permit free passage of all water to which the United States is entitled.]—Unless otherwise agreed by the Secretary of the Navy, De Luz Dam as herein provided shall at all times be operated in a manner which will permit the free passage of all of the water to the use of which the United States of America is entitled according to the laws of the State of California either as a result of its acquisition of the lands comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of said acquisitions, or through actual use or prescription or both since the date of that acquisition, if any, and will not be administered or operated in any way which will impair or deplete the quantities of water to the use of

July 28, 1954

SANTA MARGARITA PROJECT

1161

which the United States of America would be entitled under the laws of the State of California had that structure not been built. (68 Stat. 577)

**Sec. 4. [Water delivery regulations.]**—After the construction of the De Luz Dam, the official operating the reservoir shall deliver water to the Fallbrook Public Utility District, pursuant to regulations issued by the Secretary of the Interior, as follows:

(1) One thousand eight hundred acre-feet in any year until the reservoir attains an active content of sixty-three thousand acre-feet;

(2) Not in excess of four thousand eight hundred acre-feet in any year after the reservoir attains an active content of sixty-three thousand acre-feet and until said reservoir attains an active content of ninety-eight thousand acre-feet; and

(3) Not in excess of eight thousand acre-feet in any year after the reservoir attains an active content of ninety-eight thousand acre-feet and until the conservation storage space of the reservoir has been filled. (68 Stat. 578)

**Sec. 5. [Flood control.]**—The Secretary of the Army through the Chief of Engineers, acting in accordance with section 7 of the Flood Control Act of 1944 (58 Stat. 887) is authorized to utilize for purposes of flood control such portion of the capacity of De Luz Reservoir as may be available therefor. (68 Stat. 578)

EXPLANATORY NOTE

**Reference in the Text.** Extracts from the Flood Control Act of 1944 (58 Stat. 887) (enacted December 22, 1944), including section 7 referred to in the text are found herein in chronological order. Section 7

places a duty upon the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds.

**Sec. 6. [Santa Margarita River project—Appropriation.]**—There are hereby authorized to be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, \$22,636,000, the current estimated construction cost of the Santa Margarita River project, plus or minus such amounts as may be indicated by the engineering cost indices for this type of construction, and, in addition thereto, such sums as may be required to operate and maintain the said project. (68 Stat. 578)

**Sec. 7. [Reports to Congress.]**—From time to time the Attorney General, the Secretary of the Interior, and the Secretary of the Navy shall report to the Congress concerning the conditions specified in section 1 of this Act, and the first report thereon shall be submitted to the Congress no later than one year from the date of enactment of this Act. (68 Stat. 578)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** H.R. 5731, Public Law 547 in the 83d Congress. H.R. Rept.

No. 984. S. Rept. No. 1322. H.R. Rept. No. 1036 (on H. Res. 368). H.R. Rept. No. 2111 (conference report).

July 29, 1954

1162

## TRANSFER TITLE TO MOVABLE PROPERTY TO IRRIGATION DISTRICTS

An act to provide for transfer of title to movable property to irrigation districts or water users' organizations under the Federal reclamation laws. (Act of July 29, 1954, ch. 616, 68 Stat. 580)

[**Sec. 1. Irrigation and water supply works—Title to movable property.**]— Whenever an irrigation district, municipality, or water users' organization assumes operation and maintenance of works constructed to furnish or distribute a water supply pursuant to a contract entered into with the United States in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) (43 U.S.C. 371 et seq.), the Secretary of the Interior may transfer to said district, municipality, or organization title to movable property which has been purchased with funds advanced by the district, municipality, or organization or which, in the case of property purchased with appropriated funds, is necessary to the operation and maintenance of such works and the value of which is to be repaid under a contract with the district, municipality, or organization. In order to encourage the assumption by irrigation districts, municipalities, and water users' organizations of the operation and maintenance of works constructed to furnish or distribute a water supply, the Secretary is authorized to use appropriated funds available for the project involved to acquire movable property for transfer under the terms and conditions hereinbefore provided, at the time operation and maintenance is assumed. (68 Stat. 580; Act of August 2, 1956, 70 Stat. 940; Act of June 24, 1965, 79 Stat. 172; 43 U.S.C. § 499a)

### EXPLANATORY NOTES

**1965 Amendment.** Section 1 of the Act of June 24, 1965, amended the 1954 Act to authorize the Secretary to transfer movable property to municipalities which assume the operation and maintenance of water supply works. The Act appears herein in chronological order.

**1956 Amendment.** The Act of August 2, 1956, authorized the use of available appropriated project funds to acquire movable property for transfer to an irrigation or water users' organization at the time either assumes operation and maintenance of irrigation works. The Act appears herein in chronological order. Before amendment, the Act read as follows: "Whenever an irrigation district or water users' organization

assumes operation and maintenance of irrigation works pursuant to a contract entered into with the United States in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior may transfer to said district or organization title to movable property which has been purchased with funds advanced by the district or organization or which, in the case of property purchased with appropriated funds, is necessary to the operation and maintenance of such works and the value of which is to be repaid under a contract with the district or organization."

**Sec. 2. [Water supply works—Transfer to municipal corporation, etc.]—** Whenever a municipal corporation or other organization to which water for municipal, domestic, or industrial use is furnished or distributed under a contract entered into with the United States pursuant to the Federal reclamation

July 29, 1954

TRANSFER MOVABLE PROPERTY TO DISTRICTS 1163

laws so requests, the Secretary of the Interior is authorized to transfer to it or its nominee the care, operation, and maintenance of the works by which such water supply is made available or such part of those works as, in his judgment, is appropriate in the circumstances, subject to such terms and conditions as he may prescribe. (Added by Act of June 24, 1965, 79 Stat. 172; 43 U.S.C. § 499b)

EXPLANATORY NOTES

**1965 Amendment.** The Act of June 24, 1965, added section 2 to the Act, thereby granting general authority to the Secretary of the Interior to transfer operation and maintenance of project works to a municipality which is receiving municipal or industrial water under a contract with the United States. Such authority had previous-

ly been provided for a few specific projects in the acts authorizing their construction. The 1965 Act appears herein in chronological order.

**Legislative History.** H.R. 8026, Public Law 551 in the 83d Congress. H.R. Rept. No. 1763, S. Rept. No. 1791.

August 4, 1954

1164

## WATERSHED PROTECTION AND FLOOD PREVENTION ACT

An act to authorize the Secretary of Agriculture to cooperate with state and local agencies in the planning and carrying out of works of improvement for soil conservation and for other purposes. (Act of August 4, 1954, ch. 656, 68 Stat. 666)

[**Sec. 1. Congressional intent—Federal cooperation with States and local organizations.**]—Erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and that it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages and of furthering the conservation, development, utilization, and disposal of water and thereby of preserving and protecting the Nation's land and water resources. (68 Stat. 666; 16 U.S.C. § 1001)

**Sec. 2. [Definitions.]**—For the purposes of this Act, the following terms shall mean:

The “Secretary”—the Secretary of Agriculture of the United States.

“Works of improvement”—any undertaking for—

(1) flood prevention (including structural and land-treatment measures) or  
(2) the conservation, development, utilization, and disposal of water in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of \$250,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: *Provided*, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

“Local organization”—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being

operated for profit that may be approved by the Secretary. (68 Stat. 666; § 1(a), Act of August 7, 1956, 70 Stat. 1088; Act of August 30, 1961, 75 Stat. 408; Act of November 8, 1965, 79 Stat. 1300, 16 U.S.C. § 1002)

#### EXPLANATORY NOTES

**1965 Amendment.** The Act of November 8, 1965, 79 Stat. 1300, amended section 2 by striking out "more than five thousand acre-feet of floodwater detention capacity" and inserting in lieu thereof "more than twelve thousand five hundred acre-feet of floodwater detention capacity." For legislative history of the 1965 Act see S. 2679, Public Law 89-337 in the 89th Congress, S. Rept. No. 921; H.R. Rept. No. 1177 on H.R. 9149.

**1961 Amendment.** The Act of August 30, 1961, amended the definition of "local organization" to include irrigation or reservoir companies, water users' associations, and similar organizations. For legislative history of the 1961 Act, see S. 650, Public

Law 87-170 in the 87th Congress; H.R. Rept. No. 681; S. Rept. No. 357.

**1956 Amendment.** Section 1(a) of the Act of August 7, 1956, amended this section to broaden its scope by eliminating prior limits to only agricultural phases of conservation and utilization of water, and added the proviso respecting single structure plans. For legislative history of the 1956 Act, see H.R. 8750, Public Law 1018 in the 83rd Congress; H.R. Rept. No. 1810; S. Rept. No. 2585; H.R. Rept. No. 2902 (conference report).

**Codification.** Section 2 of the Act of August 7, 1956, which extended the benefits of the amendment to projects planned before that date, is not codified in the U.S. Code.

**Sec. 3. [Assistance to local organizations.]**—In order to assist local organizations in preparing and carrying out plans for works of improvement, the Secretary is authorized, upon application of local organizations if such application has been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over programs provided for in this Act, or by the Governor if there is no State agency having such responsibility—

- (1) to conduct such investigations and surveys as may be necessary to prepare plans for works of improvement;
- (2) to prepare plans and estimates required for adequate engineering evaluation;
- (3) to make allocations of costs to the various purposes to show the basis of such allocations and to determine whether benefits exceed costs;
- (4) to cooperate and enter into agreements with and to furnish financial and other assistance to local organizations: *Provided*, That, for the land-treatment measures, the Federal assistance shall not exceed the rate of assistance for similar practices under existing national programs;
- (5) to obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section. (68 Stat. 666; § 1(b), Act of August 7, 1956, 70 Stat. 1088; 16 U.S.C. § 1003)

#### EXPLANATORY NOTE

**1956 Amendment.** Section 1(b) of the Act of August 7, 1956, changed clause (2) to authorize the Secretary to prepare plans and estimates and added clause (3).

**Sec. 4. [Conditions for Federal assistance—Fish and wildlife and recreational development—Local organizations' responsibilities—Secretary's assistance.]**—The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall—

August 4, 1954

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance: *Provided*, That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated man-days of use of the projected recreation development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: *Provided further*, That the Secretary shall be authorized to participate in not more than one recreational development in a watershed project containing less than seventy-five thousand acres, or two such developments in a project containing between seventy-five thousand and one hundred and fifty thousand acres or three such developments in projects exceeding one hundred and fifty thousand acres: *Provided further*, That when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or rights-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds;

(2) assume (A) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife or recreational development, and (B) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purposes of this Act: *Provided*, That, in addition to and without

limitation on the authority of the Secretary to make loans or advancements under section 8, the Secretary may pay for any storage of water for anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this Act not to exceed 30 per centum of the total estimated cost of such reservoir structure where the local organization gives reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further*, That the local organization shall agree prior to initiation of construction or modification of any reservoir structure including such water supply storage to repay the cost of such water supply storage for anticipated future demands: *And provided further*, That the entire amount of the cost paid by the Secretary for such water supply storage for anticipated future demands shall be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for water supply purposes, except that (1) no repayment of the cost of such water supply storage for anticipated future demands need be made until such supply is first used, and (2) no interest shall be charged on the cost of such water supply storage for anticipated future demands until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 8;

(3) make arrangements satisfactory to the Secretary for defraying costs of operating and maintaining such works of improvement, in accordance with regulations presented by the Secretary of Agriculture;

(4) acquire, or provide assurance that landowners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement;

(5) obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 per centum of the lands situated in the drainage area above each retention reservoir to be installed with Federal assistance; and

(6) submit a plan of repayment satisfactory to the Secretary for any loan or advancement made under the provisions of section 8. (68 Stat. 667; § 1(c-e), Act of August 7, 1956, 70 Stat. 1088; § 1, Act of September 2, 1958, 72 Stat. 1605; Act of June 29, 1960, 74 Stat. 254; §§ 103(1), (2), 104, Act of September 27, 1962, 76 Stat. 608; 16 U.S.C. § 1004)

#### EXPLANATORY NOTES

**1962 Amendment.** The Act of September 27, 1962, added provisos to clause (1) respecting cost sharing, number of recreational developments and advances of funds, and added provisos respecting water storage payments, repayment agreements and provisions for commencement of repayment to

clause 2(b). For legislative history of the 1962 Act, see H.R. 12391, in the 87th Congress; H.R. Rept. No. 1976; S. Rept. No. 1787; H.R. Rept. No. 2385 (conference report).

**1960 Amendment.** The Act of June 29, 1960, amended clause (1) to require as-

August 4, 1954

surances by local organizations with respect to interests in land to be acquired by condemnation. For legislative history of the 1960 Act, see H.R. 11615, 86th Congress; H.R. Rept. No. 1640; S. Rept. No. 1495.

**1958 Amendment.** Section 1 of the Act of September 2, 1958, inserted in clause (2)(A) the words "for fish and wildlife development" after the words "and disposal of water." This act also provided for an effective date of July 1, 1958. For legislative history of the 1958 Act, see H.R. 5497, 85th Congress; H.R. Rept. No. 990; S. Rept. No. 1630.

**1956 Amendment.** Section 1(c-e) of the Act of August 7, 1956, amended clause (2) to require local organizations to assume proportionate share of cost applicable to agricultural water management, and all of the costs applicable to other purposes, and to provide that the Federal Government shall bear the entire construction costs of flood prevention. It also inserted the words "or water users" following "land-owners" in clause (4) and added clause (6).

**Supplementary Provision.** Section 101 (a)(2) of the Public Works and Economic Development Act of 1965, enacted August 26, 1965, authorizes the Secretary of Commerce, upon application of any State, or political subdivision thereof, Indian tribe, or private or public non-profit organization or association representing any redevelopment area or part thereof, "to make supplementary grants in order to enable the States and other entities within redevelopment areas to take maximum advantage of designated Federal grant-in-aid programs (as hereinafter defined), direct grants in aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666, as amended), and the eleven watersheds authorized by the Flood Control Act of December 22, 1944, as amended and supplemented (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share."

**Sec. 5. [Works of improvement plan—Reimbursement for engineering services—Limits on Federal construction—Plan submission—Presidential regulations.]**—(1) At such time as the Secretary and the interested local organization have agreed on a plan for works of improvement, and the Secretary has determined that the benefits exceed the costs, and the local organization has met the requirements for participation in carrying out the works of improvement as set forth in section 4, the local organization may secure engineering and other services, including the design, preparation of contracts and specifications, awarding of contracts, and supervision of construction, in connection with such works of improvement, by retaining or employing a professional engineer or engineers satisfactory to the Secretary or may request the Secretary to provide such services: *Provided*, that if the local organization elects to employ a professional engineer or engineers, the Secretary shall reimburse the local organization for the costs of such engineering and other services secured by the local organization as are properly chargeable to such works of improvements in an amount not to exceed the amount agreed upon in the plan for works of improvement or any modification thereof: *Provided further*, That the Secretary may advance such amounts as may be necessary to pay for such services, but such advances with respect to any works of improvement shall not exceed 5 per centum of the estimated installation cost of such works.

(2) Except as to the installation of works of improvement on Federal lands, the Secretary shall not construct or enter into any contract for the construction of any structure.

(3) Whenever the estimated Federal contribution to the construction cost of works of improvement in the plan for any watershed or subwatershed area shall exceed \$250,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary

August 4, 1954

SMALL WATERSHEDS ACT

1169

shall transmit a copy of the plan and the justification therefor to the Congress through the President.

(4) Any plan for works of improvement involving an estimated Federal contribution to construction costs in excess of \$250,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes reclamation or irrigation works or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for floodwater detention structures, shall be submitted to the Secretary of the Interior or the Secretary of the Army, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, and the Secretary of the Army, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

(5) Prior to any Federal participation in the works of improvement under this Act, the President shall issue such rules and regulations as he deems necessary or desirable to carry out the purposes of this Act, and to assure the coordination of the work authorized under this Act and related work of other agencies, including the Department of the Interior and the Department of the Army, (68 Stat. 667; Act of July 19, 1956, 70 Stat. 580; § 1(f), Act of August 7, 1956, 70 Stat. 1089; § 105, Act of September 27, 1962, 76 Stat. 609; 16 U.S.C. § 1005).

EXPLANATORY NOTES

**1962 Amendment.** The Act of September 27, 1962, made changes in hiring procedures in clause (1), and eliminated a proviso in clause (2) which had allowed the Secretary to construct works on non-Federal lands under certain conditions.

**1956 Amendment.** The Act of August 7, 1956, required local organizations to secure engineering services under certain circum-

stances, made provision for reimbursement of engineering expenses, allowed advances by the Secretary, and required transmittal of plans under certain limits. The Act of July 19, 1956, made a minor change—number of days allowed for submission of a report—in a provision subsequently totally replaced by the Act of August 7, 1956.

**Sec. 6. [Cooperative programs—Federal and State agencies.]**—The Secretary is authorized in cooperation with other Federal and with State and local agencies to make investigations and surveys of the watersheds of rivers and other waterways as a basis for the development of coordinated programs. In areas where the programs of the Secretary of Agriculture may affect public or other lands under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture in the planning and development of works or programs for such lands. (68 Stat. 668, 16 U.S.C. § 1006)

**Sec. 7. [Previous authority revoked—Later programs unaffected by this Act.]**—The provisions of the Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, conferring authority upon the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examination and surveys and to prosecute works of improvement for runoff and water-flow retardation and soil erosion prevention on the watersheds of rivers and other

August 4, 1954

1170

SMALL WATERSHEDS ACT

waterways are hereby repealed: *Provided*, That (a) the authority of the Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorized to be carried out by the Department by the Act of December 22, 1944 (58 Stat. 887), as amended, and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the Act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the Act of May 17, 1950 (64 Stat. 163), shall not be affected by the provisions of this section: *Provided further*, That in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, the Secretary of Agriculture is authorized to prosecute additional works of improvement for the conservation, development, utilization, and disposal of water in accordance with the provisions of section 4 of this Act or any amendments hereafter made thereto. (68 Stat. 668; Act of May 13, 1960, 74 Stat. 131; Act of September 27, 1962; 76 Stat. 610)

EXPLANATORY NOTES

**1962 Amendment.** The Act of September 27, 1962, added the last six words "or any amendments hereafter made thereto" at the end of the second proviso.

**1960 Amendment.** The Act of May 13, 1960, added the second proviso, concerning the eleven watershed improvement pro-

grams, except the last six words in the proviso.

**Codification.** This section through the first proviso is codified as a note to 33 U.S.C. § 701b, Navigable Waters—Flood Control. The second proviso is not codified.

**Sec. 8. [Loans for financing local share of costs and repayment—Maximum amount.]**—The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this Act, and (b) to State and local agencies to finance the local share of costs of carrying out works of improvement (as defined in section 2 of this Act) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: *Provided*, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and the concerned State and local agencies. Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed five million dollars. (Added by § 1(g), Act of August 7, 1956, 70 Stat. 1090; § 2, Act of May 13, 1960, 74 Stat. 131; 16 U.S.C. § 1006a.)

August 4, 1954

SMALL WATERSHEDS ACT

1171

EXPLANATORY NOTES

**1960 Amendment.** Section 2 of the Act of May 13, 1960, added clause (b) and the proviso attached thereto. For legislative history of the 1960 Act, see H.R. 4781, 86th Congress; S. Rept. No. 1238; H.R. Rept. No. 1068.

**1956 Amendment.** The Act of August 7, 1956, added this section to the basic 1954 statute.

**Sec. 9. [Act extended to new states and territories.]**—The provisions of this Act shall be applicable to Hawaii, Alaska, Puerto Rico, and the Virgin Islands. (Added by Act of August 7, 1956, 70 Stat. 1088; 16 U.S.C. § 1006b)

EXPLANATORY NOTE

**Section Added.** The Act of August 7, 1956, added this section to the basic 1954 statute.

**Sec. 10. [Appropriations—Prohibition of expenditures of these appropriations for certain watershed improvement programs.]**—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, such sums to remain available until expended. No appropriation hereafter available for assisting local organizations in preparing and carrying out plans for works of improvement under the provisions of section 3 or clause (a) of section 8 of this Act shall be available for any works of improvement pursuant to this Act or otherwise in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, or for making loans or advancements to State and local agencies as authorized by clause (b) of section 8. (Formerly § 8, 68 Stat. 668; renumbered by Act of August 7, 1956, § 1(g), 70 Stat. 1090; Act of May 13, 1960, 74 Stat. 132; 16 U.S.C. § 1007)

EXPLANATORY NOTE

**1960 Amendment.** The Act of May 13, 1960, prohibited funds appropriated under this act from being used for works in connection with the eleven specified watershed improvement programs, or for loans to specified State and local agencies.

**Sec. 11. [Short title.]**—This Act may be cited as the “Watershed Protection and Flood Prevention Act”. (68 Stat. 668)

**Sec. 12. [Notification to Secretary of the Interior of assistance—Surveys and investigations—Report to Secretary of Agriculture—Cost of surveys and investigations.]**—When the Secretary approves the furnishing of assistance to a local organization in preparing a plan for works of improvement as provided for in section 3:

(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary

August 4, 1954

of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department (Added by § 3 of the Act of August 12, 1958, 72 Stat. 567; 16 U.S.C. § 1008)

EXPLANATORY NOTES

**1958 Amendment.** This section was added by section 3 of the Act of August 12, 1958, 72 Stat. 567. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the

activities of the Bureau of Reclamation.

**Legislative History, Watershed Protection and Flood Prevention Act of 1954.** H.R. 6788 (S. 2549), Public Law 566 in the 83d Congress. H.R. Rept. No. 1140. S. Rept. No. 1620. H.R. Rept. No. 2297 (conference report).

## AMENDED CONTRACT AND HAYSTACK DAM, DESCHUTES PROJECT

An act to approve an amendatory repayment contract negotiated with the North Unit irrigation district, to authorize construction of Haystack Reservoir on the Deschutes Federal reclamation project, and for other purposes. (Act of August 10, 1954, ch. 663, 68 Stat. 679)

[**Sec. 1. North Unit irrigation district—Repayment contract.**]—The contract with the North Unit irrigation district in form substantially similar to that approved by the district directors on July 31, 1953, which has been negotiated by the Secretary of the Interior pursuant to section 7, subsection (a), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192; 43 U.S.C., 1946 edition, sec. 485), is approved and the Secretary of the Interior is authorized to execute it on behalf of the United States. (68 Stat. 679)

**Sec. 2. [Haystack Dam, etc.—Construction.]**—The Secretary is authorized to construct the Haystack Dam and equalizing reservoir and related works as a feature of the Deschutes Federal reclamation project at a cost not in excess of an amount which, together with other project costs reimbursable and returnable to the United States pursuant to the terms and provisions of the contract approved by section 1 of this Act, does not exceed the maximum construction charge obligation of the North Unit irrigation district. (68 Stat. 679)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Deschutes project, Oregon, was authorized by a finding of feasibility by the Secretary of the Interior dated September 24, 1937, and approved by the President on November 1, 1937, pur-

suant to subsection 4B of the Act of December 5, 1924 (the Fact Finders' Act). The Act appears herein in chronological order.

**Legislative History.** S. 2864, Public Law 573 in the 83d Congress. S. Rept. No. 1698. H.R. Rept. No. 2240.

### NOTE OF OPINION

#### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has

been approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinwall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

August 10, 1954

1174

## SABINE RIVER COMPACT

An act granting the consent of Congress to a compact entered into by the States of Louisiana and Texas and relating to the waters of the Sabine River. (Act of August 10, 1954, ch. 668, 68 Stat. 690)

[**Sec. 1. Sabine River Compact—Consent of Congress.**]—The consent of the Congress is hereby given to the interstate compact relating to the waters of the Sabine River and its tributaries authorized by the Act of November 1, 1951 (Public Law Numbered 252, Eighty-second Congress, first session), which was signed by the representatives for the States of Louisiana and Texas and approved by the representative of the United States, at Logansport, Louisiana, on January 26, 1953, and thereafter ratified and approved by the Legislatures of the States of Louisiana and Texas, which compact reads as follows:

## SABINE RIVER COMPACT

The State of Texas and the State of Louisiana, parties signatory to this Compact (hereinafter referred to as "Texas" and "Louisiana", respectively, or individually as a "State", or collectively as the "States"), having resolved to conclude a compact with respect to the waters of the Sabine River, and having appointed representatives as follows:

For Texas: HENRY L. WOODWORTH, Interstate Compact Commissioner for Texas; and JOHN W. SIMMONS, President of the Sabine River Authority of Texas;

For Louisiana: ROY T. SESSUMS, Director of the Department of Public Works of the State of Louisiana;

and consent to negotiate and enter into the said Compact having been granted by Act of Congress of the United States approved November 1, 1951 (Public Law No. 252; 82nd Congress, First Session), and pursuant thereto the President having designated Louis W. Prentiss as the representative of the United States, the said representatives for Texas and Louisiana, after negotiations participated in by the representative of the United States, have for such Compact agreed upon Articles as hereinafter set forth. The major purposes of this Compact are to provide for an equitable apportionment between the States of Louisiana and Texas of the waters of the Sabine River and its tributaries, thereby removing the causes of present and future controversy between the States over the conservation and utilization of said waters; to encourage the development, conservation and utilization of the water resources of the Sabine River and its tributaries; and to establish a basis for cooperative planning and action by the States for the construction, operation and maintenance of projects for water conservation and utilization purposes on that reach of the Sabine River touching both States, and for apportionment of the benefits therefrom.

It is recognized that pollution abatement and salt water intrusion are problems which are of concern to the States of Louisiana and Texas, but inasmuch as this

Compact is limited to the equitable apportionment of the waters of the Sabine River and its tributaries between the States of Louisiana and Texas, this Compact does not undertake the solution of those problems.

## ARTICLE I

As used in this Compact:

(a) The word "Stateline" means the point of the Sabine River where its waters in downstream flow first touch the States of both Louisiana and Texas.

(b) The term "waters of the Sabine River" means the waters either originating in the natural drainage basin of the Sabine River, or appearing as streamflow in said River and its tributaries, from its headwater source down to the mouth of the River where it enters into Sabine Lake.

(c) The term "Stateline flow" means the flow of waters of the Sabine River as determined by the Logansport gauge located on the U.S. Highway 84, approximately four (4) river miles downstream from the Stateline. This flow, or the flow as determined by such substitute gauging station as may be established by the Administration, as hereinafter defined, pursuant to the provisions of Article VII of this Compact, shall be deemed the actual Stateline flow.

(d) The term "Stateline reach" means that portion of the Sabine River lying between the Stateline and Sabine Lake.

(e) The term "the Administration" means the Sabine River Compact Administration established under Article VII.

(f) The term "domestic use" means the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation, and other personal comforts and necessities; and for the irrigation of an area not to exceed one acre, obtained directly from the Sabine River or its tributaries by an individual or family unit, not supplied by a water company, water district or municipality.

(g) The term "stock water use" means the use of water for any and all livestock and poultry.

(h) The term "consumptive use" means use of water resulting in its permanent removal from the stream.

(i) The terms "domestic" and "stock water" reservoir" mean any reservoir for either or both of such uses having a storage capacity of fifty (50) acre feet or less.

(j) "Stored water" means water stored in reservoirs (exclusive of domestic or stock water reservoirs) or water withdrawn or released from reservoirs for specific uses and the identifiable return flow from such uses.

(k) The term "free water" means all waters other than "stored waters" in the Stateline reach including, but not limited to, that appearing as natural stream flow and not withdrawn or released from a reservoir for specific uses. Waters released from reservoirs for the purpose of maintaining stream flows as provided in Article V, shall be "free water". All reservoir spills or releases of stored waters made in anticipation of spills, shall be free water.

(l) Where the name of the State or the term "State" is used in this Compact, it shall be construed to include any person or entity of any nature whatsoever

August 10, 1954

of the States of Louisiana or Texas using, claiming, or in any manner asserting any right to the use of the waters of the Sabine River under the authority of that State.

(m) Wherever any State or Federal official or agency is referred to in this Compact, such reference shall apply equally to the comparable official or agency succeeding to their duties and functions.

## ARTICLE II

Subject to the provisions of Article X, nothing in this Compact shall be construed as applying to, or interfering with, the right or power of either signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact.

## ARTICLE III

Subject to the provisions of Article X, all rights to any of the waters of the Sabine River which have been obtained in accordance with the laws of the States are hereby recognized and affirmed; provided, however, that withdrawals, from time to time, for the satisfaction of such rights, shall be subject to the availability of supply in accordance with the apportionment of water provided under the terms of this Compact.

## ARTICLE IV

Texas shall have free and unrestricted use of all waters of the Sabine River and its tributaries above the Stateline subject however to the provisions of Article V and X.

## ARTICLE V

Texas and Louisiana hereby agree upon the following apportionment of the waters of the Sabine River:

(a) All free water in the Stateline reach shall be divided equally between the two States, this division to be made without reference to the origin.

(b) The necessity of maintaining a minimum flow at the Stateline for the benefit of water users below the Stateline in both States is recognized, and to this end it is hereby agreed that:

(1) Reservoirs and permits above the Stateline existing as of January 1, 1953, shall not be liable for maintenance of the flow at the Stateline.

(2) After January 1, 1953, neither State shall permit nor authorize any additional users which would have the effect of reducing the flow at the Stateline to less than 36 cubic feet per second.

(3) Reservoirs on which construction is commenced after January 1, 1953, above the Stateline shall be liable for their share of water necessary to provide a minimum flow at the Stateline of 36 cubic feet per second; provided, that no reservoir shall be liable for a greater percentage of this minimum flow than the percentage of the drainage area above the Stateline contributing to that reservoir, exclusive of the watershed of any reservoir on which construction was

started prior to January 1, 1953. Water released from Texas' reservoirs to establish the minimum flow of 36 cubic feet per second, shall be classed as free water at the Stateline and divided equally between the two States.

(c) The right of each State to construct impoundment reservoirs and other works of improvement on the Sabine River or its tributaries located wholly within its boundaries is hereby recognized.

(d) In the event that either State constructs reservoir storage on the tributaries below Stateline after January 1, 1953, there shall be deducted from that State's share of the flow in the Sabine River all reductions in flow resulting from the operation of the tributary storage and conversely such State shall be entitled to the increased flow resulting from the regulation provided by such storage.

(e) Each State shall have the right to use the main channel of the Sabine River to convey water stored on the Sabine River or its tributaries located wholly within its boundaries, downstream to a desired point of removal without loss of ownership of such stored waters. In the event that such water is released by a State through the natural channel of a tributary and the channel of the Sabine River to a downstream point of removal, a reduction shall be made in the amount of water which can be withdrawn at the point of removal equal to the transmission losses.

(f) Each State shall have the right to withdraw its share of the water from the channel of the Sabine River in the Stateline reach in accordance with Article VII. Neither State shall withdraw at any point more than its share of the flow at that point except that pursuant to findings and determination of the Administration as provided under Article VII of this compact, either State may withdraw more or less of its share of the water at any point providing that its aggregate withdrawal shall not exceed its total share. Withdrawals made pursuant to this paragraph shall not prejudice or impair the existing rights of users of Sabine River waters.

(g) Waters stored in reservoirs constructed by the States in the Stateline reach shall be shared by each State in proportion to its contribution to the cost of storage. Neither State shall have the right to construct a dam on the Stateline reach without the consent of the other State.

(h) Each State may vary the rate and manner of withdrawal of its share of such jointly stored waters on the Stateline reach, subject to meeting the obligations for amortization of the cost of the joint storage. In any event, neither State shall withdraw more than its pro-rata share in any one year (a year meaning a water year, October 1st to September 30th) except by authority of the Administration. All jointly stored water remaining at the end of a water year shall be reapportioned between the States in the same proportion as their contribution to the cost of the storage.

(i) Except for jointly stored water, as provided in (h) above, each State must use its apportionment of the natural stream flows as they occur and there shall be no allowance of accumulation of credits or debits for or against either State. The failure of either State to use the stream flow or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall

August 10, 1954

1178

## SABINE RIVER COMPACT

not constitute a relinquishment of the right to such use in the future; conversely, the failure of either State to use the water at the time it is available does not give it the right to the flow in excess of its share of the flow at any other time.

(j) From the apportionment of waters of the Sabine River as defined in this Article, there shall be excluded from such apportionment all waters consumed in either State for domestic and stock water uses. Domestic and stock water reservoirs shall be so excluded.

(k) Each State may use its share of the water apportioned to it in any manner that may be deemed beneficial by that State.

### ARTICLE VI

(a) The States through their respective appropriate agencies or subdivisions may construct jointly, or cooperate with any agency or instrumentality of the United States in the construction of works on the Stateline reach for the development, conservation and utilization for all beneficial purposes of the waters of the Sabine River.

(b) All monetary revenues growing out of any joint State ownership, title and interest in works constructed under Section (a) above, and accruing to the States in respect thereof, shall be divided between the States in proportion to their respective contributions to the cost of construction; provided, however, that each State shall retain undivided all its revenues from recreational facilities within its boundaries incidental to the use of the waters of the Sabine River, and from its severally State-owned recreational facilities constructed appurtenant thereto.

(c) All operation and maintenance costs chargeable against any joint State ownership, title and interest in works constructed under Section (a) above, shall be assessed in proportion to the contribution of each State to the original cost of construction.

### ARTICLE VII

(a) There is hereby created an interstate administrative agency to be designated as the "Sabine River Compact Administration" herein referred to as "the Administration".

(b) The Administration shall consist of two members from each State and of one member as representative of the United States, chosen by the President of the United States, who is hereby requested to appoint such a representative. The United States member shall be ex-officio chairman of the Administration without vote and shall not be a domiciliary of or reside in either State. The appointed members for Texas and Louisiana shall be designated within thirty days after the effective date of this Compact.

(c) The Texas members shall be appointed by the Governor for a term of six years; provided, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed each three years for the regular term. One of the Louisiana members shall be ex-officio the Director of the Louisiana Department of Public Works; the other

Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years; provided, that the first member so appointed shall serve until June 30, 1958. Each State member shall hold office subject to the laws of his State or until his successor has been duly appointed and qualified.

(d) Interim vacancy, for whatever cause, in the office of any member of the Administration shall be filled for the unexpired term in the same manner as hereinabove provided for regular appointment.

(e) Within sixty days after the effective date of this Compact, the Administration shall meet and organize. A quorum for any meeting shall consist of three voting members of the Administration. Each State member shall have one vote, and every decision, authorization, determination, order or other action shall require the concurring votes of at least three members.

(f) The Administration shall have power to:

(1) Adopt, amend and revoke bylaws, rules and regulations, and prescribe procedures for administration of and consistent with the provisions of this Compact;

(2) Fix and determine from time to time the location of the Administration's principal office;

(3) Employ such engineering, legal, clerical and other personnel, without regard to the civil service laws of either State, as the Administration may determine necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact; provided, that such employee shall be paid by and be responsible to the Administration and shall not be considered to be employees of either State;

(4) Procure such equipment, supplies and technical assistance as the Administration may determine to be necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact;

(5) Adopt a seal which shall be judicially recognized.

(g) In cooperation with the chief official administering water rights in each State and with appropriate Federal agencies, the Administration shall have and perform powers and duties as follows:

(1) To collect, analyze, correlate, compile and report on data as to water supplies, stream flows, storage, diversions, salvage and use of the waters of the Sabine River and its tributaries, and as to all factual data necessary or proper for the administration of this Compact;

(2) To designate as official stations for the administration of this Compact such existing water gauging stations (and to operate, maintain, repair and abandon the same), and to locate, establish, construct, operate, maintain, repair and abandon additional such stations, as the Administration may from time to time find and determine necessary or appropriate;

(3) To make findings as to the deliveries of water at Stateline, as hereinabove provided, from the stream-flow records of the Stateline gauge which shall be operated and maintained by the Administration or in cooperation with the appropriate Federal Agency, for determination of the actual Stateline flow.

August 10, 1954

1180

SABINE RIVER COMPACT

unless the Administration shall find and determine that, because of changed physical conditions or for any other reason, reliable records are not obtainable thereat: in which case such existing Stateline station may with the approval of the Administration be abandoned and, with such approval, a substitute Stateline station established in lieu thereof;

(4) To make findings as to the quantities of reservoir storage (including joint storage) and releases therefrom, diversions, transmission losses and as to incident stream-flow changes, and as to the share of such quantities chargeable against or allocable to the respective States;

(5) To record and approve all points of diversion at which water is to be removed from the Sabine River or its tributaries below the Stateline; provided that, in any case, the State agency charged with the administration of the water laws for the State in which such point of diversion is located shall first have approved such point for removal or diversion; provided further that any such point of removal or diversion once jointly approved by the appropriate State agency and the Administration, shall not thereafter be changed without the joint amendatory approval of such State agency and the Administration;

(6) To require water users at their expense to install and maintain measuring devices of approved type in any ditch, pumping station or other water diversion works on the Sabine River or its tributaries below the Stateline, as the Administration may determine necessary or proper for the purposes of this Compact; provided that the chief official of each State charged with the administration of water rights therein shall supervise the execution and enforcement of the Administration's requirements for such measuring devices;

(7) To investigate any violations of this Compact and to report findings and recommendations thereon to the chief official of the affected State charged with the administration of water rights, or to the Governor of such State as the Administration may deem proper;

(8) To acquire, hold, occupy and utilize such personal and real property as may be necessary or proper for the performance of its duties and functions under this Compact;

(9) To perform all functions required of the Administration by this Compact, and to do all things necessary, proper or convenient in the performance of its duties hereunder.

(h) Each State shall provide such available facilities, supplies, equipment, technical information and other assistance as the Administration may require to carry out its duties and function, and the execution and enforcement of the Administration's orders shall be the responsibility of the agents and officials of the respective States charged with the administration of water rights therein. State officials shall furnish pertinent factual and technical data to the Administration upon request.

(i) Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute *prima facie* evidence of such facts.

(j) In the case of a tie vote on any of the Administration's determinations, orders, or other actions subject to arbitration, then arbitration shall be a condi-

August 10, 1954

SABINE RIVER COMPACT

1181

tion precedent to any right of legal action. Either side of a tie vote may, upon request, submit the question to arbitration. If there shall be arbitration, there shall be three arbitrators: one named in writing by each side, and the third chosen by the two arbitrators so elected. If the arbitrators fail to select a third within ten days, then he shall be chosen by the Representative of the United States.

(k) The salaries, if any, and the personal expenses of each member of the Administration, shall be paid by the Government which he represents. All other expenses incident to the Administration of this Compact and which are not paid by the United States shall be borne equally by the States. Ninety days prior to the Regular Session of the Legislature of either State, the administration shall adopt and transmit to the Governor of such State for his approval, its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by such State. Upon approval by its Governor, each State shall appropriate and pay the amount due by it to the Administration. The Administration shall keep an accurate account of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

(l) The Administration shall, whenever requested, provide access to its records by the Governor of either State or by the chief official of either State charged therein with the administration of water rights. The Administration shall annually on or before January 15th of each year make and transmit to the Governors of the signatory States, and to the President of the United States, a report of the Administration's activities and deliberations for the preceding year. (Amended by the Act of March 16, 1962; 76 Stat. 34)

ARTICLE VIII

(a) This Compact shall become effective when ratified by the Legislature and approved by the Governors of both States and when approved by the Congress of the United States.

(b) The provisions of this Compact shall remain in full force and effect until modified, altered or amended in the same manner as hereinabove required for ratification thereof. The right so to modify, alter or amend this Compact is expressly reserved. This Compact may be terminated at any time by mutual consent of the signatory States. In the event this Compact is terminated as herein provided, all rights then vested hereunder shall continue unimpaired.

(c) Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory States or of the United States of America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE IX

This Compact is made and entered into for the sole purpose of effecting an equitable apportionment and providing beneficial uses of the waters of the Sabine

August 10, 1954

River, its tributaries and its watershed, without regard to the boundary between Louisiana and Texas, and nothing herein contained shall be construed as an admission on the part of either State or any agency, commission, department or subdivision thereof, respecting the location of said boundary; and neither this Compact nor any data compiled for the preparation or administration thereof shall be offered, admitted or considered in evidence, in any dispute, controversy or litigation bearing upon the matter of the location of said boundary.

The term "Stateline" as defined in this Compact shall not be construed to define the actual boundary between the State of Texas and the State of Louisiana.

ARTICLE X

Nothing in this Compact shall be construed as affecting, in any manner, any present or future rights or powers of the United States, its agencies, or instrumentalities in, to and over the waters of the Sabine River Basin.

IN WITNESS WHEREOF, the Representatives have executed this Compact in three counterparts hereof, each of which shall be and constitute an original, one of which shall be forwarded to the Administrator, General Services Administration of the United States of America and one of which shall be forwarded to the Governor of each State.

DONE in the City of Logansport, in the State of Louisiana, this 26th day of January, 1953.

HENRY L. WOODWORTH,  
*Representative for the State of Texas.*

JOHN W. SIMMONS,  
*Representative for the State of Texas.*

ROY T. SESSUMS,  
*Representative for the State of Louisiana.*

Approved:

Louis W. Prentiss,  
*Representative of the United States.*

EXPLANATORY NOTES

**1962 Amendment.** The Act of March 16, 1962, amended Article VII by changing the terms of the Texas members of the Sabine River Compact Administration from two to six years, with one member being appointed each three years. For legislative history of the 1962 Act see S. 3336, Public Law 87-418 in the 87th Congress; S. Rept. No. 1219; H.R. Rept. No. 1113 (on H.R. 7855).

**Reference in the Text.** The Act of November 1, 1951 (Public Law Numbered 252, Eighty-second Congress, first session), referred to in the text, granted the consent of Congress to Louisiana and Texas to negotiate and enter into a compact respecting the waters of the Sabine River and its tributaries. The Act appears herein in chronological order.

**Sec. 2. [Reservation of rights.]**—The right to alter, amend, or repeal this Act is expressly reserved. This reservation shall not be construed to prevent the vesting of rights to the use of water pursuant to applicable law, and no alteration, amendment, or repeal of this Act shall be held to affect rights so vested.

August 10, 1954

SABINE RIVER COMPACT

1183

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code. **Legislative History.** S. 3699, Public Law 578 in the 83rd Congress, S. Rept. No. 1783, H.R. Rept. No. 2317, H.R. Rept. No. 2321 (on H.R. 9679).

August 20, 1954

1184

## TALENT DIVISION AND REHABILITATION WORKS, ROGUE RIVER BASIN PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Talent division of the Rogue River Basin reclamation project, Oregon. (Act of August 20, 1954, ch. 775, 68 Stat. 752)

[**Sec. 1. Talent Division, Rogue River Basin project, authorized—Medford and Rogue River Valley Irrigation Districts' rehabilitation authorized.**]—For the purposes of furnishing water for the irrigation of approximately eighteen thousand acres of land in Jackson County, Oregon, controlling floods, and providing hydroelectric power, and for other beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Talent division of the Rogue River Basin project consisting of two principal reservoirs at the Howard Prairie and Emigrant sites, together with other necessary works for the collection, impounding, diversion, and delivery of water, the generation and transmission of hydroelectric power and operations incidental thereto. The construction, operation, and maintenance of the Talent division shall be made in accordance with the report of the Secretary of the Interior thereon dated June 3, 1954: *Provided*, That the Green Springs powerplant may be constructed with a capacity of sixteen thousand kilowatts. The Secretary is further authorized to undertake the rehabilitation of works of the Medford and Rogue River Valley Irrigation Districts as under the provisions of the Act of October 7, 1949 (63 Stat. 724), as amended. (68 Stat. 752)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of October 7, 1949 (63 Stat. 724), as amended, referred to in the text, is the Rehabilitation and Betterment Act. The Act appears herein in chronological order.

**Sec. 2. (a) [Laws governing.]**—In constructing, operating, and maintaining the Talent division, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) except as is otherwise provided in this Act.

**(b) [Contract payments.]**—Any contract entered into under section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193; 43 U.S.C., 1946 ed., sec. 485h), for payment of those portions of the costs of constructing, operating, and maintaining the Talent division which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the division assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than sixty years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average

August 20, 1954

TALENT DIVISION, ETC., ROGUE RIVER

1185

conditions, permits variance in the required annual payments in the light of economic factors pertinent of the ability of the organization to pay.

(c) [Commercial power sales—Use of revenue.]—Notwithstanding any other provision of law to the contrary, all net revenues derived from the sale of commercial power from the Talent division shall be applied, first, to the amortization of that portion of the cost of constructing the division which is allocated to commercial power with interest on the unamortized balance thereof at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and, thereafter, to the amortization of that portion of the cost of constructing the division which is allocated to irrigation but which is beyond the ability of the contracting irrigation organization to repay as provided above. Contracts for the disposition of power from the Talent division shall be entered into with the financial objective of returning the power allocation with interest plus as much of the irrigation allocation as is beyond the ability of the water users to repay, all as hereinbefore provided, within a period of not more than sixty years from the date when each irrigation repayment contract becomes effective. (68 Stat. 753; Act of October 1, 1962, 76 Stat. 677)

Sec. 3. [Appropriation.]—There is hereby authorized to be appropriated for construction of the Talent division and for the rehabilitation work authorized to be undertaken by section 1 of this Act out of any moneys in the Treasury not otherwise appropriated, the sum of \$22,900,000, and for the construction of Agate Dam and Reservoir the sum of \$1,802,000 (January 1960 costs), in each case plus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved therein. (68 Stat. 753; Act of October 1, 1962, 76 Stat. 677)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1962 Amendment.** The Act of October 1, 1962, 76 Stat. 677, amended section 2 by adding at the end of it the words: "from the date when each irrigation repayment contract becomes effective.", and by adding in section 3: ", and for the construction of Agate Dam and Reservoir the sum of \$1,802,000 (January, 1960 costs), in each case" after the figure "\$22,900,000". The

Act also authorized additional works of the Talent Division including recreational facilities and provided for fish and wildlife conservation and development. The 1962 Act appears herein in chronological order.

**Legislative History.** H.R. 8384, Public Law 606 in the 83d Congress. H.R. Rept. No. 2244. S. Rept. No. 2332. S. Rept. No. 1760 (on S. 3134). H.R. Rept. No. 2436 (on H. Res. 654).

August 21, 1954

1186

## AINSWORTH, LAVACA FLATS, MIRAGE FLATS EXTENSION, AND O'NEILL UNITS, MISSOURI RIVER BASIN PROJECT

An act to provide for the inclusion of the Ainsworth, Lavaca Flats, Mirage Flats Extension, and O'Neill irrigation developments in the Missouri River Basin project. (Act of August 21, 1954, ch. 781, 68 Stat. 757)

[**Sec. 1. Missouri River Basin project—Reauthorization.**]—The Missouri River Basin project, heretofore authorized by section 9 of the Act of December 22, 1944 (58 Stat. 887, 891), and section 18 of the Act of July 24, 1946 (60 Stat. 641, 653), is hereby reauthorized and extended to include the Ainsworth, Lavaca Flats, Mirage Flats Extension, and O'Neill units. The Secretary shall cause these units of the Missouri River Basin project to be coordinated and integrated, physically and financially, with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944, as amended and supplemented. (68 Stat. 757)

**Sec. 2. [State review—Approval by Congress.]**—Construction of the units herein authorized to be included in the Missouri River Basin plan shall not be undertaken until a report demonstrating their physical and economic feasibility has been completed, reviewed by the affected States, and approved by the Congress. (68 Stat. 757)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**References in the Text.** The Acts of December 22, 1944 (58 Stat. 887, 891), and of July 24, 1946 (60 Stat. 641, 653), are, respectively, the Flood Control Acts of 1944 and 1946. Extracts from each Act appear herein in chronological order.

**Cross Reference, Approval of Feasibility**

**Report.** The Act of May 18, 1956, 70 Stat. 160, which appears herein in chronological order, approved the report on the physical and economic feasibility of the Ainsworth Unit.

**Legislative History.** H.R. 8520, Public Law 612 in the 83d Congress. H.R. Rept. No. 1868. S. Rept. No. 2212.

## AMENDED CONTRACT WITH AMERICAN FALLS RESERVOIR DISTRICT NO. 2

An act to authorize the Secretary of the Interior to execute an amendatory contract with American Falls Reservoir District Numbered 2, Idaho, and for other purposes. (Act of August 21, 1954, ch. 785, 68 Stat. 762)

**[Sec. 1. Amendatory contract with American Falls Reservoir District No. 2 authorized.]**—The Secretary of the Interior is authorized to execute on behalf of the United States the amendatory contract with American Falls Reservoir District Numbered 2, Idaho, negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192; 43 U.S.C., 1946 edition, sec. 485f), and approved by the district's electors on June 29, 1954. (68 Stat. 762)

### EXPLANATORY NOTE

**Reference in the Text.** Section 7 of the Reclamation Project Act of 1939 (Act of August 4, 1939), authorizes the Secretary of the Interior to execute repayment contracts on behalf of the United States which he has negotiated and reported to the Congress, and the Congress has given its approval to the contract. The Act appears herein in chronological order.

**Sec. 2. [Repeal.]**—All beginning with the first “*Provided*” under the sub-heading “Minidoka project, American Falls Reservoir, Idaho” under the heading “Bureau of Reclamation” of the Act of January 12, 1927 (44 Stat. 934, 958), is hereby repealed. (68 Stat. 762)

### EXPLANATORY NOTE

**Cross Reference, Proviso Repealed.** The proviso repealed by this section, which appeared in the Act of January 12, 1927, conditioned the expenditure of any of the sum appropriated for the Gravity Extension Unit, Minidoka project, until a contract or contracts be made with an irrigation district or districts embracing such

unit which, in addition to other requirements of law, required repayment of construction costs as to such lands as may be furnished supplemental water within a period not exceeding twenty years from the date water shall be available for delivery. Extracts from the 1927 Act appear herein in chronological order.

**Sec. 3. [Supplementary law.]**—This Act is declared to be a supplement to the Federal Reclamation Laws. (68 Stat. 762)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

Law 616 in the 83d Congress. H.R. Rept. No. 2577. S. Rept. No. 2337.

**Legislative History.** H.R. 9889, Public

### NOTE OF OPINION

#### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has

been approved by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

August 23, 1954

1188

## HAWAIIAN INVESTIGATIONS

An act to authorize the Secretary of the Interior to investigate and report to the Congress on the conservation, development, and utilization of the irrigation and reclamation resources of the Waimanalo, Oahu; Waimea, Island of Hawaii; and Molokai projects, Territory of Hawaii. (Act of August 23, 1954, ch. 838, 68 Stat. 773)

[**Sec. 1. Investigation of irrigation and reclamation resources, Hawaii.**]—For the purpose of encouraging and promoting the development of the Waimanalo, Oahu; Waimea, Island of Hawaii; and Molokai projects, Territory of Hawaii, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to make an investigation relating to the conservation, development, and utilization of the irrigation and reclamation resources of the Waimanalo, Oahu; Waimea, Island of Hawaii; and Molokai projects, Territory of Hawaii, and to report thereon, with appropriate recommendations to the President and the Congress. (68 Stat. 773)

**Sec. 2. [Review of findings by Hawaii and Federal agencies—Report to Congress.]**—Prior to the transmission of any such report on a project to the Congress, the Secretary shall transmit copies thereof for information and comment to the Governor of Hawaii, or to such representative as may be named by him, and to the heads of interested Federal departments and agencies. The written views and recommendations of the aforementioned officials may be submitted to the Secretary within ninety days from the day of receipt of said proposed report. The Secretary may thereafter transmit to the Congress, with such comments and recommendations as he deems appropriate, his report, together with copies of the views and recommendations received from the aforementioned officials. The letter of transmittal and its attachments shall be printed as a House or Senate Document. (68 Stat. 773)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 634 in the 83d Congress. H.R. Rept. No. 2241. S. Rept. No. 2333.  
the U.S. Code.

**Legislative History.** H.R. 2843, Public

## AMENDED CONTRACT WITH BLACK CANYON IRRIGATION DISTRICT

An act to authorize the Secretary of the Interior to execute an amendatory contract with the Black Canyon Irrigation District, Idaho, and for other purposes. (Act of August 24, 1954, ch. 909, 68 Stat. 794)

[**Sec. 1. Black Canyon Irrigation District, Idaho—Repayment contract.**]—The Secretary of the Interior is authorized to execute on behalf of the United States the amendatory repayment contract with the Black Canyon Irrigation District, Idaho, negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192; 43 U.S.C., 1946 edition, sec. 485f) and approved by the District's electors on April 20, 1954. (68 Stat. 794)

### EXPLANATORY NOTE

**Reference in the Text.** Section 7 of the Reclamation Project Act of 1939 (Act of August 4, 1939), authorizes the Secretary of the Interior to execute repayment contracts on behalf of the United States which

he has negotiated and reported to the Congress, and Congress has given its approval to the contract. The Act appears herein in chronological order.

**Sec. 2. [Coordination of operations of Federal installations on Boise and Payette Rivers—Cost allocations.]**—The Secretary is further authorized, on the basis of the principles set forth in the revised allocation and repayment report for the Boise Federal reclamation project, Idaho, dated September 21, 1953 (which report is in part the basis upon which the above-described amendatory repayment contract was negotiated), and subject to then existing contractual obligations of the United States in relation to the Boise project (1) to coordinate his operation of the facilities of the project with that of other Federal installations on the Boise and Payette Rivers, (2) to allocate an appropriate portion of the construction cost and of the operation and maintenance costs of the project to each of the functions (primarily irrigation, including irrigation power, commercial power, and flood control) served by it, and (3) to account for the return of the reimbursable allocations in accordance with the Federal reclamation laws. (68 Stat. 794)

**Sec. 3. [Repeals.]**—The last three provisos to the portion of the Act of June 5, 1924 (43 Stat. 390, 416), relating to the Boise project, and the proviso to the portion of the Act of March 4, 1929 (45 Stat. 1562, 1590), also relating thereto, are hereby repealed. (68 Stat. 795)

### EXPLANATORY NOTE

**References in the Text.** Extracts from the Acts of June 5, 1924, and March 4, 1929, including the portions relating to the Boise project referred to in the text, appear herein in chronological order. The provisos repealed by the 1924 Act conditioned the expenditure of funds appropriated for the

Boise project on certain contractual requirements for the purchase of power by the Gem Irrigation District. The proviso repealed by the 1929 Act dealt with repayment of certain construction costs from the net revenues of the Black Canyon power plant.

August 24, 1954

1190

## BLACK CANYON IRRIGATION DISTRICT

**Sec. 4. [Definition.]**—As used in this Act, the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto. (68 Stat. 795)

**Sec. 5. [Supplementary law.]**—This Act is declared to be a supplement of the Federal reclamation laws. (68 Stat. 795)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 660 in the 83d Congress. H.R. Rept. No. 2348. S. Rept. No. 2226.

**Legislative History.** H.R. 9630, Public

### NOTE OF OPINION

#### 1. Excess lands

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been approved

by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No. 2.

## WATERFOWL MANAGEMENT, CENTRAL VALLEY PROJECT

An act to authorize works for development and furnishing of water supplies for waterfowl management, Central Valley project, California, and for other purposes. (Act of August 27, 1954, ch. 1012, 68 Stat. 879)

[**Sec. 1. Central Valley project, Calif.—Reauthorization.**]—The entire Central Valley project, California, heretofore authorized under the Act of August 26, 1937 (50 Stat. 844, 850), and reauthorized under the Act of October 17, 1940 (54 Stat. 1198, 1199), the Act of October 14, 1949 (63 Stat. 852), and the Act of September 26, 1950 (64 Stat. 1036), is hereby reauthorized and declared to be for the purposes set forth in said Acts, and also for the use of the waters thereof for fish and wildlife purposes, subject to such priorities as are applicable under said Acts. (68 Stat. 879; 16 U.S.C. § 695d)

### EXPLANATORY NOTE

**Cross Reference, Central Valley project, California.** The Central Valley project, referred to in the text, was authorized by a finding of feasibility by the Secretary of the Interior, approved by the President on December 2, 1935. The project was reauthorized

ized by section 2 of the Act of August 26, 1937, 50 Stat. 850. The 1937 Act appears herein in chronological order. For references to other authorizations in the Central Valley project, California, see the explanatory notes following section 2 of the 1937 Act.

### NOTE OF OPINION

#### 1. Nonreimbursable cost allocations

The successive “re-authorizations” of the Central Valley project in 1949, 1950 and 1954, were intended, as a drafting technique, to add certain developments, features, or purposes to the then existing project but not, in effect, to post-date the authorizations for construction heretofore conferred. Consequently, the authority in

section 2 of the Coordination Act of 1946 to make nonreimbursable cost allocations to fish and wildlife purposes for projects “hereafter authorized to be constructed” are applicable only to those portions of the Central Valley project the construction of which began after August 14, 1946. Memorandum of Acting Solicitor Armstrong, November 15, 1954.

**Sec. 2. [Water supply development works for water fowl management.]—**The Secretary of the Interior is authorized to construct, operate, and maintain such works on waterfowl management areas and refuges owned and operated by the State of California or the United States as may be necessary or desirable for the development of a water supply by means of wells and the recovery of drainage, and to furnish water available from such works, and water available from Central Valley project sources, for wildlife management purposes substantially in accordance with the recommendations set forth in the report of the United States Department of the Interior entitled “Waterfowl Conservation in the Lower San Joaquin Valley, Its Relation to the Grasslands and the Central Valley Project,” dated October 1950, and such works should be developed in cooperation with the State of California. (68 Stat. 879; 16 U.S.C. § 695e)

**Sec. 3. [Costs to be nonreimbursable and nonreturnable.]—**The cost of investigation, planning, and construction of the works and the delivery of water as authorized in section 2 of this Act shall not be reimbursable or returnable

August 27, 1954

1192 WATERFOWL MANAGEMENT, CENTRAL VALLEY

under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and the Acts amendatory thereof and supplementary thereto). (68 Stat. 879; 16 U.S.C. § 695f)

**Sec. 4. [Appropriation.]**—There are hereby authorized to be appropriated such funds, not to exceed \$400,000, for construction of necessary works to supply water for State and federally owned and operated waterfowl management areas in the San Joaquin Valley to carry out the purposes of this Act. (68 Stat. 879; 16 U.S.C. § 695g)

**Sec. 5. [Ownership.]**—Works constructed under the authorization of section 2, for the purpose of supplying State wildlife management areas with water, shall become the property of the State of California when constructed. (68 Stat. 879; 16 U.S.C. § 695h)

**Sec. 6. [Water contracts.]**—The Secretary of the Interior is authorized to contract for the delivery of water to public organizations or agencies for use within the boundaries of such organizations or agencies for waterfowl purposes in the Grasslands area of the San Joaquin Valley. If and when available, such water shall be delivered from the Central Valley project at a charge not to exceed the prevailing charge for class 2 water. (68 Stat. 879; 16 U.S.C. § 695i)

**Sec. 7. [California law to govern priorities of deliveries and use of water.]**—The use of all water furnished by the Secretary of the Interior under section 2 and section 6 of this Act shall be subject to and not inconsistent with the laws of the State of California relating to priorities of deliveries and use of water. Nothing contained in this Act shall be construed as an allocation of water. (68 Stat. 880; 16 U.S.C. § 695j)

**EXPLANATORY NOTE**

**Legislative History.** H.R. 4213, Public Law 674 in the 83d Congress. H.R. Rept. No. 1001. S. Rept. No. 1786.

## GRANT OF PUBLIC LANDS TO BASIC MANAGEMENT, INC.

An act granting to Basic Management, Incorporated, a private corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada. (Act of August 27, 1954, ch. 1019, 68 Stat. A223)

[Sec. 1. Authority for Secretary of the Interior to grant to Basic Management, Inc., public lands, rights-of-way, certain mineral rights, etc., for water development and distribution purposes—Payment of appraised value of lands, rights-of-way and minerals.]—There is hereby granted to Basic Management, Incorporated, a private corporation organized under the laws of the State of Nevada, all lands belonging to the United States situated in Clark County, State of Nevada, which may be necessary, as found by the Secretary of the Interior, for the construction, operation, and maintenance of facilities heretofore or hereafter constructed for the development, production, pumping, storage, transmission, and distribution of water, including any or all of the following purposes only to the extent required for such development, production, storage, transmission, and distribution of water:

Rights-of-way; buildings and structures; construction and maintenance camps; dumping grounds, flowage, diverting, or storage dams; pumping plants, canals, ditches, pipes, pipelines, flumes, tunnels, and conduits for conveying water for domestic, irrigation, household, stock, municipal, mining, milling, industrial, and other useful purposes; poles, towers, underground conduits, lines, and equipment for the conveyance and distribution of electrical energy; poles, underground conduits, and lines for telephone and telegraph purposes; roads, trails, bridges, tramways, railroads, and other means of locomotion, transmission, or communication; for obtaining stone, earth, gravel, and other materials of like character, together with the right to take for its own use, from any public lands, within such limits as the Secretary of the Interior may determine, stone, earth, gravel, sand, and other materials of like character necessary or useful in the construction, operation, and maintenance of aqueducts, reservoirs, dams, pumping plants, electric transmission, telephone, and telegraph lines, roads, trails, bridges, tramways, railroads, and other means of locomotion, transmission, and communication.

That there is hereby excepted and reserved unto the United States, from said grant, minerals, other than sand, stone, earth, gravel, and other materials of like character: *Provided, however,* That such minerals so excepted and reserved shall be prospected for, mined, and removed only in accordance with regulations to be prescribed by the Secretary of the Interior.

This grant shall be effective upon (1) the filing by said grantee at any time after the passage of this Act, with the manager of the United States local land office in the district where said lands are situated, of a map or maps showing the boundaries, locations, and extent of said lands and of said rights-of-way for the purposes hereinabove set forth; (2) the approval of such map or maps by the Secretary of the Interior with such reservations or modifications as he may deem

August 27, 1954

1194 PUBLIC LANDS TO BASIC MANAGEMENT, INC.

appropriate; (3) the payment of a price representing the fair market value for said rights-of-way and other lands, and also for stone, earth, sand, gravel and other materials of like character, to be fixed by the Secretary of the Interior through appraisal, exclusive of any increased value resulting from the development or improvement of the lands by the grantee or its predecessors, or a reasonable rental, as the case may be: *Provided*, That said lands for rights-of-way shall be along such location and of such width, not to exceed two hundred and fifty feet, as in the judgment of the Secretary of the Interior may be required for the purposes of this Act. (68 Stat. A223)

**Sec. 2. [Effective date of rights-of-way shown on maps previously filed.]**— Whenever the lands or the rights-of-way are the same as are designated on any map heretofore filed by said Basic Management, Incorporated, or by any of its predecessors in interest, including Defense Plant Corporation, Reconstruction Finance Corporation, the State of Nevada, or the Colorado River Commission of Nevada, in connection with any application for a right-of-way under any statute of the United States, which application is still pending, or has been granted, and is unrevoked and has been transferred to and is now owned by said Basic Management, Incorporated, then, upon the approval by the Secretary of the Interior of any such later map with such modifications and under such conditions as he may deem appropriate, the rights hereby granted, shall as to such lands or rights-of-way become effective as of the date of the filing of said earlier map or maps with the manager or register of the United States local land office. (68 Stat. A224)

**Sec. 3. [Grants subject to prior valid rights-of-way, easements or permits.]**— Said grants are to be made subject to rights-of-way, easements, and permits heretofore granted or allowed to any person or corporation in accordance with any Act or Acts of Congress and subject to the rights of all claimants or persons who shall have filed or made valid claims, locations, or entries on or to said lands, or any part thereof prior to the effective date of any conflicting grant hereunder, unless prior to such effective date proper relinquishments or quit-claims have been procured and caused to be filed in the proper land office. (68 Stat. A224)

**Sec. 4. [Condition for termination of grant and reversion to the United States.]**— Whenever the land granted herein shall cease to be used for the purposes for which it is granted, the estate of the grantee or of its assigns shall terminate and revert in the United States. (68 Stat. A224)

EXPLANATORY NOTES

**Cross Reference, Basic Management, Inc., Water Priorities.** Section 6 of the Act of October 22, 1965, 79 Stat. 1068, the Act authorizing the Southern Nevada Water project, deals with the water priorities of Basic Management, Inc. The Act appears herein in chronological order.

**Background.** In its report on S. 3303, 83d Congress, the bill which became this

Act, the Senate Committee on Interior and Insular Affairs stated:

"S. 3303 would enable a private enterprise to raise private capital to finance a water-development project connected with its purchase from the State of Nevada of a surplus war plant. The bill grants to the private enterprise, Basic Management, Inc., such lands in Nevada as may be necessary

August 27, 1954

PUBLIC LANDS TO BASIC MANAGEMENT, INC.

1195

for the water project, but provides for payment at a price to be fixed by the Secretary of the Interior. The Secretary of the Interior is to determine what lands are to be conveyed.

"The Corporation also is granted the right to take stone, earth, gravel, sand and other materials of like character from the

public lands for accomplishment of the purposes of the lands grant, but under the committee amendments must pay for these materials also." S. Rept. No. 1618 on S. 3303, 83rd Cong., 2nd Sess. (1954).

**Legislative History.** S. 3303, Private Law 854 in the 83rd Congress. S. Rept. No. 1618. H.R. Rept. No. 2324.

August 27, 1954

1196

### CLAIM OF MARY K. REYNOLDS (COLONIAL REALTY CO.)

An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of Mary K. Reynolds, as successor in interest to the Colonial Realty Company. (Act of August 27, 1954, ch. 1023, 68 Stat. A226)

[**Sec. 1. Jurisdiction conferred on Court of Claims to hear and render judgment on the claims of Mary K. Reynolds.**]—(a) Notwithstanding any statute of limitation or lapse of time, any provision of law to the contrary, any release, or any prior acceptance by the claimant of partial performance by the United States, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon the claim of Mary K. Reynolds, as successor in interest to the Colonial Realty Company, against the United States resulting from the alleged failure of the Secretary of the Interior to complete the exchange of land authorized and directed by the Act entitled “An Act providing for an exchange of lands between the Colonial Realty Company and the United States, and for other purposes”, approved March 23, 1933 (48 Stat. 1295), as supplemented by the Act entitled “An Act giving credit for water charges paid on damaged land”, approved June 14, 1933 (48 Stat. 1300), in the manner and to the extent required by such Acts.

(b) Jurisdiction is hereby conferred upon said court (1) to proceed as a court of equity jurisdiction in the adjustment of accounts between the claimant and the United States, (2) to enter such order or decree granting equitable relief as justice and right shall require, and (3) to enforce any such order or decree in any manner or by any proceeding available to a district court of the United States for the enforcement of its orders and decrees. (68 Stat. A226)

**Sec. 2. [Time within which suit may be brought—Payment of any judgment to constitute full and complete relief.]**—(a) Suit upon such claim may be instituted hereunder not later than one year after the date of enactment of this Act. Except as otherwise provided herein, proceedings for the determination of such claim, and review and payment or performance of any judgment, order, or decree thereon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28 of the United States Code.

(b) Payment of any judgment rendered hereunder for damages and compliance by the United States with any order or decree entered hereunder for equitable relief shall constitute a full and complete satisfaction of all claims and demands of the Colonial Realty Company, its successors and assigns, arising from the Acts cited in subsection 1(a) of this Act. (68 Stat. A226)

#### EXPLANATORY NOTES

**References in the Text.** The Act of March 23, 1933 (48 Stat. 1295), referred to in the text, authorized an exchange of lands between the Colonial Realty Company and the United States on the Klamath project, Oregon. The Act of June 14, 1933 (48 Stat. 1300), also referred to in the text, allowed credit for construction charges paid

by the Company on certain damaged lands to be conveyed to the United States pursuant to the March 1933 Act. Both Acts appear herein in chronological order.

**Legislative History.** H.R. 2874, Private Law 858 in the 83d Congress. H.R. Rept. No. 1352. S. Rept. No. 2274.

**EXCESS LANDS, OWL CREEK UNIT, MISSOURI RIVER BASIN  
PROJECT**

An act to provide that the excess-land provisions of the Federal reclamation laws shall not apply to lands in the Owl Creek unit of the Missouri Basin project. (Act of August 28, 1954, ch. 1034, 68 Stat. 890)

[**Excess-land provisions of law waived.**]—The excess-land provisions of the Federal reclamation laws shall not apply to lands in the Owl Creek unit of the Missouri Basin project, authorized in section 9(a) of Public Law 534, Seventy-eighth Congress, approved December 22, 1944 (58 Stat. 887). (68 Stat. 890)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in Law 683 in the 83d Congress. H.R. Rept. the U.S. Code. No. 1248. S. Rept. No. 1799.

**Legislative History.** H.R. 4721, Public

August 28, 1954

1198

## CANCEL CHARGES, MILK RIVER PROJECT

An act authorizing the Secretary of the Interior to adjust or cancel certain charges on the Milk River project. (Act of August 28, 1954, ch. 1038, 68 Stat. 895)

[Milk River project, Mont.]—The Secretary of the Interior may, in his discretion and notwithstanding the provision of any other law, adjust or cancel any charges, including penalties, which have accrued, or which will hereafter accrue, under Public Notice Numbered 5, Milk River project, Montana. (68 Stat. 895)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 687 in the 83d Congress. H.R. Rept. No. 2258. S. Rept. No. 2481.

**Legislative History.** H.R. 7813, Public

## CONVEYANCE OF LAND TO T. M. PRATT

An act to provide for the conveyance to T. M. Pratt and Annita C. Pratt of certain real property in Stevens County, Washington. (Act of August 28, 1954, ch. 1070, 68 Stat. A236)

[Conveyance of land authorized.—Legal description of the land.]—The Secretary of the Interior is authorized and directed to donate and convey to T. M. Pratt and his wife, Annita C. Pratt, Kettle Falls, Washington, all of the right, title, and interest of the United States in and to certain real property situated in Stevens County, Washington. Such property, which by error was conveyed to the United States in 1938 pursuant to land purchase contract I36r-910 and which has since been purchased from the former owners in good faith by the said T. M. Pratt and Annita C. Pratt, is the following-described tract of land lying easterly of the easterly right-of-way line of Relocated Primary State Highway Numbered 22:

Commencing at the southeast corner of the northeast quarter of the southwest quarter of section 2, township 35 north, range 37 east, Willamette meridian; running thence north five hundred sixty-two and four-tenths feet; thence west one thousand four hundred sixty-six and five-tenths feet to the true point of beginning; from said point of beginning, running thence east five hundred twenty-eight and eight-tenths feet; thence north sixty-four degrees twenty-two minutes west five hundred forty-five and eight-tenths feet; thence south seven degrees two minutes west two hundred fifty-one and six-tenths feet to the point of beginning, containing one and five hundred and fifteen one-thousandths acres. (68 Stat. A236)

### EXPLANATORY NOTE

Legislative History. H.R. 7229, Private No. 2187. S. Rept. No. 2477.  
Law 883 in the 83d Congress. H.R. Rept.

August 30, 1954

1200

## DISCONTINUE CERTAIN REPORTS

[Extracts from] An act to discontinue certain reports now required by law. (Act of August 30, 1954, ch. 1076, 68 Stat. 966)

The following reports or statements now required by law are hereby discontinued, and all Acts or parts of Acts herein cited as requiring the submission of such reports or statements are hereby repealed to the extent of such requirement:

### REPORTS UNDER EACH EXECUTIVE DEPARTMENT AND INDEPENDENT ESTABLISHMENT

1. [Receipts from fees.]—The inclusion in the annual report to Congress of each executive department or independent establishment of a statement of receipts from fees or charges paid to such department or establishment under all Acts of Congress (47 Stat. 411; 5 U.S.C. 104a). (68 Stat. 966)

2. [Relief claimants.]—The quarterly report to Congress by each department and agency of the name of each claimant to whom relief has been granted under the Act of August 7, 1946, as amended, together with the amount of such relief and a brief statement of the facts and the administrative decision (60 Stat. 902; 41 U.S.C. 106). (68 Stat. 966)

\* \* \* \* \*

### REPORTS UNDER THE DEPARTMENT OF THE INTERIOR

22. [Boulder Canyon Report.]—The annual report and financial statement by the Secretary of the Interior of operations under section 13 of the Boulder Canyon Project Adjustment Act (54 Stat. 779; 43 U.S.C. 618 letter "I"). (68 Stat. 968)

23. [Fort Peck Report.]—The annual report and financial statement by the Secretary of the Interior as to the transmission and sale of electric energy generated at the Fort Peck project during the preceding governmental fiscal year (52 Stat. 406; 16 U.S.C. 833g (c)). (68 Stat. 968)

\* \* \* \* \*

### EXPLANATORY NOTES

**Not Codified.** Extracts of this act shown here are not codified in the U.S. Code.

**References in the Text.** The Boulder Canyon Project Adjustment Act was enacted July 19, 1940, and the Fort Peck Project was reauthorized by the Act of May

18, 1938. Both of these Acts, referred to in the text, appear herein in chronological order.

**Legislative History.** H.R. 6290, Public Law 706 in the 83rd Congress. H.R. Rept. No. 1193. S. Rept. No. 1968.

## QUITCLAIM OF U.S. LAND INTERESTS, MARICOPA COUNTY

An act to authorize the United States of America to quitclaim all its right, title, and interest in and to certain lands in Arizona, except for mineral interests therein, and for other purposes. (Act of August 30, 1954, ch. 1078, 68 Stat. 969)

[Sec. 1. Maricopa County, Ariz.—Quitclaim of U.S. land interests.]—Subject to the reservations set out in section 4 of this Act, the United States of America hereby quitclaims all of its right, title, and interest in and to the land described in that certain deed executed by Salt River Valley Water Users' Association, an Arizona corporation, dated May 20, 1941, and recorded May 20, 1941, in the office of the county recorder, Maricopa County, State of Arizona, in book 360 of deeds at page 81, to the persons named as grantees therein or to the persons who succeeded to and now hold the possessory interests conveyed by said deed; and in addition thereto, the United States of America hereby quitclaims to the State of Arizona all its right, title, and interest in and to all that portion of the land lying within the right-of-way of the State highway designated on the plat of Victory Tract as the Apache Trail, said plat being recorded in the office of the county recorder of Maricopa County in book 31 of maps, page 6 thereof. (68 Stat. 969)

Sec. 2. [Maricopa County, Ariz.—Quitclaim of U.S. land interests.]—Subject to the reservations set out in section 4 of this Act, the United States of America hereby quitclaims all of its right, title, and interest in and to the lands described in those certain instruments executed by Salt River Valley Water Users' Association, an Arizona corporation, and recorded in the office of the county recorder, Maricopa County, State of Arizona, as follows:

\* \* \* \* \*

(Listing of deeds omitted)

\* \* \* \* \*

to the persons named as grantees or releasee therein or, if such persons no longer hold the possessory interests conveyed by said deeds or released by said general release of easement, then to the persons who succeeded to and now hold such possessory interests. (68 Stat. 970)

Sec. 3. [Maricopa County, Ariz.—Quitclaim of U.S. land interests.]—Subject to the reservation set out in section 4 of this Act, the United States of America hereby quitclaims to the abutting property owners of record on either side of the rights-of-way of the hereinafter described canals to the center lines thereof all of its right, title, and interest in and to the following described property:

All that certain canal right-of-way known as the Maricopa Canal, which takes its head out of the Salt River jointly with that of the Salt River Valley Canal on the north side thereof in section 8, township 1 north, range 4 east, Gila and Salt River base and meridian, and running thence in a northwesterly direction to its terminus in section 27, township 2 north, range 1 east, Gila and Salt River

August 30, 1954

QUITCLAIM TO MARICOPA COUNTY

base and meridian, Maricopa County, Arizona, except those portions of said right-of-way through, over, and across the following lands:

\* \* \* \* \*

(Legal description omitted, 68 Stat. 971)

\* \* \* \* \*

**Sec. 4. [Mineral rights.]**—With respect to all of the lands quitclaimed by this Act, all minerals are hereby reserved to the United States, together with the right of the United States, its lessees, permittees, and licensees to enter upon the land to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface and sub-surface as may be reasonably necessary for the foregoing purposes. (68 Stat. 972)

**Sec. 5. [Possessory interests created.]**—For the purposes of this Act, the deeds from the Salt River Valley Water Users' Association referred to in sections 1 and 2 of this Act shall be deemed, insofar as the United States is concerned, to have created possessory interests in the grantees therein named, and the general release of easement referred to in section 2 of this Act shall be deemed, insofar as the United States is concerned, to have released possessory interests to the leasee therein named. (68 Stat. 972)

**Sec. 6. [No liability created on part of the United States.]**—Nothing contained in this Act shall be deemed to create or recognize any obligation or liability whatsoever on the part of the United States. (68 Stat. 972)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Background.** The purpose of the Act was to quiet title to the rights-of-way identified in the bill. By contract with the Salt River Valley Water Users' Association dated September 16, 1917, the United States agreed to and did "turn over to and vest in said association, the care, operation and maintenance of irrigation works known as the Salt River project, situate in the counties of Gila, Pinal, and Maricopa, consisting generally of the Roosevelt Dam, the Granite Reef Dam, irrigation canals, laterals, and ditches, and other conduits, and all property of whatsoever kind, real, personal, or mixed, appurtenant to or used, or constructed or

otherwise acquired to be used, in connection with the said Salt River project, wheresoever said property may be situated.

"From time to time certain of these rights-of-way have been abandoned and the Salt River Valley Water Users' Association has on various occasions executed quitclaim deeds and other instruments conveying such lands to various individuals and corporations. However, local title companies apparently feel that title to such rights-of-way may be vested in the United States despite the 1917 contract." S. Rept. No. 2025 on S. 3187, 83d Cong., 2d Sess.

**Legislative History.** S. 3187, Public Law 708 in the 83d Congress. S. Rept. No. 2025.

August 30, 1954

1203

## TRANSFER OF LANDS IN KLAMATH COUNTY TO STATE OF OREGON

An act authorizing the transfer of certain property of the United States Government (in Klamath County, Oregon) to the State of Oregon. (Act of August 30, 1954, ch. 1087, 68 Stat. 980)

[Sec. 1. Land transferred—Description—Reservation of mineral rights and rights-of-way—Use restrictions—Right of reentry in time of war or national emergency.]—The General Services Administration be, and is hereby, authorized to transfer to the State of Oregon certain property of the United States Government situated in Klamath County, Oregon, and described as follows: All that portion of the southwest quarter northwest quarter and the southeast quarter northwest quarter of section 22, township 39 south, range 9 east, Willamette meridian, Klamath County, Oregon, described as follows:

Commencing at the north quarter corner of said section 22, thence, leaving said north quarter corner, south no degrees twenty-one minutes west a distance of one thousand three hundred and forty-three feet to the center line of the county road known as the Joe Wright Road; thence continuing south no degrees twenty-one minutes west a distance of thirty feet to the southerly right-of-way boundary of said county road; thence along said southerly right-of-way boundary, north eighty-nine degrees three minutes west a distance of one hundred fifty-four and six-tenths feet to the true point of beginning; thence leaving said southerly boundary south no degrees twenty-one minutes west, a distance of five hundred and thirty-two feet to a point; thence north eighty-nine degrees three minutes west a distance of two hundred and thirteen feet to a point, thence north no degrees twenty-one minutes east a distance of five hundred and thirty-two feet to said southerly right-of-way boundary; thence along said southerly right-of-way boundary south eighty-nine degrees three minutes east a distance of two hundred and thirteen feet to the true point of beginning and containing an area of two and sixty one-hundredths acres more or less, and shall be conveyed together with all buildings, improvements thereon, and all appurtenances and utilities belonging or appertaining thereto, and the General Services Administration shall execute and deliver in the name of the United States in its behalf any and all contracts, conveyances, or other instruments as may be necessary to effectuate the said transfer: *Provided*, That there shall be reserved to the United States all minerals, including oil and gas, in the lands authorized for conveyance of this section.

There shall be reserved to the United States, in the conveyance of the above-described lands, rights of ingress and egress over roads in the above-described lands, serving buildings or other works operated by the United States or its successors or assigns in connection with the Klamath project. There shall be further reserved in said lands all rights-of-way for waterlines, sewer lines, telephone and telegraph lines, powerlines, and such other utilities as now exist, or may become necessary to the operation of said Klamath project.

August 30, 1954

1204

KLAMATH COUNTY LANDS TO OREGON

Such conveyance shall contain a provision that said property shall be used primarily for training of the National Guard or Air National Guard and for other military purposes, and that, if the State of Oregon shall cease to use the property so conveyed for the primary purposes intended, then title thereto shall immediately revert to the United States and, in addition, all improvements made by the State of Oregon during its occupancy shall vest in the United States without payment of compensation therefor.

Such conveyance shall contain the further provision, that whenever the Congress of the United States shall declare a state of war or other national emergency, or the President declares a state of emergency to exist, and upon the determination by the appropriate Secretary that the property so conveyed is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without obligation to make payment of any kind, to reenter upon the property and use the same or any part thereof, including any and all improvements made by the State of Oregon for the duration of such state of war or other national emergency and upon the cessation thereof plus six months said property is to revert to the State of Oregon together with any or all facilities and improvements, appurtenances, and utilities thereon or appertaining thereto other than those hereinabove reserved to the United States. (68 Stat. 980)

**Sec. 2. [Authority of Secretary of Defense.]**—The property herein transferred shall come within the provisions of section 203(k) (2)(D) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C., 484(k) (2)(D)). (68 Stat. 982)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** Section 203(k) (2)(D) of the Federal Property and Administrative Services Act of 1949, as amended, referred to in the text, authorizes the Secretary of Defense, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, to States, political subdivisions, and tax supported instru-

mentalities thereof for use in the training and maintenance of civilian components of the Armed Forces, to enforce, reform or grant releases from the terms, conditions, reservations, and restrictions contained in the instrument of transfer.

**Legislative History.** H.R. 8020, Public Law 717 in the 83d Congress, H.R. Rept. No. 2097. S. Rept. No. 1946. S. Con. Res. 107.

## MICHAUD FLATS PROJECT

An act to provide for the construction, maintenance, and operation of the Michaud Flats project for irrigation in the State of Idaho. (Act of August 31, 1954, ch. 1159, 68 Stat. 1026)

[Sec. 1. Michaud Flats project.]—The Secretary of the Interior is authorized to construct, maintain, and operate the Michaud Flats project for irrigation in the State of Idaho substantially in accordance with the plans set forth in the report of the Bureau of Reclamation Regional Director of Region 1, dated October 22, 1953, with such modifications as the Commissioner of Reclamation, with the approval of the Secretary, may find proper in order to provide for the most efficient accomplishment of all the purposes of such plans. Such construction, maintenance, and operation shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) as far as such laws are not inconsistent with the provisions of section 2 of this Act. (68 Stat. 1026)

Sec. 2. [Repayment of costs.]—The project's water users shall be required to assume an obligation to repay out of that part of the total construction cost of the project which the Secretary determines to be properly allocable to irrigation, so much as the Secretary finds to be within their ability to repay prior to the time when, account being taken of the application of power revenues as provided in part (b) of this section, full return of the irrigation allocation is accomplished. Such repayment shall be in accordance with the provisions of the Federal reclamation laws as modified with respect to the Michaud Flats project by the following:

(a) [Annual installments.]—Payments by the contracting organization shall be scheduled, under a contract conforming to the provisions of this Act, on the basis of uniform charges for like classes of land in each unit of such project which will result in the establishment of annual installments which are, as nearly as practicable, of an amount equal to the ability of such water users to pay in each year having regard to the volume of production of such water users, prices they receive for their farm products, and their production and living costs.

(b) [Application of Palisades project revenues.]—Net power revenues received from the Palisades project, Idaho, and any developments combined therewith for payout purposes under the provisions of the second sentence of section 2 of the Act of September 30, 1950 (64 Stat. 1083), shall, after payout of said projects is accomplished pursuant to law, be applied (concurrently with continued payments by the water users) to payment of the irrigation allocation of the Michaud Flats project until full repayment of said allocation is accomplished.

### EXPLANATORY NOTE

Reference in the Text. The second sentence of section 2 of the Act of September 30, 1950 (64 Stat. 1083), referred to in the text, provides that the power gen-

erating facilities authorized at American Falls Dam for irrigation pumping to the North Side Pumping Division of the Minidoka project may be accounted for

August 31, 1954

1206

## MICHAUD FLATS PROJECT

together with other power facilities interconnected with the American Falls Dam power facilities, except those facilities whose care, operation and maintenance

have been taken over by the water users. The 1950 Act appears herein in chronological order.

(c) [Replacement reserve.]—The Secretary of the Interior shall require that a replacement reserve of an amount sufficient to meet replacement costs likely to be incurred before the end of the repayment period established under the provisions of part (a) above, shall be established and maintained in connection with such Michaud Flats project. (68 Stat. 1027)

### EXPLANATORY NOTE

**Supplementary Provision: Amended Contracts.** Section 4 of the Act of September 7, 1964, found herein in chronological order, authorizes the Secretary of the Interior to amend contracts made under this Act and the Act of September 30, 1950, also found

herein in chronological order. The 1964 Act provides that to the extent the annual obligations of the water users are reduced, the cost thereof shall be included in the cost to be absorbed by the power operations of the Federal power system in Idaho.

Sec. 3. (a) [Fort Hall Indian Reservation, Michaud division.]—To aid in the development of not more than twenty-one thousand acres of irrigable land in the Michaud division of the Fort Hall Indian Reservation, as heretofore authorized by the Act of February 4, 1931 (46 Stat. 1061), and hereby reauthorized for construction, operation, and maintenance without regard to the provisions of said Act, the Secretary is authorized—

(1) [Storage capacity reservation.]—to reserve for the benefit of those lands when needed, but without prejudice to the interim use thereof for other purposes proper under reclamation laws, eighty-three thousand and nine hundred acre-feet of storage capacity in Palisades Reservoir and forty-seven thousand and seven hundred acre-feet of that portion of the storage capacity in American Falls Reservoir which was set aside for lands in the Michaud area generally by section 3 of the Act of September 30, 1950 (64 Stat. 1083); and

(2) [Return of cost.]—to account for the return of so much of the cost of said development (including the cost of the aforesaid storage space in Palisades and American Falls Reservoirs) as the Secretary finds cannot be repaid by the water users on terms substantially similar to those provided in section 2 of this Act, except for the application of the provisions of the Act of July 1, 1932 (47 Stat. 564), and the Act of March 1, 1907 (34 Stat. 1015, 1024), which are specifically made applicable to the project authorized by this section and Indian lands susceptible of irrigation under said project, by application of net power revenues of the Palisades project and any development combined therewith for payout purposes under the provisions of the second sentence of section 2 of the Act of September 30, 1950, after payout thereof is accomplished pursuant to law.

(b) [Conditions.]—Construction of works to serve the Michaud division lands shall be undertaken only if, in consideration thereof and of the additional benefits authorized in the preceding sentence of this section, such appropriate arrangements as may be required in the circumstances are first made, by con-

August 31, 1954

MICHAUD FLATS PROJECT

1207

tract or otherwise, with respect to a water supply for said lands which, among other things—

(1) [Water supply limit.]—limit that supply to the yield of the space in Palisades and American Falls Reservoirs as hereinbefore set forth and to that obtained by the pumping of ground water in an average annual amount of not more than twenty-two thousand and four hundred acre-feet; and

(2) [Snake River waters—Priority.]—consent to a priority in time and right in such beneficial consumptive uses of the waters of the Snake River, and its tributaries, as are established under the laws of the State of Idaho prior to the date of this Act as against any use of the waters arising on or flowing through the Fort Hall Bottoms within the Fort Hall Indian Reservation, including, but not limited to, the intercepted flow of Ross Fork Creek the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek, and Clear Creek, for the irrigation of the lands of the Michaud division of the Fort Hall Indian Reservation.

The United States consents to the making of the arrangements aforesaid, and its construction, operation, and maintenance of said works shall constitute a waiver of any rights to the use of waters arising on or flowing through the Fort Hall Bottoms within the Fort Hall Indian Reservation, including, but not limited to, the intercepted flow of Ross Fork Creek, the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek, and Clear Creek, for the irrigation of the lands in the Michaud division of the Fort Hall Indian Reservation. (68 Stat. 1027)

EXPLANATORY NOTES

**Reference in the Text.** The Act of September 30, 1950, 64 Stat. 1083, referred to in the text, appears herein in chronological order.

**References in the Text.** The Act of July 1, 1932 (47 Stat. 564), referred to in the text, authorizes the Secretary of the Interior to adjust reimbursable debts of Indians, defers collection of all construction costs against Indian-owned lands within a Government irrigation project, etc. The Act of March 1, 1907 (34 Stat. 1015, 1024), also referred to in the text, is the "Indian Department" Appropriation Act for 1908,

which includes a treaty fulfillment provision authorizing construction of a storage dam for irrigating lands of the Fort Hall Reservation, Idaho, and provides for furnishing water without cost to Indian irrigators and the sale of water to non-Indian users.

**Reference in the Text.** The Act of February 4, 1931 (46 Stat. 1061), which authorized the Michaud division of the Fort Hall Indian Reservation and is referred to in the text, was repealed by section 4 of this Act, the division being reauthorized by this section.

**Sec. 4. [Repeal.]**—The Act of February 4, 1931 (46 Stat. 1061), authorizing the development of the Michaud division of the Fort Hall irrigation project is hereby repealed. (68 Stat. 1028)

**Sec. 5. [Crediting of Palisades project revenues.]**—In crediting the net power revenues from the Palisades project to the projects authorized in sections 2 and 3 of this Act, after payout of the Palisades project pursuant to law, said revenues shall be applied ratably to the two projects in proportion to the total construction costs thereof. (68 Stat. 1028)

August 31, 1954

1208

MICHAUD FLATS PROJECT

**Sec. 6. (a) [Water rights reservation.]**—Except as provided in section 3(b), nothing in this Act shall affect any rights in and to the waters of the Fort Hall Indian Reservation or the Snake River and its tributaries.

**(b) [Fort Hall Indian Reservation lands unaffected.]**—Nothing in this Act shall affect the land tenure, allotment, or ownership on the Fort Hall Indian Reservation. (68 Stat. 1028)

**Sec. 7. [Appropriation.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, \$5,500,000 for construction of the works authorized in section 1 of this Act, and \$5,500,000 for construction of the works authorized in section 3 of this Act, plus such additional amount, if any, as may be required by reason of changes in the costs of construction of the types involved in these projects, as shown by engineering indices. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (68 Stat. 1028)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in Law 741 in the 83d Congress. H.R. Rept. the U.S. Code. No. 2487. S. Rept. No. 2321.

**Legislative History.** H.R. 5499, Public

## EXTEND AUTHORITY FOR AMENDATORY CONTRACTS

An act to amend the act of March 6, 1952 (66 Stat. 16), to extend the time during which the Secretary of the Interior may enter into amendatory repayment contracts under the Federal reclamation laws, and for other purposes. (Act of August 31, 1954, ch. 1168, 68 Stat. 1044)

[Extension of time for modification of repayment contracts.]—The Act of March 6, 1952 (66 Stat. 16), is hereby amended by striking the year "1954" and inserting in lieu thereof the year "1960". (68 Stat. 1044; Act of August 21, 1957, 71 Stat. 390; 43 U.S.C. § 485b, note)

### EXPLANATORY NOTES

**1957 Amendment.** The Act of August 21, 1957, 71 Stat. 390, amended this Act by striking out the year "1957" and inserting in lieu thereof the year "1960". For an explanation of the effect of these amendments, see the explanatory notes following the Act of March 6, 1952. The 1957 Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under sections 3 and 7 of the Reclamation Project Act of August 4, 1939.

**Legislative History.** H.R. 8027, Public Law 750 in the 83d Congress. H.R. Rept. No. 1869. S. Rept. No. 1795.

August 31, 1954

1210

## PALO VERDE DIVERSION DAM

An act authorizing construction of works to reestablish for the Palo Verde Irrigation District, California, a means of diversion of its irrigation water supply from the Colorado River, and for other purposes. (Act of August 31, 1954, ch. 1170, 68 Stat. 1045)

[**Sec. 1. Palo Verde Irrigation District, Calif.—Diversion dam, etc.**]—For the purpose of reestablishing for the Palo Verde Irrigation District, a public agency of the State of California, a means of diverting its irrigation water supply from the Colorado River, the Secretary of the Interior is authorized to construct a dam across the Colorado River at or near the district's present or former intake capable of diverting water into said intake at an elevation of two hundred eighty-two and three-tenths feet above mean sea level, Bureau of Reclamation datum, and works appurtenant to said dam which are required to carry out the purposes stated. (68 Stat. 1045)

**Sec. 2. [Contract.]**—Prior to commencing construction of the works authorized in section 1 of this Act, the Palo Verde Irrigation District shall have entered into a contract with the United States, in form and content satisfactory to the Secretary, undertaking—

(a) to furnish to the United States for the construction and maintenance of said dam and appurtenant works the use of all lands, easements, rights-of-way, and other interests in land required for said purposes, except those which the United States already has a full and perfect right to use or which lie within the Colorado River Indian Reservation, and to save the United States harmless from all claims arising from the use and occupancy of said lands and interests in land and the operation and maintenance of said dam and appurtenant works;

(b) to operate and maintain said dam and appurtenant works without cost to the United States upon substantial completion thereof as determined by the Secretary; and

(c) to accept title to said dam, appurtenant works, lands, and interests in land upon payment by the district (which payment shall be made over a period of not more than fifty years) of the sum of \$1,175,000, and upon repayment of any loan made pursuant to section 4, clause (c), of this Act: *Provided*, That there shall be and is hereby reserved to the United States or there shall be made available to it, as the case may require, the exclusive right to utilize, without cost to it, said dam, appurtenant works, lands, and interests in land for such development, generation, and transmission of electric power and energy as may hereafter be authorized by law: *Provided further*, That in the event it becomes practicable to develop hydroelectric energy at this site, the division of such energy between the United States and the district shall be a matter of negotiation prior to construction of any powerplant. (68 Stat. 1045)

**Sec. 3. [Authority of Secretary of Interior.]**—To aid in the construction, operation, and maintenance of the works authorized by this Act, the Secretary

August 31, 1954

PALO VERDE DIVERSION DAM

1211

shall have the same authority as is given him with respect to the Colorado River front work and levee system by the second sentence of the amendment to the Act of January 21, 1927 (44 Stat. 1010, 1021), which is contained in the Act of June 28, 1946 (60 Stat. 338). (68 Stat. 1046)

EXPLANATORY NOTE

**Reference in the Text.** The second sentence of the amendment to the Act of January 21, 1927 (44 Stat. 1010, 1021), which is contained in the Act of June 28, 1946 (60 Stat. 338), referred to in the text, provides that in operations in connection with the Colorado River front work and levee system, the Secretary of the Interior shall

have the same authority with respect to property transactions, construction and supply contracts, the performance of necessary or proper acts, and the making of necessary or proper rules and regulations, which he has in connection with projects under the Federal reclamation laws. The 1946 Act appears herein in chronological order, as does an extract from the 1927 Act.

Sec. 4. [Authority of the Secretary to construct weir, levees, ditches, etc., lend funds to irrigation district and purchase lands, easements, etc., on Indian reservation.]—The Secretary is further authorized—

(a) and directed to remove, or otherwise to nullify the effects of, the temporary rock weir across the Colorado River which was constructed under authority of the First Deficiency Appropriation Act, 1944 (58 Stat. 150, 157);

(b) to construct levees, ditches, and other works required to protect the lands of the Colorado River Indian Reservation upstream from the diversion dam authorized in section 1 of this Act against Colorado River flows of seventy-five thousand cubic feet per second and to provide a means of draining said lands;

(c) to lend to the Palo Verde Irrigation District, upon terms and conditions satisfactory to the Secretary, the sum of not more than \$500,000 for the modification of the district's existing works to accommodate them to the works authorized in section 1 of this Act, the sum loaned to be repaid over a period of not more than fifty years from the date of the loan; and

(d) to grant to the United States, upon paying the sum of \$50 per acre into the Treasury to the credit of the Colorado River Indian Tribes of the Colorado River Indian Reservation, such lands, easements, rights-of-way, or other interests in land within the Colorado River Indian Reservation, not exceeding thirty acres in all, as may be required for the construction and maintenance of the works authorized in section 1 of this Act: *Provided*, That nothing contained herein shall preclude said tribes, if they believe that such payment constitutes less than just compensation for the extinguishment or impairment of their interest in the lands and interests in land in question, from maintaining an appropriate action against the United States for such compensation. (68 Stat. 1046)

EXPLANATORY NOTE

**Reference in the Text.** The First Deficiency Appropriation Act, 1944, referred to in the text, was enacted April 1, 1944. The

item in the Act authorizing the temporary rock weir across the Colorado River is found herein in chronological order.

Sec. 5. [Use of water.]—The use of all water diverted for the district through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act (45 Stat. 1057),

August 31, 1954

1212

## PALO VERDE DIVERSION DAM

the California Limitation Act (Stats. Cal. 1929, ch. 16), contract dated February 7, 1933, between the United States and Palo Verde Irrigation District, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total use of water to which the State of California is entitled as limited by said compact, statutes, contract, and treaty. (68 Stat. 1046)

### EXPLANATORY NOTES

**Reference in the Text.** The Mexican Water Treaty (Treaty Series 994), referred to in the text, was signed at Washington on February 3, 1944. The Treaty and Protocol appear herein in chronological order as of the date the Treaty was signed.

**Reference in the Text.** The contract dated February 7, 1933, between the United States and the Palo Verde Irrigation District, referred to in the text, provides, among other things, that from the waters of the Colorado River apportioned to California: "A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands."

**References in the Text.** The Colorado

River Compact and the Boulder Canyon Project Act (45 Stat. 1057), both referred to in the text, are found herein in chronological order under the date of December 21, 1928.

**Reference in the Text.** The California Limitation Act (Stats. Cal. 1929, ch. 16), referred to in the text, was enacted by California pursuant to section 4(a) of the Boulder Canyon Project Act. The California Act provides that in consideration of the passage of the Boulder Canyon Project Act that the aggregate annual consumptive use (diversions less returns to the river) by California of the water of the Colorado River shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin states by the Colorado River Compact, plus not more than one-half of any surplus or excess waters unapportioned by the Compact.

**Sec. 6. [Nonliability.]**—Neither the enactment of this Act nor anything contained in it nor any action taken pursuant to it shall be deemed a recognition or admission of any obligation or liability whatsoever to the Palo Verde Irrigation District on the part of the United States. (68 Stat. 1047)

**Sec. 7. [Nonreimbursable costs.]**—All costs incurred under authority of this Act, except those to be repaid by the Palo Verde Irrigation District, shall be nonreimbursable. (68 Stat. 1047)

**Sec. 8. [Appropriation.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$7,-099,000. (68 Stat. 1047)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 752 in the 83d Congress. H.R. Rept. No. 1982. S. Rept. No. 2482. H.R. Rept. No. 2435 (on H. Res. 653).

**Legislative History.** H.R. 8498, Public

## CONVEYANCE OF PUBLIC LANDS TO OCCUPANTS, WEBER BASIN PROJECT

An act to provide for the conveyance of certain public lands in Utah to the occupants of the land. (Act of August 31, 1954, ch. 1201, 68 Stat. A270)

[**Sec. 1. Issuance of patents authorized.**]—Subject to the requirements of this Act, the Secretary of the Interior shall issue patents to the occupants of the public lands in sections 9, 10, 15, 16, 21, 22, 27, and 28, township 8 north range 2 west, Salt Lake meridian, Utah, upon payment of the appraised value of the lands at the date of the appraisal, exclusive of any increased value resulting from the development or improvement of the lands by the occupants or their predecessors in interest. In such appraisal, the Secretary of the Interior shall consider and give full effect to the equities of the occupants. (68 Stat. A270)

**Sec. 2. [Conditions for issuance of patents.]**—The Secretary of the Interior shall issue a patent for such land to any occupant only if the occupant (1) files an application to purchase the lands within one year after the enactment of this Act; (2) makes a showing satisfactory to the Secretary that he or his predecessors in interest were bona fide occupants of the tract and had adverse possession for seven years prior to the approval of the plat survey of the lands; and (3) pays the price of the lands, as required by the Secretary. (68 Stat. A271)

**Sec. 3. [Valid existing rights unaffected.]**—Nothing in this Act shall be construed as affecting adversely valid existing rights to public lands. (68 Stat. A271)

**Sec. 4. [Money paid by occupants to be credited to Weber Basin project—Patent to contain reservation granting the United States right to repurchase if land is needed for project.]**—Any money paid by the occupants shall be covered into the reclamation fund for credit against the construction costs of the Weber Basin project, Utah. Any patent issued under this Act shall contain a reservation granting to the United States the right to repurchase the patented land, if the Secretary should find that such land is needed by the United States and the Weber Basin project, upon tender of payment for such land of the amount paid by the patentee to the United States under this Act plus the reasonable value of the improvements thereon in place at the time the land is patented. Such tender and payment shall be made from the reclamation fund. (68 Stat. A271)

### EXPLANATORY NOTES

**Background.** The tracts of land with which the Act deals were uncovered by the recession of the Great Salt Lake in Utah, and the purpose of the Act was to enable those persons who had occupied

these lands over many years to purchase them at their appraised value.

**Legislative History.** H.R. 6451, Private Law 956 in the 83d Congress. H.R. Rept. No. 2495. S. Rept. No. 2325.

September 3, 1954

1214

## LEASE OF PUBLIC LAND FOR PUBLIC WORKS

An act to provide authorization for certain uses of public lands. (Act of September 3, 1954, ch. 1255, 68 Stat. 1146)

[Sec. 1. Public lands—Permits, leases, etc.]—The head of any department or agency of the Government of the United States having jurisdiction over public lands and national forests, except national parks and monuments, of the United States is hereby authorized to grant permits, leases, or easements, in return for the payment of a price representing the fair market value of such permit, lease, or easement, to be fixed by such head of such department or agency through appraisal, for a period not to exceed thirty years from the date of any such permit, lease, or easement to States, counties, cities, towns, townships, municipal corporations, or other public agencies for the purpose of constructing and maintaining on such lands public buildings or other public works. In the event such lands cease to be used for the purpose for which such permit, lease, or easement was granted, the same shall thereupon terminate. (68 Stat. 1146; 43 U.S.C. 931c)

Sec. 2. [Authority conferred is in addition to authority conferred previously.]—The authority conferred by this Act shall be in addition to, and not in derogation of any authority heretofore conferred upon the head of any department or agency of the Government of the United States to grant permits, leases, easements, or rights-of-way. (68 Stat. 1146; 43 U.S.C. 931d)

### EXPLANATORY NOTE

Legislative History. H.R. 1254, Public No. 2243. S. Rept. No. 1788 (on S. 620) Law 771 in the 83d Congress. H.R. Rept.

## SANTA MARIA PROJECT

An act to authorize the Secretary of the Interior to construct the Santa Maria project, Southern Pacific Basin, California. (Act of September 3, 1954, ch. 1258, 68 Stat. 1190)

[Sec. 1. **Santa Maria project, Calif.—Excess land laws waived—Repayment contract.**]—The Secretary of the Interior is hereby authorized to construct the project for irrigation and the conservation of water, flood control, and for other purposes, on Santa Maria River, California, pursuant to the laws of California relating to water and water rights, and, otherwise substantially in accordance with the recommendations of the Secretary of the Interior dated January 16, 1953, entitled "Santa Maria project, Southern Pacific Basin, California", in relation to the Vaquero Dam and Reservoir and any other conservation feature of the project: *Provided*, That in view of the special circumstances of the Santa Maria project, neither the provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 636, 649) nor any other similar provision of the Federal reclamation laws shall be applicable thereto so long as the water utilized on project land is acquired by pumping from the underground reservoir: *Provided further*, That a repayment contract not exceeding a period of fifty years be executed prior to commencement of construction of the works herein authorized. (68 Stat. 1190)

Sec. 2. [Appropriation.]—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required for the purposes of this Act not to exceed \$16,982,000. (68 Stat. 1190)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636, 649), referred to in the text, is the Omnibus Adjustment Act. The third sentence of section 46 of the Act requires that each private owner of excess lands execute a valid recordable contract for the sale of such lands before they may receive water from any project. The Act

appears herein in chronological order.

**Change of Name of Dam.** The name of the dam and reservoir has been changed from Vaquero to Twitchell Dam and reservoir.

**Legislative History.** H.R. 2235, Public Law 774 in the 83d Congress. H.R. Rept. No. 1098. S. Rept. No. 1789. H.R. Rept. No. 1112 (on H. Res. 416).

September 3, 1954

1216

## FLOOD CONTROL ACT OF 1954

[Extracts from] An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. (Act of September 3, 1954, ch. 1264, 68 Stat. 1248)

\* \* \* \* \*

### TITLE II—FLOOD CONTROL

\* \* \* \* \*

#### Sec. 203. [Projects authorized.]—

\* \* \* \* \*

##### PECOS RIVER BASIN

The project for flood protection on the Pecos River, Texas and New Mexico, is hereby authorized substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors, dated March 26, 1954, at an estimated cost of \$9,540,000: *Provided*, That no appropriations shall be made for construction of Los Esteros Reservoir until satisfactory arrangements have been made by the State of New Mexico for the transfer of irrigation storage from the Alamogordo Reservoir. (68 Stat. 1260)

\* \* \* \* \*

Sec. 210. [Short title.]—Title II may be cited as the “Flood Control Act of 1954”. (68 Stat. 1267)

##### EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

Law 780 in the 83rd Congress. H.R. Rept. No. 2247. S. Rept. No. 2007.

**Legislative History.** H.R. 9859, Public

**CONSENT TO NEGOTIATE ARKANSAS RIVER COMPACT**  
[STATES OF ARKANSAS AND OKLAHOMA]

An act granting the consent of Congress to the States of Arkansas and Oklahoma, to negotiate and enter into a compact relating to their interests in, and the apportionment of, the waters of the Arkansas River and its tributaries as they affect such States. (Act of June 28, 1955, ch. 192, 69 Stat. 184)

[**Sec. 1. Arkansas and Oklahoma—Water apportionment compact.**]—The consent of Congress is hereby given to the States of Arkansas and Oklahoma to negotiate and enter into a compact relating to the interests of such States in the development and protection from pollution of the water resources of the Arkansas River and its tributaries, and providing for an equitable apportionment among them of the waters of the Arkansas River and its tributaries flowing between such States, and for matters incident thereto, upon the condition that one qualified person appointed by the President of the United States shall participate in such negotiations as chairman; representing the United States, and shall make a report to the President of the United States and the Congress of the proceedings and of any compact entered into. Such compact shall not be binding or obligatory upon any of the parties thereto until it shall have been ratified by the legislatures of each of the respective States, and approved by the Congress of the United States. (69 Stat. 184)

**Sec. 2. [Appropriation—Salary.]**—There is hereby authorized to be appropriated the sufficient sum to pay the salaries and expenses of the representative of the United States appointed hereunder: *Provided*, That such representative, if otherwise employed by the United States while so employed, shall not receive additional salary in the appointment hereunder. (69 Stat. 185)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in Law 97 in the 84th Congress, H.R. Rept. No. 463. S. Rept. No. 539.

**Legislative History.** H.R. 208, Public

July 4, 1955

1218

## DISTRIBUTION SYSTEM LOANS

An act to provide for the construction of distribution systems on authorized Federal reclamation projects by irrigation districts and other public agencies. (Act of July 4, 1955, ch. 271, 69 Stat. 244)

[**Sec. 1. Irrigation distribution systems.**]—Irrigation distribution systems authorized to be constructed under the Federal reclamation laws may, in lieu of construction by the Secretary of the Interior (referred to in this Act as the “Secretary”), be constructed by irrigation districts or other public agencies according to plans and specifications approved by the Secretary as provided in this Act. (69 Stat. 244; 43 U.S.C. § 421a)

**Sec. 2. [Loans for construction.]**—To assist financially in the construction of the aforesaid local irrigation distribution systems by irrigation districts and other public agencies the Secretary is authorized, on application therefor by such irrigation districts or other public agencies, to make funds available on a loan basis from moneys appropriated for the construction of such distribution systems to any irrigation district or other public agency in an amount equal to the estimated construction cost of such system, contingent upon a finding by the Secretary that the loan can be returned to the United States in accordance with the general repayment provisions of sections 2(d) and 9(d) of the Reclamation Project Act of August 4, 1939, and upon a showing that such district or agency already holds or can acquire all lands and interests in land (except public and other lands or interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) necessary for the construction, operation, and maintenance of the project. The Secretary shall, upon approval of the loan, enter into a repayment contract which includes such provisions as the Secretary shall deem necessary and proper to provide assurance of prompt repayment of the loan. The term “irrigation district or other public agency” shall for the purposes of this Act mean any conservancy district, irrigation district, water users’ organization, or other organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws. (69 Stat. 245; 43 U.S.C. § 421b)

**Sec. 3. [Conditions to loans—Use of lands.]**—The Secretary shall require, as conditions to any such loan, that the borrower contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion, not in excess of 10 per centum, of the construction cost of the distribution system (including all costs of acquiring lands and interests in land), that the plans for the system be in accord with sound engineering practices and be such as will achieve the purposes for which the system was authorized, and that the borrower agree to account in full in regard to all disbursements of borrowed funds and to return at once for application toward amortization of the loan all funds which are not expended in the construction of the distribution system. Prior to the consummation of any loan under this Act, the borrower shall also be required

to transfer to the United States any lands or interests in land which it then holds and which the Secretary finds are required for the construction, operation, and maintenance of the distribution system and to agree to transfer to the United States any lands or interests in land which it may thereafter acquire and which the Secretary may find are required for this purpose and distribution works constructed, in whole or in part, with moneys lent under this Act for the construction thereof. Title to all such lands, interests in land and distribution works shall remain in the United States until the loan is repaid. Every organization contracting for repayment of a loan under this Act shall operate and maintain its distribution works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States. When full repayment has been made to the United States, the Secretary shall relinquish all claims under said contracts and shall retransfer to the borrower title to the works and all lands and interests in land which were transferred by it to the United States. The head of any department or agency of the Government within whose administrative jurisdiction are lands owned by the United States the use of which is reasonably necessary for the construction, operation, and maintenance of distribution works under this Act may grant to a borrower or prospective borrower under this Act revocable permission for the use thereof in like manner as under the Acts of March 3, 1891, secs. 18–21, 26 Stat. 1101, as amended (43 U.S.C. secs. 946–949), January 21, 1895, 28 Stat. 635, as amended (43 U.S.C., sec. 956), February 15, 1901, 31 Stat. 790, as amended (16 U.S.C., secs. 79, 522, 43 U.S.C., sec. 959), February 1, 1905, 33 Stat. 628 (16 U.S.C., sec. 524), March 1, 1921, 41 Stat. 1194 (43 U.S.C., sec. 950), May 9, 1941, 55 Stat. 183 (43 U.S.C., sec. 931a), July 24, 1946, sec. 7, 60 Stat. 643, as amended (43 U.S.C., sec. 931b), May 31, 1947, 61 Stat. 124 (38 U.S.C., sec. 11i), February 5, 1948, 62 Stat. 17 (25 U.S.C., secs. 323–328), or September 3, 1954, 68 Stat. 1146 (43 U.S.C., secs. 931c–931d), or any other similar Act which is applicable to the lands involved: *Provided*, That no such permission shall be granted in the case of lands being administered for national park, national monument, or wildlife purposes. No benefits or privileges under the Federal reclamation laws, including repayment provisions, shall be denied an irrigation distribution system because such system has been constructed pursuant to this Act. The provisions of this Act shall apply only to irrigation purposes, including incidental domestic and stock water, and loans hereunder shall be interest free. Nothing in this Act shall be construed to repeal or limit the procedural and substantive requirements of section 8 of the Act of June 17, 1902. (69 Stat. 245; Act of May 14, 1956, 70 Stat. 155; 43 U.S.C. § 421c)

#### EXPLANATORY NOTES

**1956 Amendment.** The Act of May 14, 1956, amended section 3 to read as it appears above. The 1956 amendment provides for greater Federal oversight of disbursements of borrowed funds. It also provides for title to lands and works to be in the United States until the loan is repaid. The text of section 3 as it read before the 1956 Amendment is as follows:

“Sec. 3. The Secretary shall require as a

condition to any such loan, that the water users' organization contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion, not in excess of ten per centum, of the construction cost of such project (including all costs of acquiring lands, and interests in land), and that the plans for the distribution system are in accord with sound engineering practices and will achieve the

July 4, 1955

DISTRIBUTION SYSTEM LOANS

purposes for which the system was authorized. Organizations contracting for repayment of the loans shall operate and maintain such works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States, and when full repayment has been made to the United States, the Secretary shall relinquish all claims under said contracts. Title to distribution works constructed pursuant to this Act shall at all times be in the contracting water users' organizations. In addition to any other authority the Secretary may have to grant rights-of-way, easements, flowage rights, or other interests in lands for project purposes, the Secretary or the head of any other executive department may sell and convey to any irrigation district or other public agency at fair value lands and rights-of-way owned by the United States (other than lands being administered for national park, national monument, or wildlife purposes) which are reasonably necessary to the construction, operation, and maintenance of an irrigation distribution system under the provisions of this Act. No benefits or privileges under reclamation laws including repayment provisions shall be denied an irrigation distribution system because such system has been

constructed pursuant to this Act. The provisions of this Act shall apply only to irrigation purposes, including incidental domestic and stock water, and loans hereunder shall be interest free. Nothing in this Act shall be construed to repeal or limit the procedural and substantive requirements of section 8 of the Act of June 17, 1902."

**Supplementary Provision: Loans Contingent on Appropriations.** Provisos in each annual Public Works Appropriation Act beginning with the Act of September 10, 1959, which appears herein in chronological order, provide that loans beyond the current fiscal year for the construction of local distribution systems under the Act of July 4, 1955, are subject to the same conditions as stated in section 12 of the Reclamation Project Act of 1939, that is, that they shall be contingent upon appropriations being made therefor.

**Reference in the Text.** The statutes referred to in a group in the text deal with the granting of rights-of-way in the public lands of the United States for various purposes, including mining and milling in the national forests, and for irrigation canals and reservoirs, etc. Of the Acts referred to, those of 1891, 1901, and 1921 appear herein in chronological order.

**Sec. 4. [Reclamation laws.]**—Except as herein otherwise provided, the provisions of the Federal reclamation laws, and Acts amendatory thereto, are continued in full force and effect. (69 Stat. 245; 43 U.S.C. § 421d)

EXPLANATORY NOTE

**Legislative History.** H.R. 103, Public Law 130 in the 84th Congress. H.R. Rept. No. 61. S. Rept. No. 362. H.R. Rept. No. 862 (conference report).

## QUITCLAIM LANDS IN WASHINGTON STATE

An act to authorize and direct the Secretary of the Interior to convey certain lands erroneously conveyed to the United States. (Act of August 1, 1955, ch. 450, 69 Stat. A84)

[Sec. 1. Authority to convey lands subject to donation easements.]—(a) The Secretary of the Interior is authorized and directed to convey by quitclaim deed in accordance with the following sections of this Act all of the right, title, and interest of the United States, except as provided in subsection (b) of this section, in and to the lands described in such sections, which were erroneously conveyed to the United States.

(b) Such conveyances shall be subject to the following donation easements and releases:

(1) Donation easement and release from Walter McAviney and Gertrude H. McAviney, his wife, to the United States of America, dated March 2, 1954, and recorded in book 151 of deeds, pages 130 and 133, records of Stevens County, Washington;

(2) Donation easement and release from Walter Thomas McAviney and Winifred Joyce McAviney, his wife, to the United States of America, dated March 2, 1954, and recorded in book 151 of deeds, page 131, records of Stevens County, Washington; and

(3) Donation easement and release from Cull A. White and Katherine M. White, his wife, to the United States of America, dated March 1, 1954, but not recorded in the Ferry County records. (69 Stat. A84)

Sec. 2. [Description of lands to be conveyed to Walter and Gertrude H. McAviney.]—The following-described lands shall be conveyed to Walter McAviney and Gertrude H. McAviney, husband and wife, of Gifford, Washington:

\* \* \* \* \*

(Legal description omitted; 69 Stat. A84)

\* \* \* \* \*

Sec. 3. [Description of land to be conveyed to Walter T. and Winifred McAviney.]—The following-described land shall be conveyed to Walter T. McAviney and Winifred McAviney, husband and wife, of Gifford, Washington:

\* \* \* \* \*

(Legal description omitted; 69 Stat. A85)

\* \* \* \* \*

Sec. 4. [Description of land to be conveyed to Cull A. and Katherine M. White.]—The following-described land shall be conveyed to Cull A. White and Katherine M. White, husband and wife, of Quincy, Washington:

The east half of the west half of the southwest quarter of the southwest quarter, section 9, township 28 north, range 32 east, Willamette meridian. (69 Stat. A85)

August 1, 1955

1222 QUITCLAIM LANDS IN WASHINGTON STATE

Sec. 5. [Description of land to be conveyed to Harvey F. and Joan E. Jones.]—The following-described land containing 39.84 acres, more or less, shall be conveyed to Harvey F. Jones and Joan E. Jones, husband and wife, of Wilbur, Washington:

\* \* \* \* \*

(Legal description omitted; 69 Stat. A85)

\* \* \* \* \*

EXPLANATORY NOTES

**Background.** Because of inadvertent errors, overlapping boundaries and discrepancies in land descriptions, the United States erroneously acquired title to the lands described in the sections above in connection with its purchase in 1938 of lands to be

inundated by Franklin D. Roosevelt Lake, Columbia Basin project, Washington.

**Legislative History.** S. 824, Private Law 243 in the 84th Congress. S. Rept. No. 265. H.R. Rept. No. 1090.

## APPLICATION OF FARM TENANT ACT TO ANGOSTURA PROJECT

An act to authorize adjustment by the Secretary of Agriculture of certain obligations of settlers on projects developed or subject to the Act of August 11, 1939, as amended, and for other purposes. (Act of August 9, 1955, ch. 630, 69 Stat. 552)

[Application of Farm Tenant Act to Angostura project.]—The provisions of sections 41(g), 43, and 51 of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1015(g), 1017, and 1025), are hereby extended to apply on the obligations of settlers on the Angostura project in South Dakota developed under the Act of August 11, 1939, as amended (16 U.S.C. § 590y-z). (69 Stat. 552; 16 U.S.C. § 590y, note)

### EXPLANATORY NOTES

**Reference in the Text.** Sections 41(g), 43 and 51 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1015(g), 1017 and 1025), referred to in the text, were repealed by section 341(a) of the Act of August 8, 1961, 75 Stat. 318, the Consolidated Farmers Home Administration Act of 1961, extracts from which appear herein in chronological order. The latter act revised and consolidated the authority of the Secretary

of Agriculture for making and insuring loans to farmers and ranchers.

**Reference in the Text.** The Act of August 11, 1939, as amended (16 U.S.C. § 590y-z), referred to in the text, is the Water Conservation and Utilization Act. The Act appears herein in chronological order.

**Legislative History.** S. 1621, Public Law 270 in the 84th Congress. S. Rept. No. 1042.

August 9, 1955

1224

## REPEAL OF INCREMENTAL VALUE PROVISION, ARCH HURLEY CONSERVANCY DISTRICT

An act to repeal a particular contractual requirement with respect to the Arch Hurley Conservancy District in New Mexico. (Act of August 9, 1955, ch. 637, 69 Stat. 556)

[**Sec. 1. Repeal of incremental value provision of law, Tucumcari project—Effect of repealer.**]—The proviso in the Act entitled “An Act to authorize the construction of a Federal reclamation project to furnish a water supply for the lands of the Arch Hurley Conservancy District in New Mexico”, approved August 2, 1937, as amended (43 U.S.C., sec. 600a), is amended by striking out the semicolon and the word “and” at the end of clause (c) and by striking out all of clause (d) to the period. No provision with respect to the matters covered in said clause (d) which is contained in any contract entered into prior to the date of enactment of this Act shall, except as is otherwise provided by this Act, be enforced by the United States. Nothing contained in this section shall affect (1) the retention and application by the United States of any payments which have been made prior to the date of enactment of this Act in accordance with any such provision of a contract, (2) the obligation of any party to the United States with respect to any payment which is due to the United States under any such provision but not paid upon the date of enactment of this Act, and the application by the United States of any such payment in accordance with the terms of such contract, or (3) the enforcement of any such obligation by refusal to deliver water to lands covered by contractual provisions executed in accordance with said clause (d), except in those cases, if any, in which a sale or transfer consummated between December 27, 1938, and the date of enactment of this Act is only discovered after such date of enactment to have been made contrary to such contractual provisions or to said clause (d). (69 Stat. 556; 43 U.S.C. § 600a and § 600a, note)

### EXPLANATORY NOTE

**Project Name.** The reclamation project conditionally authorized by the Act of August 2, 1937, for the lands of the Arch Hurley Conservancy District is the Tucumcari project, and is referred to as such in the

project feasibility report submitted to the President by the Acting Secretary of the Interior on October 31, 1938. The 1937 act appears herein in chronological order.

[**Sec. 2. [Amendatory contracts authorized—Recordation.]**]—The Secretary of the Interior is authorized to amend any contract, which has been entered into prior to the date of enactment of this Act, to conform with the provisions of the first section of this Act. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amended contract and to the simultaneous discharge of record of the original contract. The consent of the United States is likewise given to the discharge of record, at the expense of the party benefited thereby, of any contract which the Secretary of the Interior or his duly authorized agent finds is rendered nugatory by the enactment of this Act. (69 Stat. 557; 43 U.S.C. § 600a, note)

August 9, 1955

REPEAL INCREMENTAL VALUE CLAUSE, ARCH HURLEY 1225

EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations  
of opinions, if any, are found under the Act  
of August 2, 1937.

**Legislative History.** S. 1965, Public Law  
277 in the 84th Congress. S. Rept. No. 1156.  
H.R. Rept. No. 1482 (on H.R. 5169).

August 9, 1955

1226

## SEWERAGE SYSTEM, TOWN OF GLENDO

An act to authorize the Secretary of the Interior to include capacity to serve the town of Glendo, Wyoming, in a sewerage system to be installed in connection with the construction of Glendo Dam and Reservoir, and for other purposes. (Act of August 9, 1955, ch. 643, 69 Stat. 560)

[Glendo, Wyo., sewerage system.]—The Secretary of the Interior is authorized, in connection with the installation of a sewerage system to serve the Government construction camp and housing facilities at Glendo Dam and Reservoir (68 Stat. 486) and upon the terms and conditions hereinafter set forth, to install sufficient capacity to serve also the town of Glendo, a municipal corporation of the State of Wyoming, and to transfer all right, title, and interest of the United States in and to said system (including necessary rights-of-way) to said town. The total capacity of said system shall not exceed that required to serve five hundred persons and no commitment between the United States and the town with respect to the construction thereof shall require the expenditure of more than \$75,000. The terms and conditions of this authorization are that the town shall have—

(a) transferred or agreed to transfer to the United States, without cost to the United States, such interest in land required for construction of the sewerage system as is satisfactory to the Secretary;

(b) transferred or agreed to transfer to the United States, without cost to the United States, fee title to ten acres of land for the construction of said camp and housing facilities or such other interest in said land as is satisfactory to the Secretary for that purpose. In the event said land is not located within the then corporate limits of the town, the town shall take all necessary and proper steps under the laws of the State of Wyoming to extend its limits to include said land;

(c) connected and run or agreed to connect and run a water main or mains to such locations on the property line of said land as are agreed upon by the town and the Secretary and agreed to furnish water for the use in said camp and housing facilities and by the residents therein on the same terms and considerations on which it furnishes water to other properties and residents in the town of Glendo. Necessary water meters will be furnished by the United States;

(d) agreed to furnish, without cost to the United States, fire and police protection service to the camp and housing facilities on said land on the same basis and under the same conditions as it furnishes such services to other properties and to inhabitants of the town of Glendo;

(e) agreed to accept such streets and alleys (including rights-of-way therefor) as are constructed by the United States on said land and dedicated by the United States to public purposes and to maintain and keep said streets and alleys in good and serviceable condition without cost to the United States. Necessary streets and alleys constructed by the United States

August 9, 1955

SEWERAGE SYSTEM, TOWN OF GLENDO

1227

on said land will be of type and quality comparable to existing streets and alleys within the present limits of the town of Glendo;

(f) installed or agreed to install street lights on the streets and alleys constructed by the United States on said land and agreed to maintain said lights and to furnish the electricity necessary for their operation, such installation, maintenance, and electric service to be furnished to the same extent and in like manner as is afforded on other streets within the limits of the town of Glendo and without cost to the United States;

(g) arranged or agreed to arrange for electric and natural-gas service to said camp and housing facilities and to the residents therein on the same terms and conditions as such service is furnished to other properties and residents in the town of Glendo;

(h) agreed to the United States use of the sewerage system throughout its useful life to the extent of that capacity which is required to serve one hundred and fifty persons and agreed furthermore, that it will operate and maintain said system in conformity with standards agreed upon by the town and the Secretary (which standards shall be those generally employed for the maintenance of similar facilities) and in a manner permitting the satisfactory use of said capacity by the United States, all without cost to the United States. (69 Stat. 560)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Glendo Dam and Reservoir are features of the Glendo Unit, Missouri River Basin project. The Unit was initially authorized by the Flood Control Act of December 22, 1944, and reauthorized by the Act of July 16, 1964, 68 Stat. 486. Both Acts appear herein in chronological order.

**Background.** On May 13, 1955, the

Comptroller General had ruled that the expenditure of appropriated funds was not authorized to construct extra capacity in a sewerage system beyond that needed for project construction purposes and to make this capacity available to the Town of Glendo in return for the town's agreement to operate and maintain the system. 34 Comp. Gen. 599 (1955).

**Legislative History.** S. 2339, Public Law 283 in the 84th Congress. S. Rept. No. 1240.

August 9, 1955

1228

## CONSENT TO NEGOTIATE KLAMATH RIVER COMPACT

An act granting the consent of the Congress to the negotiation of a compact relating to the waters of the Klamath River by the States of Oregon and California. (Act of August 9, 1955, ch. 676, 69 Stat. 613)

[**Klamath River—Consent of Congress to negotiation of interstate compact.**]—The consent of the Congress is hereby given to the States of Oregon and California to negotiate and enter into a compact, providing for an equitable apportionment between the said States of the waters of the Klamath River and its tributaries, including Lost River which is not naturally tributary to the Klamath River but which is an interstate stream within the Klamath Basin which has become tributary to Klamath River by virtue of a diversion canal constructed by the Bureau of Reclamation, United States Department of the Interior, and for matters incidental thereto, upon the condition that one qualified person, not a resident of either Oregon or California, who shall be appointed by the President of the United States, shall participate in said negotiations as a representative of the United States and shall make a report to the President and the Congress of the proceedings and of any compact so negotiated. Said compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of the States aforesaid and consented to by the Congress of the United States. (69 Stat. 613)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Klamath River Basin Compact.** The Act of August 30, 1957, 71 Stat. 497, granted the consent of Congress to the Klamath River Basin Compact which

was negotiated pursuant to this Act. The 1957 Act appears herein in chronological order.

**Legislative History.** H.R. 3587, Public Law 316 in the 84th Congress. H.R. Rept. No. 703. S. Rept. No. 1166.

August 9, 1955

1229

## ALASKAN INVESTIGATIONS

An act to authorize the Secretary of the Interior to investigate and report to the Congress on projects for the conservation, development, and utilization of the water resources of Alaska. (Act of August 9, 1955, ch. 682, 69 Stat. 618)

[**Sec. 1. Alaska water resources investigations authorized.**]—For the purpose of encouraging and promoting the development of Alaska, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to make investigations of projects for the conservation, development, and utilization of the water resources of Alaska and to report thereon, with appropriate recommendations, from time to time, to the President and to the Congress. (69 Stat. 618)

**Sec. 2. [Reports.]**—Prior to the transmission of any such report to the Congress, the Secretary shall transmit copies thereof for information and comment to the Governor of Alaska, or to such representative as may be named by him, and to the heads of interested Federal departments and agencies. The written views and recommendations of the aforementioned officials may be submitted to the Secretary within ninety days from the day of receipt of said proposed report. The Secretary shall immediately thereafter transmit to the Congress, with such comments and recommendations as he deems appropriate, his report, together with copies of the views and recommendations received from the aforementioned officials. The letter of transmittal and its attachments shall be printed as a House or Senate document. (69 Stat. 618)

**Sec. 3. [Appropriation.]**—There are hereby authorized to be appropriated not more than \$250,000 in any one fiscal year. (69 Stat. 618)

### EXPLANATORY NOTES

**Codification.** This Act was originally codified as 48 U.S.C. § 487, but was omitted from the U.S. Code after Alaska became a State.

Law 322 in the 84th Congress. H.R. Rept. No. 419. S. Rept. No. 699. H.R. Rept. No. 623 (on H. Res. 251). H.R. Rept. No. 1447 (conference report).

**Legislative History.** H.R. 3990, Public

August 11, 1955

1230

## CONSENT TO NEGOTIATE ARKANSAS RIVER COMPACT

[STATES OF ARKANSAS AND OKLAHOMA]

An act granting the consent of Congress to the States of Kansas and Oklahoma to negotiate and enter into a compact relating to their interests in, and the apportionment of, the waters of the Arkansas River and its tributaries as they affect such States. (Act of August 11, 1955, ch. 778, 69 Stat. 631)

[Sec. 1. Arkansas River—Consent of Congress to negotiation of interstate compact.]—The consent of Congress is hereby given to the States of Kansas and Oklahoma to negotiate and enter into a compact relating to the interests of such States in the development and protection from pollution of the water resources of the Arkansas River and its tributaries, and providing for an equitable apportionment among them of the waters of the Arkansas River and its tributaries flowing between such States, and for matters incident thereto, upon the condition that one qualified person appointed by the President of the United States shall participate in such negotiations as chairman, representing the United States, and shall make a report to the President and to the Congress of the proceedings and of any compact entered into. Such compact shall not be binding or obligatory upon any of the parties thereto until it shall have been ratified by the legislatures of each of the respective States, and consented to by the Congress of the United States: *Provided*, That any compact negotiated under the authority of this Act shall recognize the respective rights of the States of Kansas and Colorado in the waters of the Arkansas River, as established by the Arkansas River Compact consented to by Public Law 82, Eighty-first Congress, first session. (69 Stat. 631)

### EXPLANATORY NOTE

**Reference in the Text.** Public Law 82, The Act appears herein in chronological order. Eighty-first Congress, first session, referred to in the text, was enacted May 31, 1949.

**Sec. 2. [Appropriation.]**—There is hereby authorized to be appropriated a sufficient sum to pay the salary and expenses of the representative of the United States appointed hereunder: *Provided*, That such representative, if otherwise employed by the United States while so employed, shall not receive additional salary in the appointment hereunder. (69 Stat. 632)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Consent of Congress to Compact.** The Act of November 7, 1966, 80 Stat. 1405, the Rivers and Harbors Act of 1966, includes the consent of Congress to the Arkansas River Basin Compact con-

cluded by the States of Kansas and Oklahoma pursuant to this Act. The 1966 Act appears herein in chronological order.

**Legislative History.** S. 730, Public Law 340 in the 84th Congress. S. Rept. No. 1067.

### CONSENT TO NEGOTIATE RED RIVER COMPACT

An act granting the consent of Congress to the States of Arkansas, Louisiana, Oklahoma, and Texas to negotiate and enter into a compact providing for the apportionment of the waters of the Red River and its tributaries. (Act of August 11, 1955, ch. 784, 69 Stat. 654)

[**Red River—Consent of Congress to negotiation of interstate compact.**]—The consent of Congress is hereby given to the States of Arkansas, Louisiana, Oklahoma, and Texas to negotiate and enter into a compact providing for an equitable apportionment among them of the waters of the Red River and its tributaries, upon the condition that one qualified person appointed by the President of the United States shall participate in such negotiations as chairman, without vote, representing the United States and shall make a report to the President of the United States and the Congress of the proceedings and of any compact entered into. Such compact shall not be binding or obligatory upon any of the parties thereto until it shall have been ratified by the legislatures of each of the respective States, and approved by the Congress of the United States. (69 Stat. 654)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 346 in the 84th Congress. S. Rept. No. the U.S. Code. 1030. H.R. Rept. No. 1444.

**Legislative History.** S. 2260, Public Law

August 11, 1955

1232

## **CONSENT TO NEGOTIATE COMPACT FOR TRUCKEE, CARSON, AND WALKER RIVERS AND LAKE TAHOE**

An act granting the consent of Congress to the States of California and Nevada to negotiate and enter into a compact with respect to the distribution and use of the waters of the Truckee, Carson, and Walker Rivers, Lake Tahoe, and the tributaries of such rivers and lake in such States. (Act of August 11, 1955, ch. 791, 69 Stat. 675)

[**Sec. 1. California and Nevada—Consent of Congress to negotiation of inter-state water compact.**

**Sec. 2. [Conditions.]**—Such consent is given upon the following conditions:

(1) A representative of the United States, who shall be appointed by the President of the United States, shall participate in such negotiations and shall make a report to the President and to the Congress of the proceedings and of any compact entered into; and

(2) Such compact shall not be binding or obligatory upon either of such States unless and until it has been ratified by the legislature of each of such States and consented to by the Congress of the United States. (69 Stat. 675)

**Sec. 3. [Reservation clause.]**—The right to alter, amend, or repeal this Act is hereby expressly reserved. (69 Stat. 675)

### **EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in 353 in the 84th Congress. S. Rept. No. 635.  
the U.S. Code. H.R. Rept. No. 1164.

**Legislative History.** S. 1391, Public Law

## CONTRACT WITH TOSTON IRRIGATION DISTRICT

Joint resolution to authorize the Secretary of the Interior to execute a certain contract with the Toston Irrigation District, Montana. (Act of August 12, 1955, ch. 860, 69 Stat. 697)

Whereas there have been constructed certain irrigation distribution and pumping works for the Crow Creek pumping unit, Montana, as a part of the Missouri River Basin project (58 Stat. 887, 891); and

Whereas said works were constructed, pursuant to special provisions contained in the Interior Department Appropriation Acts, 1949 and 1950, to furnish new lands with irrigation water in substitution for irrigated lands in Broadwater County, Montana, inundated by the operation of the Canyon Ferry Reservoir at a maximum normal pool elevation above three thousand seven hundred and sixty-six feet; and

Whereas the Toston Irrigation District has been organized under the laws of the State of Montana for the purpose of entering into contractual arrangement with the United States; and

Whereas the said district will probably be unable for some time to pay to the United States more than the cost of operating and maintaining said works, exclusive of charges for electrical pumping energy; and

Whereas the Congress expects said district to make every reasonable effort to expand its boundaries and otherwise to put itself in such financial shape that, upon the expiration of not more than ten years, it can assume its proper obligations under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) : Now, therefore, be it *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

[Toston Irrigation District, Mont.—Contract with United States.]—That the Secretary of the Interior is authorized to execute a contract with Toston Irrigation District which provides, among other things, that—

(a) the district will pay to the United States each year the full cost to the Government of operating and maintaining the works of the Crow Creek pumping unit during that year, exclusive of the cost of electrical pumping energy, said payment to be made, as far as the cost can be forecast by the Secretary or his duly authorized delegate, in advance and in not more than two installments;

(b) the United States will deliver to the district, as far as conditions permit, water in sufficient quantity to furnish two acre-feet per irrigated acre, measured at the farm turnouts, for use on the irrigable lands of the district;

(c) the district will, in addition to the amounts specified under (a) above, pay to the United States such sums as may be required to cover the cost, including the cost of electrical pumping energy, of furnishing more than two acre-feet per irrigated acre as hereinbefore provided;

August 12, 1955

1234 CONTRACT WITH TOSTON IRRIGATION DISTRICT

(d) the district acknowledges and will cause each landowner to whom water is delivered to acknowledge that the contract confers upon it and them no right to the continued operation and maintenance of said works beyond the period during which it is in force unless, prior to the expiration thereof, the district shall have entered into a long-term contract conforming to the provisions of the Federal reclamation laws and that no permanent right to the use of water arises, attaches to their lands, or is claimed to arise or attach to their lands by virtue of the delivery of water through said works or the application to their lands of such water;

(e) the district will comply fully with all provisions of the Federal reclamation laws which are not inconsistent with this Act and the contract executed pursuant to the authority contained herein; and

(f) the contract shall, subject to the district's compliance with all of its terms and conditions, continue in force until December 31, 1955, and shall be renewed automatically for each of the nine succeeding calendar years unless either of the parties shall, on or before November 1 of any year, serve written notice of its intention that the contract shall not be renewed.

(69 Stat. 697, 698)

EXPLANATORY NOTES

Not Codified. This Act is not codified in  
the U.S. Code.

Legislative History. S.J. Res. 82, Public  
Law 374 in the 84th Congress. H.R. Rept.  
No. 1447. S. Rept. No. 1153.

## TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Trinity River division, Central Valley project, California, under Federal reclamation laws. (Act of August 12, 1955, ch. 872, 69 Stat. 719)

[Sec. 1. Central Valley project, California—Trinity River division authorized.]—For the principal purpose of increasing the supply of water available for irrigation and other beneficial uses in the Central Valley of California, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain, as an addition to and an integral part of the Central Valley project, California, the Trinity River division consisting of a major storage reservoir on the Trinity River with a capacity of two million five hundred thousand acre-feet, a conveyance system consisting of tunnels, dams, and appurtenant works to transport Trinity River water to the Sacramento River and provide, by means of storage as necessary, such control and conservation of Clear Creek flows as the Secretary determines proper to carry out the purposes of this Act, hydroelectric powerplants with a total generating capacity of approximately two hundred thirty-three thousand kilowatts, and such electric transmission facilities as may be required to deliver the output of said powerplants to other facilities of the Central Valley project and to furnish energy in Trinity County: *Provided*, That the Secretary is authorized and directed to continue to a conclusion the engineering studies and negotiations with any non-Federal agency with respect to proposals to purchase falling water and, not later than eighteen months from the date of enactment of this Act, report the results of such negotiations, including the terms of a proposed agreement, if any, that may be reached, together with his recommendations thereon, which agreement, if any, shall not become effective until approved by Congress. The works authorized to be constructed shall also include a conduit or canal extending from the most practicable point on the Sacramento River near Redding in an easterly direction to intersect with Cow Creek, with such pumping plants, regulatory reservoirs, and other appurtenant works as may be necessary to bring about maximum beneficial use of project water supplies in the area. (69 Stat. 719)

### EXPLANATORY NOTES

**Supplementary Provision: Increase in Generating Capacity.** A provision in the Public Works Appropriation Act, 1956, 70 Stat. 478, enacted July 2, 1956, increases the generating capacity to approximately 400,000 kilowatts. The provision appears herein in chronological order.

**Cross Reference, Storage Reservoir Named.** The major storage reservoir on the Trinity River, referred to in the text, was

designated Clair Engle Lake by the Act of October 13, 1964, 78 Stat. 1093. The Act appears herein in chronological order.

**Cross Reference, Central Valley Project, California.** The Central Valley project, referred to in the text, was authorized by a finding of feasibility by the Secretary of the Interior, approved by the President on December 2, 1935. The project was reauthorized by section 2 of the Act of August 26,

August 12, 1955

1236 TRINITY RIVER DIVISION, CENTRAL VALLEY

1937, 50 Stat. 850. The 1937 Act appears herein in chronological order. For references to other authorizations in the Central Valley project, California, see the explanatory notes following section 2 of the 1937 Act.

**Sec. 2. [Integration and coordination with other features of Central Valley project—Fish and wildlife preservation and propagation.]**—Subject to the provisions of this Act, the operation of the Trinity River division shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project, as presently authorized and as may in the future be authorized by Act of Congress, in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available: *Provided*, That the Secretary is authorized and directed to adopt appropriate measures to insure the preservation and propagation of fish and wildlife, including, but not limited to, the maintenance of the flow of the Trinity River below the diversion point at not less than one hundred and fifty cubic feet per second for the months July through November and the flow of Clear Creek below the diversion point at not less than fifteen cubic feet per second unless the Secretary and the California Fish and Game Commission determine and agree that lesser flows would be adequate for maintenance of fish life and propagation thereof; the Secretary shall also allocate to the preservation and propagation of fish and wildlife, as provided in the Act of August 14, 1946 (60 Stat. 1080), an appropriate share of the costs of constructing the Trinity River development and of operating and maintaining the same, such costs to be non-reimbursable: *Provided further*, That not less than 50,000 acre-feet shall be released annually from the Trinity Reservoir and made available to Humboldt County and downstream water users. (69 Stat. 719)

EXPLANATORY NOTE

**Reference in the Text.** The Act of August 14, 1946 (60 Stat. 1080), referred to in the text, as amended is the Fish and Wildlife Coordination Act. The Act appears herein in chronological order.

**Sec. 3. [Minimum basic facilities for health and safety—Lands for such facilities—Report to Congress on need for additional lands.]**—The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Trinity River division, to conserve the scenery and the natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by these developments by such means as are consistent with their primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other

August 12, 1955

TRINITY RIVER DIVISION, CENTRAL VALLEY

1237

lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable (69 Stat. 720).

**Sec. 4. [Sale and delivery of additional power available through construction of the division—Preference customers.]**—Contracts for the sale and delivery of the additional electric energy available from the Central Valley project power system as a result of the construction of the plants herein authorized and their integration with that system shall be made in accordance with preferences expressed in the Federal reclamation laws: *Provided*, That a first preference, to the extent of 25 per centum of such additional energy, shall be given, under reclamation law, to preference customers in Trinity County, California, for use in that county, who are ready, able and willing, within twelve months after notice of availability by the Secretary, to enter into contracts for the energy: *Provided further*, That Trinity County preference customers may exercise their option on the same date in each successive fifth year providing written notice of their intention to use the energy is given to the Secretary not less than eighteen months prior to said date. (69 Stat. 720)

**Sec. 5. [Payments to Trinity County, Calif.—Payments to public school districts.]**—The Secretary is authorized to make payments, from construction appropriations, to Trinity County, California, of such additional costs of repairing, maintaining, and constructing county roads as are incurred by it during the period of actual construction of the Trinity River division and as are found by the Secretary to be properly attributable to and occasioned by said construction. The Secretary is further authorized and directed to pay to Trinity County annually an in-lieu tax payment out of the appropriations during construction and from the gross revenues of the project during operation an amount equal to the annual tax rate of the county applied to the value of the real property and improvements taken for project purposes in Trinity County, said value being determined as of the date such property and improvements are taken off the tax rolls. Payments to the public-school districts in the project area affected by construction activities shall be made pursuant to existing law. (69 Stat. 720)

NOTE OF OPINION

**1. In-lieu tax payments**

The authority to make in-lieu tax payments to Trinity County annually in an amount equal to "the annual tax rate of the county" applied to the value of real property and improvements taken for project

purposes, does not include amounts equivalent to the separate tax rates fixed by the various school districts in the county. Letter of Commissioner Dexheimer to Senator Knowland, January 5, 1959.

**Sec. 6. [Appropriation.]**—There are hereby authorized to be appropriated for construction of the Trinity River division \$225,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of

August 12, 1955

1238      TRINITY RIVER DIVISION, CENTRAL VALLEY

construction involved herein, and, in addition thereto, such sums as may be required to carry out the provisions of section 5 of this Act and to operate and maintain the said development. (69 Stat. 721)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 386 in the 84th Congress. H.R. Rept. the U.S. Code. No. 602. S. Rept. No. 1154. H.R. Rept. No. 732 (on H. Res. 263).  
**Legislative History.** H.R. 4663, Public

### REPAYMENT CONTRACT, YUMA MESA DISTRICT

An act to authorize the Secretary of the Interior to execute a repayment contract with the Yuma Mesa Irrigation and Drainage District, Gila project, Arizona, and for other purposes. (Act of January 28, 1956, ch. 13, 70 Stat. 5)

[Sec. 1. Yuma Mesa Irrigation District, Ariz.—Repayment contract.]—The Secretary of the Interior is authorized to execute a contract with the Yuma Mesa Irrigation and Drainage District, Gila project, Arizona, on such terms and conditions as the Secretary deems appropriate, which shall provide, among other things, for repayment by the District to the United States over a period of not exceeding sixty years from the end of the development period for each irrigation block established by the Secretary for lands situate within said district of (1) an average of \$200 per acre for lands in said district for which irrigation facilities have been constructed, to be allocated as determined to be appropriate by the Secretary among the twelve thousand twenty-three and six-tenths acres of class 2 lands and the seven thousand nine hundred forty-six and four-tenths acres of class 3 lands in the district, as classified in the Bureau of Reclamation report titled, "Land Classification Report, Unit One, Yuma Mesa Division, Gila Project, Arizona, May 1949", as amended, made pursuant to subsection (d) of section 4 of the Act of December 5, 1924 (43 Stat. 702, 43 U.S.C. 462); (2) the unpaid operation and maintenance charges which accrued prior to June 30, 1954 (totaling \$297,167.45, as allocated by the Secretary to said lands situate within the district; and (3) the costs of the works authorized in section 2 hereof, not exceeding \$1,350,000, and further providing for the release, on such terms and conditions as the Secretary finds appropriate, of the existing predevelopment contracts and mortgages held by the United States on the lands situate within the district which were predeveloped by the United States, and for the repayment to the United States by the lands benefited by said predevelopment of the amounts provided for in said mortgages in the same period within which the costs for the construction of the irrigation facilities are to be repaid. (70 Stat. 5)

#### EXPLANATORY NOTE

Reference in the Text. The Act of December 5, 1924 (43 Stat. 702, 43 U.S.C. 462), is the Fact Finders' Act. Subsection (D) of section 4 of the Act, referred to in the text, provides for a classification of the irrigable lands of a project and the apportion-

tioning of charges against different classes of land so that as far as practicable all lands bear the burden of costs according to their productive value. The Fact Finders' Act appears herein in chronological order.

Sec. 2. [Surveys, construction, etc.]—The Secretary is authorized on such terms and conditions as he deems appropriate to make drainage surveys and investigations of the lands within the district, to construct drainage facilities and works therefor, to install additional pump capacity in the Yuma Mesa Pump Plant of not to exceed two hundred and seventy-five cubic feet per second, to construct such buildings determined by him to be appropriate in connection with the operation and maintenance of the lands situate within the district,

January 28, 1956

1240 REPAYMENT CONTRACT, YUMA MESA DISTRICT

and to provide in the contract referred to in section 1 hereof for the performance of such work. (70 Stat. 6)

**Sec. 3. [Excess expenditures by U.S.]**—Expenditures by the United States in excess of the amounts to be repaid by the district as provided in section 1 hereof, which have been allocated by the Secretary (a) to acreage eliminated from the Gila project pursuant to the Act of July 30, 1947 (61 Stat. 628), (b) to dust control on the Yuma Mesa Division, Gila project, (c) to that portion of predevelopment costs not heretofore covered by contracts and mortgages covering predevelopment charges on lands situate within the district, and (d) other costs allocated by the Secretary to the lands situate within the district not otherwise covered by the repayment obligation in section 1 hereof to be assumed by the district or not otherwise allocated by the Secretary to other contracting entities and which are not assumed or are not to be assumed by them, shall be non-reimbursable: *Provided*, That all revenues from the disposal of public lands within the district (which disposition is hereby authorized on terms and conditions satisfactory to the Secretary) or from special water service contracts other than those which the Secretary determines are allocable to operation and maintenance costs of the district shall be retained by the United States. (70 Stat. 6)

EXPLANATORY NOTE

**Reference in the Text.** The Act of July 30, 1947 (61 Stat. 628), referred to in the text, reauthorized the Gila project, Arizona, on the basis of a reduced area of irrigation, and redesignated it as the Yuma Mesa division, Gila project, and the Wellton-Mohawk division, Gila project. The Act appears herein in chronological order.

**Sec. 4. [Termination.]**—The authority granted in section 1 of this Act to execute said contract shall terminate on December 31, 1957. (70 Stat. 6)

**Sec. 5. [Reclamation laws.]**—This Act is declared to be a part of the Federal reclamation laws as they are defined in the Reclamation Project Act of 1939 (53 Stat. 1187). (70 Stat. 6)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

394 in the 84th Congress. S. Rept. No. 1072. H.R. Rept. No. 1583 (on H.R. 5806).

**Legislative History.** S. 1689, Public Law

## CHANGE BOUNDARIES, YUMA AUXILIARY PROJECT

An act to amend the act of June 13, 1949 (63 Stat. 172), and for other purposes. (Act of February 15, 1956, ch. 37, 70 Stat. 16)

[**Sec. 1. Exclusion of lands—Yuma auxiliary project, Arizona.**]—The boundaries of the Yuma auxiliary project, Arizona, as limited by the Act of June 13, 1949 (63 Stat. 172), are modified so as to exclude therefrom the following lands, containing two hundred eighty-five and thirteen one-hundredths irrigable acres more or less, and located in Yuma County Arizona:

### TOWNSHIP 10 SOUTH, RANGE 23 WEST, GILA AND SALT RIVER BASE AND MERIDIAN

Section 6: Southwest quarter northeast quarter northwest quarter, west half northwest quarter southeast quarter northwest quarter, west half east half northwest quarter southeast quarter northwest quarter, southwest quarter southeast quarter northwest quarter, southwest quarter northwest quarter, northwest quarter southwest quarter.

Section 7: Southwest quarter northeast quarter northwest quarter, northwest quarter northwest quarter, northwest quarter southeast quarter northwest quarter, north half southwest quarter northwest quarter, southwest quarter southwest quarter northwest quarter, northwest quarter southwest quarter, north half southwest quarter southwest quarter, southwest quarter southwest quarter southwest quarter.

Section 18: North half northwest quarter northwest quarter, and in lieu thereof to include in said project those lands in the same county and State which are situate in section 33, township 9 south, range 23 west, and in sections 4 and 9, township 10 south, range 23 west, and which lie between the east boundary of the project as limited by said Act and the east boundary of the right-of-way of the project's existing B-Main Canal and containing two hundred eighty-five and five one-hundredths irrigable acres more or less. (70 Stat. 16)

**Sec. 2. [Effective date.]**—This Act shall become effective upon acceptance by the Unit B Irrigation and Drainage District of an amendment to its contract dated December 22, 1952, with the United States whereby the description of the Yuma auxiliary project therein contained or incorporated by reference is revised to conform to the modification of the boundaries of said project as hereinbefore provided. (70 Stat. 17)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 409 in the 84th Congress. S. Rept. No. 1065. the U.S. Code. H.R. Rept. No. 1670.

**Legislative History.** S. 1683, Public Law

February 25, 1956

1242

## WASHITA BASIN PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Washita River Basin reclamation project, Oklahoma. (Act of February 25, 1956, ch. 71, 70 Stat. 28)

[**Sec. 1. Washita River Basin project, Okla.**]—The Secretary of the Interior is authorized to construct, operate, and maintain the Washita River Basin reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto), except so far as those laws are inconsistent with this Act, for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and, for the irrigation of approximately twenty-six thousands acres of land and of controlling floods and, as incidents to the foregoing for the additional purposes of regulating the flow of the Washita River, providing for the preservation and propagation of fish and wildlife, and of enhancing recreational opportunities. The Washita project shall consist of the following principal works: A reservoir at or near the Foss site on the main stem of the Washita River; a reservoir at or near the Fort Cobb site on Pond (Cobb) Creek; and canals, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use, and for irrigation. (70 stat. 28; 43 U.S.C. § 615)

**Sec. 2. [Allocation of costs.]**—In constructing, operating, and maintaining the Washita project, the Secretary shall allocate proper costs thereof in accordance with the methods used in determining the allocations made on pages 68, 69, and 70, of House Document 219, Eighty-third Congress, but with appropriate adjustments for changes in actual cost of construction, under the following conditions:

(a) [**Nonreimbursable costs.**]—Allocations to flood control, recreation, and the preservation and propagation of fish and wildlife shall be nonreturnable.

(b) [**Repayment contracts.**]—Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable through contracts with municipal corporations, or other organizations as defined by section 2, Reclamation Project Act of 1939 (53 Stat. 1187). Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipalities, and shall provide for repayment of construction costs allocated to municipal water supply in not to exceed fifty years from the dates water is first delivered for that purpose, and payments of said construction costs shall include interest on unamortized balances of that allocation at a rate equal to the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term loans outstanding on the date of this Act: *Provided*, That such contracts shall provide that annual municipal repayments shall continue at the same rates until the costs of Foss and Fort Cobb Reservoirs allocated to irrigation are fully repaid: *Provided further*, That if irrigation works are constructed, as hereinafter provided, said

February 25, 1956

WASHITA BASIN PROJECT

1243

annual repayment rates shall continue so long as the costs of irrigation works are unpaid.

(c) [Limitation.]—The authorization for construction of the irrigation works, exclusive of Foss and Fort Cobb Reservoirs, shall be limited, as to each reservoir, to a period of ten years from the commencement of the delivery of municipal water from the reservoir on which the irrigation unit is dependent. Any contract entered into under section 9, subsection (d) of the Reclamation Project Act of 1939 for payment of those portions of the costs of constructing, operating, and maintaining the Washita project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than fifty-five years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided*, That nothing in this section is intended to preclude the temporary furnishing of irrigation water under contracts appropriate for that purpose from Foss and Fort Cobb Reservoirs with or without the construction of specific irrigation works. (70 Stat. 29; 43 U.S.C. § 615a)

Sec. 3. [Construction.]—Construction of the Washita project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serves the project requirements and the relative needs for water of the several prospective users. Repayment contracts negotiated in connection with each unit or stage of construction shall be subject to the terms and conditions of section 2 of this Act. (70 Stat. 30; 43 U.S.C. § 615b)

Sec. 4. [Park and recreational facilities.]—The Secretary may, upon conclusion of a suitable agreement with any qualified agency of the State of Oklahoma or a political subdivision thereof for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, construct or permit the construction of public park and recreational facilities on lands owned by the United States adjacent to the reservoirs of the Washita project, when such use is determined by the Secretary not to be contrary to the public interest, all under such rules and regulations as the Secretary may prescribe. No recreational use of any area to which this section applies shall be permitted which is inconsistent with the laws of the State of Oklahoma for the protection of fish and game. The costs of constructing, operating, and maintaining the facilities authorized by this section shall not be charged to or become a part of the costs of the Washita River Basin project. (70 Stat. 30; 43 U.S.C. § 615c)

Sec. 5. [Expenditures.]—Expenditures for Foss and Fort Cobb Reservoirs may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954 (43 U.S.C. 390a). (70 Stat. 30; 43 U.S.C. § 615d)

February 25, 1956

1244

WASHITA BASIN PROJECT

**Sec. 6. [Appropriation.]**—There is hereby authorized to be appropriated for construction of the works authorized to be constructed by section 1 of this Act the sum of \$40,600,000 plus such additional amount, if any, as may be required by reason of changes in the costs of construction of the types involved in the Washita River Basin project as shown by engineering indices. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (70 Stat. 30; 43 U.S.C. § 615e)

EXPLANATORY NOTE

**Legislative History.** S. 180, Public Law 419 in the 84th Congress. S. Rept. No. 361. H.R. Rept. No. 1582. H.R. Rept. No. 1636 (on H. Res. 363).

## VENTURA RIVER PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Ventura River reclamation project, California. (Act of March 1, 1956, ch. 75, 70 Stat. 32)

[**Sec. 1. Ventura River project, Calif.**]—For the purpose of supplying water for the irrigation of lands in Ventura County, California, and for municipal, domestic, and industrial use therein, and for other incidental beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Ventura River reclamation project comprising, as its principal works, Casitas Dam and Reservoir on Coyote Creek, Robles diversion dam on Ventura River, a canal to carry water from the Robles diversion dam to Casitas Reservoir, and other conduits and related facilities to deliver water to the lands and area to be served by the project. (70 Stat. 32)

**Sec. 2. (a) [Construction, etc.]**—In constructing, operating, and maintaining the Ventura River project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) except as is otherwise provided in this Act.

**(b) [Allocation of costs.]**—In furnishing water for irrigation and for municipal, domestic, and industrial uses from the Ventura River project the Secretary shall charge rates with the object of returning to the United States during a fifty-year payment period (including any development period) all of the costs incurred by it in constructing, operating, and maintaining the project which the Secretary finds to be properly allocable to the purposes aforesaid and of interest, as hereinafter provided, on the portion of the construction cost which is allocated to municipal, domestic, and industrial water.

**(c) [Repayment contracts.]**—Any contract entered into under section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193, 43 U.S.C., sec. 485(h)) for payment of those portions of the costs of constructing, operating, and maintaining the Ventura River project which are allocated to irrigation and assigned to be paid by the contracting organization may provide for the repayment of the portion of the construction cost of the project assigned to any project contract unit or, if the contract unit be divided into two or more irrigation blocks, to any such block over a period of not more than fifty years or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay.

**(d) [Municipal, domestic and industrial use revenues.]**—Notwithstanding any other provision of law to the contrary, all net revenues derived by the Secretary from the furnishing of water for municipal, domestic, and industrial use shall be applied first to the amortization of that portion of the cost of constructing the Ventura River project which is allocated to that purpose with interest on the unamortized balance thereof at the average rate (which

March 1, 1956

1246

## VENTURA RIVER PROJECT

rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and thereafter to the amortization of that portion of the cost of constructing the project which is allocated to irrigation but which is beyond the ability of the irrigation water users or their contracting organization to repay as provided above.

(e) [Transfer of operation and maintenance.]—The Secretary is authorized, subject to such rules and regulations as he may prescribe, to turn over to any contracting organization or to an organization which is designated by it for that purpose and which is satisfactory to the Secretary the care, operation, and maintenance of such portions of the Ventura River project as are used solely or principally for the benefit of that organization.

(f) [Minimum basic facilities.]—Minimum basic facilities may be provided for the accommodation of the visiting public at Casitas Dam and, if responsible local interests agree to assume the operation and maintenance thereof, at the project reservoirs. The costs of such facilities shall be non-reimbursable. (70 Stat. 32)

Sec. 3. [Appropriation.]—There is hereby authorized to be appropriated for construction of the Ventura River project the sum of \$27,600,000 plus such amounts, if any, as may be required by reason of changes in construction costs as may be indicated by engineering cost indices applicable to the types of construction involved herein and, in addition thereto, such sums as may be required to operate and maintain the project. (70 Stat. 33)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 423 in the 84th Congress. S. Rept. No. 1071.  
the U.S. Code. H.R. Rept. No. 1659. H.R. Rept. No. 1737

**Legislative History.** S. 926, Public Law (on H. Res. 394).

### RELIEF OF ISABELLE S. GORRELL, ET AL.

An act for the relief of Isabelle S. Gorrell, Donald E. Gorrell, Mary Owen Gorrell, and Kathryn G. Wright. (Act of April 2, 1956, ch. 165, 70 Stat. A32)

[Payment in settlement of claims authorized.]—The Secretary of the Treasury is authorized and directed to pay to Isabelle S. Gorrell, Donald E. Gorrell, Mary Owen Gorrell, and Kathryn G. Wright, jointly, the sum of \$10,500. The payment of such sum shall be in full settlement of all claims of the said Isabelle S. Gorrell, Donald E. Gorrell, Mary Owen Gorrell, and Kathryn G. Wright against the United States for damage to real property formerly owned by them, described more particularly as Farm Unit "P", lots 46 and 55 of township 54 north, range 100 west, in the Shoshone Irrigation District, Wyoming, allegedly resulting from water seepage and direct flow of water from the Heart Mountain Division of the Shoshone project of the Bureau of Reclamation: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (70 Stat. A32)

#### EXPLANATORY NOTE

Legislative History. H.R. 2522, Private No. 1533. S. Rept. No. 1600 (on S. 1008). Law 578 in the 84th Congress. H.R. Rept.

April 11, 1956

1248

## COLORADO RIVER STORAGE PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes. (Act of April 11, 1956, ch. 203, 70 Stat. 105)

[**Sec. 1. Colorado River storage project.**]—In order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident to the foregoing purposes, the Secretary of the Interior is hereby authorized:

(1) [**Initial units—Curecanti Dam capacity—Report to Congress and President.**]—To construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Curecanti, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon: *Provided*, That the Curecanti Dam shall be constructed to a height which will impound not less than nine hundred and forty thousand acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at seven thousand five hundred and twenty feet above mean sea level, and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engineering and economic investigations, reexamined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and

(2) [**Participating projects—Protection of Rainbow Bridge National Monument.**]—To construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase), San Juan-Chama (initial stage), Emery County, Florida, Hammond, La Barge, Lyman, Navajo Indian, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Pine River Extension, Seedskadee, Savery-Pot Hook, Bostwick Park, Fruitland Mesa, Silt and Smith Fork: *Provided further*, That as part of the Glen Canyon Unit the Secretary of the Interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument. (70 Stat. 105; Act of June 13, 1962, 76 Stat. 102; Act of September 2, 1964, 78 Stat. 852; 43 U.S.C. § 620)

April 11, 1956

## COLORADO RIVER STORAGE PROJECT

1249

### EXPLANATORY NOTES

**1964 Amendment.** The Act of September 2, 1964, 78 Stat. 852, amended section 1 by inserting the words "Savery-Pot Hook, Bostwick Park, Fruitland Mesa," between the words "Seedskae" and "Silt." The Act appears herein in chronological order.

**1962 Amendment.** The Act of June 13, 1962, 76 Stat. 102, amended section 1 by inserting the words "San Juan-Chama (initial stage)" after "Central Utah (initial phase)", and by inserting the words "Navajo Indian," after the word "Lyman." The Act appears herein in chronological order.

**Supplementary Provision: Navajo Land Exchange.** The Act of September 2, 1958, provided for the acquisition by the United

States of 53,000 acres of land within the Navajo Indian Reservation in Arizona and Utah for the Glen Canyon unit and the addition of an equal acreage to the Reservation in San Juan County, Utah. The Act appears herein in chronological order.

**Reservation of Water.** In late 1964 the Department announced a reservation of 5,000 acre-feet annually of stored water in the Green Mountain Reservoir of the Colorado-Big Thompson project for use of the Silt project, a participating project of the Colorado River Storage project, with replacement of any resulting power losses to be made from the Colorado River Storage project power. 29 F.R. 17852 (1964).

### NOTES OF OPINIONS

Indian lands 2

Rainbow Bridge 1

Seedskae project 3

#### 1. Rainbow Bridge

By specifically denying funds for the construction or operation of facilities to prevent the waters of Lake Powell from entering any National Monument, Congress has effectively suspended the provisions of sections 1 and 3 of the Colorado River Storage Project Act designed to protect the Rainbow Bridge National Monument, and the Secretary therefore is without discretion to defer closure at Glen Canyon Dam. Solicitor Barry Opinion, 70 I.D. 200 (1963).

#### 2. Indian lands

The Secretary has authority under the Act

of February 5, 1948, to make available lands in the Navajo Indian Reservation for use in connection with the construction, operation, and maintenance of the Glen Canyon Dam, powerplant and reservoir. Deputy Solicitor Fritz Opinion, 64 I.D. 70 (1957).

#### 3. Seedskae project

Construction of a hydroelectric power plant at Fontenelle Dam as part of the Seedskae project is authorized, in view of the fact that the authorization of the project by name only indicates an intent that there be leeway for reasonable adjustments as planning progresses and the fact that provision for power-generating facilities was included in the original plan of development. Memorandum of Solicitor Barry, March 2, 1962.

**Sec. 2. [Planning reports—Priority—Reports to States, President, and Congress.]**—In carrying out further investigations of projects under the Federal reclamation laws in the Upper Colorado River Basin, the Secretary shall give priority to completion of planning reports on the Gooseberry, Parshall, Troublesome, Rabbit Ear, Eagle Divide, San Miguel, West Divide, Bluestone, Battlement Mesa, Tomichi Creek, East River, Ohio Creek, Grand Mesa, Dallas Creek, Dolores, Fruit Growers Extension, Animas-La Plata, Yellow Jacket, and Sublette participating projects. Said reports shall be completed as expeditiously as funds are made available therefor and shall be submitted promptly to the affected States, which in the case of the San Juan-Chama project shall include the State of Texas, and thereafter to the President and the Congress: *Provided*, That with reference to the plans and specifications for the San Juan-Chama project the storage for control and regulation of water imported from the San Juan River shall (1) be limited to a single offstream dam and reservoir on a tributary of the Chama River, (2) be used solely for control and regulation and no power facilities shall be established, installed or operated thereat, and (3) be operated

April 11, 1956

1250

## COLORADO RIVER STORAGE PROJECT

at all times by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande Compact as administered by the Rio Grande Compact Commission. The preparation of detailed designs and specifications for the works proposed to be constructed in connection with projects shall be carried as far forward as the investigations thereof indicate is reasonable in the circumstances.

[**Juniper project.**]—The Secretary, concurrently with the investigations directed by the preceding paragraph, shall also give priority to completion of a planning report on the Juniper project. (70 Stat. 106; Act of June 13, 1962, 76 Stat. 102; Act of September 2, 1964, 78 Stat. 852; 43 U.S.C. § 620a)

### EXPLANATORY NOTES

**1964 Amendment.** The Act of September 2, 1964, 78 Stat. 852, amended section 2 by deleting the words "Savery-Pot Hook," "Bostwick Park," and "Fruitland Mesa." The Act appears herein in chronological order.

**1962 Amendment.** The Act of June 13, 1962, 76 Stat. 102, deleted the words "San Juan-Chama" and "Navajo" from section 2.

The 1962 Act appears herein in chronological order.

**Reference in the Text.** The Rio Grande Compact, referred to in the text, was approved by Congress by the Act of May 31, 1939. The Act, which includes the text of the compact, appears herein in chronological order.

**Sec. 3. [Congressional intent.]**—It is not the intention of Congress, in authorizing only those projects designated in section 1 of this Act, and in authorizing priority in planning only those additional projects designated in section 2 of this Act, to limit, restrict, or otherwise interfere with such comprehensive development as will provide for the consumptive use by States of the Upper Colorado River Basin of waters, the use of which is apportioned to the Upper Colorado River Basin by the Colorado River Compact and to each State thereof by the Upper Colorado River Basin Compact, nor to preclude consideration and authorization by the Congress of additional projects under the allocations in the compacts as additional needs are indicated. It is the intention of Congress that no dam or reservoir constructed under the authorization of this Act shall be within any national park or monument. (70 Stat. 107; 43 U.S.C. § 620b)

### NOTE OF OPINION

#### 1. Rainbow Bridge

By specifically denying funds for the construction or operation of facilities to prevent the waters of Lake Powell from entering any National Monument, Congress has effectively suspended the provisions of sections 1 and 3 of the Colorado River

Storage Project Act designed to protect the Rainbow Bridge National Monument, and the Secretary therefore is without discretion to defer closure at Glen Canyon Dam. Solicitor Barry Opinion, 70 I.D. 200 (1963).

**Sec. 4. [Reclamation laws govern except for 50-year repayment period, organization's taxing power required, municipal water supply contracts, and Indian lands—Surplus crops—Colorado River Compact, Upper Colorado River Basin Compact, and Mexican Treaty.]**—Except as otherwise provided in this Act, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 1 of this Act, the Secretary shall be governed by the Federal reclamation laws (Act of June 17,

April 11, 1956

COLORADO RIVER STORAGE PROJECT

1251

1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided*, That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than fifty years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an "organization" as defined in paragraph 2(g) of the Reclamation Project Act of 1939 (53 Stat. 1187) which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 9(c) of the Reclamation Project Act of 1939, and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to the Act of July 1, 1932 (47 Stat. 564): *Provided further*, That for a period of ten years from the date of enactment of this Act, no water from any participating project authorized by this Act shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994). (70 Stat. 107; 43 U.S.C. § 620c)

EXPLANATORY NOTES

**Cross Reference.** Section 4(d) is referred to in section 2 of the Act of June 13, 1962, 76 Stat. 96, authorizing the Navajo Indian irrigation project. The Act appears herein in chronological order.

**Reference in the Text.** The last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939 (enacted August 4, 1939), referred to in subsection (c) of the text, reads: "No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes." The Act appears herein in chronological order.

**Reference in the Text.** The Act of July 1, 1932 (47 Stat. 564), referred to in the text, is the so-called Leavitt Act, which provides

among other things that the collection of all construction costs against any Indian-owned lands within any Government irrigation project be deferred, and no assessments be made on behalf of such charges against such lands, until the Indian title thereto shall have been extinguished, and it further provides for the cancellation of certain construction assessments previously levied. The Act appears herein in chronological order.

**Reference in the Text.** The definition of "agricultural commodity" in the Agricultural Act of 1949, as amended, referred to in the text, is found at 63 Stat. 1056, 7 U.S.C. § 1428(c). The definition of "normal supply" in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. § 1301 (b)(10). Neither Act appears herein.

April 11, 1956

**Reference in the Text.** The Colorado River Compact, referred to in the text, appears herein following the Act of December 21, 1928. The Upper Colorado River Basin Compact was approved by the Act of April 6, 1949, which includes the text of the

Compact. The Act appears herein in chronological order. The treaty with the United Mexican States (Treaty Series 994) was signed at Washington on February 3, 1944, and appears herein under that date.

NOTES OF OPINIONS

Indian charges 1  
Reclamation laws 2

**1. Indian charges**

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.

The purpose of mentioning section 4(d) in respect to the Navajo Indian Irrigation project in section 2 of the Act of June 13,

1962, is to make clear that 4(d) is to apply in addition to section 6 of the Colorado River Storage Project Act, which latter section makes nonreimbursable all Navajo project construction costs above the payable-but-deferred 4(d) construction costs. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

**2. Reclamation laws**

Since Public Law 87-483 makes the Navajo Indian Irrigation project a participating project in the Colorado River Storage project, it is governed by the Federal Reclamation Laws, as provided by section 4 of the Act of April 11, 1956. Memorandum of Associate Solicitor Hogan, October 6, 1966, in re payments and funds provisions in specifications for construction performed for other agencies.

**Sec. 5. (a) [Basin fund.]**—There is hereby authorized a separate fund in the Treasury of the United States to be known as the Upper Colorado River Basin Fund (hereinafter referred to as the Basin Fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this Act other than section 8.

**(b) [Appropriations to be credited to fund.]**—All appropriations made for the purpose of carrying out the provisions of this Act, other than section 8, shall be credited to the Basin Fund as advances from the general fund of the Treasury.

**(c) [Availability of revenues.]**—All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appropriation acts: *Provided*, That with respect to each participating project, such costs shall be paid from revenues received from each such project; (2) payment as required by subsection (d) of this section; and (3) payment as required by subsection (e) of this section. Revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this Act.

**(d) [Returns to Treasury.]**—Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 6 of this Act, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (f), and interest due shall be a first charge; and

(4) the costs of each storage unit which are allocated to irrigation pursuant to section 6 of this Act within a period not exceeding fifty years.

(e) [Apportionment of revenues.]—Revenues in the Basin Fund in excess of the amounts needed to meet the requirements of clause (1) of subsection (c) of this section and to return to the general fund of the Treasury the costs set out in subsection (d) of this section, shall be apportioned among the States of the Upper Division in the following percentages: Colorado, 46 per centum; Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum: *Provided*, That prior to the application of such percentages, all revenues remaining in the Basin Fund from each participating project (or part thereof), herein or hereafter authorized, after payments, where applicable, with respect to such projects, to the general fund of the Treasury under subparagraphs (1), (2), and (3) of subsection (d) of this section shall be apportioned to the State in which such participating project, or part thereof, is located.

Revenues so apportioned to each State shall be used only for the repayment of construction costs of participating projects or parts of such projects in the State to which such revenues are apportioned and shall not be used for such purpose in any other State without the consent, as expressed through its legally constituted authority, of the State to which such revenues are apportioned. Subject to such requirement, there shall be paid annually into the general fund of the Treasury from the revenues apportioned to each State (1) the costs of each participating project herein authorized (except Paonia) or any separable feature thereof, which are allocated to irrigation pursuant to section 6 of this Act, within a period not exceeding fifty years, in addition to any development period authorized by law, from the date of completion of such participating project or separable feature thereof, or, in the case of Indian lands, payment in accordance with section 4 of this Act; (2) costs of the Paonia project, which are beyond the ability of the water users to repay, within a period prescribed in the Act of June 25, 1947 (61 Stat. 181); and (3) costs in connection with the irrigation features of the Eden project as specified in the Act of June 28, 1949 (63 Stat. 277).

(f) [Interest rate.]—The interest rate applicable to each unit of the storage project and each participating project for purposes of computing interest during

April 11, 1956

construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue.

(g) [Budget to Congress.]—Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund. (70 Stat. 107; § 9, Act of June 27, 1960, 74 Stat. 227; § 18, Act of June 13, 1962, 76 Stat. 102; 43 U.S.C. § 620d)

EXPLANATORY NOTES

**1962 Amendment.** Section 18 of the Act of June 13, 1962, amended the proviso in subsection (e) by substituting the word "hereafter" for the word "hereinafter". The Act appears herein in chronological order.

**1960 Amendment.** Section 9 of the Act of June 27, 1960, 74 Stat. 227 (which authorized the Norman project, Oklahoma) amended the interest rate provision to read as shown. The Act appears herein in chronological order. As originally enacted, subsection (f) read as follows: "(f) The interest rate applicable to each unit of the storage project and each participating project shall be determined by the Secretary of the Treasury as of the time the first advance is made for initiating construction of said unit or project. Such interest rate shall be determined by calculating the average yield to maturity on the basis of daily closing market bid quotations during the month of

June next preceding the fiscal year in which said advance is made, on all interest-bearing marketable public debt obligations of the United States having a maturity date of fifteen or more years from the first day of said month, and by adjusting such average annual yield to the nearest one-eighth of 1 per centum".

**Reference in the Text.** The Act of June 25, 1947 (61 Stat. 181), referred to in section 5(e) of the text, authorized the construction, operation and maintenance of the Paonia project, Colorado. The Act appears herein in chronological order.

**Reference in the Text.** The Act of June 28, 1949 (63 Stat. 277), referred to in section 5(e) of the text, authorized the completion of construction and the development of the Eden project, Wyoming. The Act appears herein in chronological order.

NOTES OF OPINIONS

Emergency expenditures 1  
Return of costs 2

1. Emergency expenditures

The proviso in section 5(c)(1) limiting the payment of "such costs" with respect to each participating project to the revenues received from the project, applies only to "operation, maintenance, and replacements," and does not apply to "emergency expenditures." Consequently, the authority granted for the use of revenues for emergencies without further appropriation is applicable to "all facilities of the Colorado River storage project and participating projects." Memorandum of Acting Commissioner Bennett, July 28, 1966, in re emergency repairs, Fontenelle Dam, Seedskadee project.

2. Return of costs

Although section 5(d) of the Colorado River Storage Project Act fixed an over-all

period of 50-years for return with interest of costs allocated to municipal water, the Act permits no other payment arrangements than those provided by section 9(c)(1) and 9(c)(2) of the Reclamation Project Act of 1939. Thus, although more than one contract covering such costs may be signed, none can have a term greater than 40 years. A 9(c)(2) contract may be entered into for the maximum 40-year period, followed by either a 9(c)(1) or 9(c)(2) contract for 10 years. If the first contract is written under 9(c)(1), however, it would require that full repayment be accomplished in the permissible 40-year period. Memorandum of Associate Solicitor Fisher, March 5, 1958, and Memorandum of Acting Associate Solicitor Weinberg, September 20, 1957, in re contract negotiations for Vernal Unit.

**Sec. 6. [Cost allocations—Navajos—Report to Congress.]**—Upon completion of each unit, participating project or separable feature thereof, the Secretary

shall allocate the total costs (excluding any expenditures authorized by section 8 of this Act) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this Act. In the event that the Navajo participating project is authorized, the costs allocated to irrigation of Indian-owned tribal or restricted lands within, under, or served by such project, and beyond the capability of such lands to repay, shall be determined, and, in recognition of the fact that assistance to the Navajo Indians is the responsibility of the entire nation, such costs shall be nonreimbursable. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1957, upon the status of the revenues from, and the cost of, constructing, operating, and maintaining the Colorado River storage project and the participating projects. The Secretary's report shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment. (70 Stat. 109; 43 U.S.C. § 620e)

#### NOTES OF OPINIONS

Costs of filling reservoir 1  
Indian charges 2

#### 1. Costs of filling reservoir

Appropriations for the Colorado River Storage project are authorized to be expended to meet costs of deficiencies in the generation of energy at the Hoover Dam powerplant occasioned by the necessity to fill Colorado River Storage project reservoirs, if the Secretary of the Interior concludes that such a step is appropriate to maintaining a reasonable schedule in meeting the statutory payout requirements of both Hoover Dam and Glen Canyon Dam imposed by the Boulder Canyon Project

Act, the Boulder Canyon Project Adjustment Act, and the Colorado River Storage Project Act. Memorandum of Associate Solicitor Weinberg, July 17, 1962.

#### 2. Indian charges

The purpose of mentioning section 4(d) in respect to the Navajo Indian Irrigation project in section 2 of the Act of June 13, 1962, is to make clear that 4(d) is to apply in addition to section 6 of the Colorado River Storage Project Act, which latter section makes nonreimbursable all Navajo project construction costs above the payable-but-deferred 4(d) construction costs. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

**Sec. 7. [Power plant operations.]**—The hydroelectric powerplants and transmission lines authorized by this Act to be constructed, operated, and maintained by the Secretary shall be operated in conjunction with other Federal powerplants, present and potential, so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates, but in the exercise of the authority hereby granted he shall not affect or interfere with the operation of the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and any contract lawfully entered into under said Compacts and Acts. Subject to the provisions of the Colorado River Compact, neither the impounding nor the use of water for the generation of power and energy at the plants of the Colorado River storage project shall preclude or impair the appropriation of water for domestic or agricultural purposes pursuant to appli-

April 11, 1956

cable State law. (70 Stat. 109; Act of June 13, 1962, 76 Stat. 102; 43 U.S.C. § 620f)

EXPLANATORY NOTES

**1962 Amendment.** Section 18 of the Act of June 13, 1962, substituted "into" for "unto" in the ninth line. The Act appears herein in chronological order.

**Reference in the Text.** The Upper Colorado River Basin Compact, referred to in the text, was approved by Congress by the Act of April 6, 1949. The Act, which includes the text of the Compact, appears herein in chronological order.

NOTES OF OPINIONS

Power rates 1  
Preference customers 2

1. Power rates

The provisions relating to power marketing and power rates in section 9(c) of the Reclamation Project Act of 1939, section 5 of the Flood Control Act of 1944, and section 6 of the Bonneville Power Act are *in pari materia*, and each may be examined to shed light on the Congressional intent with respect to the others. Indeed, as a practical matter, as illustrated by the Bonneville Power Administration, because a single system may be used to market power from three different sources, the three statutes have to be read together and interpreted as establishing identical criteria for power rates. Consequently, the mandate of the Flood Control Act of 1944 to market power from Army projects "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles," applies also to power marketed from reclamation projects under reclamation law. Letter of Secretary Udall to Representative Aspinall, May 15, 1965, in re basis for establishing power rates for the Colorado River Storage Project.

Although the principles stated in section 9(c) of the Reclamation Project Act of 1939 pertaining to power rates are stated in terms

**References in the Text.** The Colorado River Compact and the Boulder Canyon Project Act, both referred to in the text, appear herein under the date of approval of the Act, December 21, 1928.

**Reference in the Text.** The Boulder Canyon Project Adjustment Act, referred to in the text, is found herein under the date of approval of the Act, July 19, 1940.

of the minimum charge for power, they are also clearly intended to set the maximum charge. The Government of the United States markets power to serve the public interest, not to make a profit. We believe that the public interest is best served by marketing power at the lowest rate consistent with orderly repayment of all proper costs, and we believe that is what Congress intended. Letter of Secretary Udall to Representative Aspinall, May 15, 1965, in re basis for establishing power rates for the Colorado River Storage project.

2. Preference customers

The Navajo Indian Tribe qualifies as a preference customer for the purchase of power marketed by the Bureau of Reclamation under section 9(c) of the Reclamation Project Act of 1939. Memorandum of Associate Solicitor Weinberg, April 14, 1961.

The Bureau of Reclamation has authority to contract with the Arizona Power Pooling Association—a proposed nonprofit corporation formed by Arizona preference customers for the purpose of pooling their Colorado River Storage project allotments to obtain the maximum benefits of their respective diversities—as a preference customer. Memorandum of Acting Associate Solicitor Coulter to Commissioner of Reclamation, February 25, 1965.

**Sec. 8. [Recreational and fish and wildlife facilities.]**—In connection with the development of the Colorado River storage project and the participating projects, the Secretary is authorized and directed to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of said project or of said participating projects, to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects; and (2) facilities to mitigate losses of, and

April 11, 1956

COLORADO RIVER STORAGE PROJECT

1257

improve conditions for, the propagation of fish and wildlife. The Secretary is authorized to acquire lands and to withdraw public lands from entry or other disposition under the public land laws necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable. (70 Stat. 110; 43 U.S.C. § 620g)

EXPLANATORY NOTE

**Cross Reference.** See note under Act of September 30, 1961, 75 Stat. 726, for manner of handling appropriations for purposes of section 8.

**Sec. 9. [Saving provision.]**—Nothing contained in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), the Colorado River Compact, the Upper Colorado River Basin Compact, the Rio Grande Compact of 1938, or the Treaty with the United Mexican States (Treaty Series 994). (70 Stat. 110; 43 U.S.C. § 620h)

NOTE OF OPINION

**1. Costs of investigation**

Costs of investigations made with Colorado River Development Funds are not reimbursable by the water users even though a project investigated with such funds is authorized for construction; and section 9

of the Colorado River Storage Project Act manifests an interest on the part of Congress not to modify provisions of earlier acts. Letter of Administrative Assistant Secretary Beasley to Comptroller General, June 11, 1959.

**Sec. 10. [Waiver of soil survey and land classifications.]**—Expenditures for the Flaming Gorge, Glen Canyon, Curecanti, and Navajo initial units of the Colorado River storage project may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954. (70 Stat. 110; 43 U.S.C. § 620i)

EXPLANATORY NOTE

**Reference in the Text.** The Interior Department Appropriation Act, 1954, is the Act of July 31, 1953. The Act, including

the referenced provision, appears herein in chronological order.

**Sec. 11. [Court decree approved and made immediately effective.]**—The Final Judgment, Final Decree and stipulations incorporated therein in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, are approved, shall become effective immediately, and the proper agencies of the United States shall act in accordance therewith. (70 Stat. 110; 43 U.S.C. § 620j)

EXPLANATORY NOTE

**Reference in the Text.** The decree in the consolidated cases of *United States of America v. Northern Colorado Water Con-*

*servancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, referred*

April 11, 1956

to in the text, is unpublished. As passed by the Senate, section 11 ". . . contained language authorizing conveyance to the City of Denver of certain water rights used for the production of power at Green Mountain Dam on the Blue River in Colorado. The conference committee adopted substitute language. These water rights have been the subject of prolonged litigation between the United States, Denver, and water users on both the eastern and western slopes of Colo-

rado. . . . [A]greement has been reached between representatives of the eastern slope and western slope of Colorado, and a final decree has been filed by the United States district court in this matter." H.R. Rept. No. 1950 on S. 500 (conference report), 84th Cong., 2d Sess. The decree referred to above was later modified by the same Court by a consent decree entered April 16, 1964.

**Sec. 12. [Appropriation.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act, but not to exceed amount thereof among such States. (70 Stat. 110; 43 U.S.C. § 620l)

**EXPLANATORY NOTE**

**Appropriation Increases.** The original appropriation authorization of \$760,000,000 was increased by \$85,828,000 under section 10 of the Act of June 13, 1962, 76 Stat. 99, for the San Juan-Chama project, and was further increased by \$47,000,-

000 under section 1 of the Act of September 2, 1964, 78 Stat. 852, for the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa projects. Both of these acts appear herein in chronological order.

**Sec. 13. [Net power revenues.]**—In planning the use of, and in using credits from, net power revenues available for the purpose of assisting in the pay-out of costs of participating projects herein and hereafter authorized in the States of Colorado, New Mexico, Utah, and Wyoming, the Secretary shall have regard for the achievement within each of said States of the fullest practicable use of the waters of the Upper Colorado River system, consistent with apportionment thereof among such States. (70 Stat. 110; 43 U.S.C. § 620l)

**Sec. 14. [Operation and maintenance compliance.]**—In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise. (70 Stat. 110; 43 U.S.C. § 620m)

**Sec. 15. [Report to Congress.]**—The Secretary of the Interior is directed to continue studies and to make a report to the Congress and to the States of the Colorado River Basin on the quality of water of the Colorado River. (70 Stat. 111; 43 U.S.C. § 620n)

**Sec. 16. [Definitions.]**—As used in this Act—

The terms "Colorado River Basin", "Colorado River Compact", "Colorado River System", "Lee Ferry", "States of the Upper Division", "Upper Basin", and

April 11, 1956

COLORADO RIVER STORAGE PROJECT

1259

"domestic use" shall have the meaning ascribed to them in article II of the Upper Colorado River Basin Compact;

The term "States of the Upper Colorado River Basin" shall mean the States of Arizona, Colorado, New Mexico, Utah, and Wyoming;

The term "Upper Colorado River Basin" shall have the same meaning as the term "Upper Basin";

The term "Upper Colorado River Basin Compact" shall mean that certain compact executed on October 11, 1948 by commissioners representing the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, and consented to by the Congress of the United States of America by Act of April 6, 1949 (63 Stat. 31);

The term "Rio Grande Compact" shall mean that certain compact executed on March 18, 1938, by commissioners representing the States of Colorado, New Mexico, and Texas and consented to by the Congress of the United States of America by Act of May 31, 1939 (53 Stat. 785);

The term "Treaty with the United Mexican States" shall mean that certain treaty between the United States of America and the United Mexican States, signed at Washington, District of Columbia, February 3, 1944, relating to the utilization of the waters of the Colorado River and other rivers, as amended and supplemented by the protocol dated November 14, 1944, and the understandings recited in the Senate resolution of April 18, 1945, advising and consenting to ratification thereof. (70 Stat. 111; 43 U.S.C. § 620o)

EXPLANATORY NOTE

Legislative History. S. 500, Public Law Rept. No. 1332 (on H. Res. 311). H.R. 485 in the 84th Congress. S. Rept. No. 128. Rept. No. 1950 (conference report). H.R. Rept. No. 1087 (on H.R. 3383). H.R.

April 27, 1956

1260

## LAKE BERRYESSA

An act to designate the reservoir above the Monticello Dam in California as Lake Berryessa. (Act of April 27, 1956, ch. 213, 70 Stat. 118)

[Designation of Lake Berryessa.]—The reservoir located above the Monticello Dam in Napa County, California, shall hereafter be known as Lake Berryessa, and any law, regulation, document, or record of the United States in which such reservoir is designated or referred to shall be held to refer to such reservoir under and by the name of Lake Berryessa. (70 Stat. 118)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Lake Berryessa as Monticello Dam. The U.S. Code. Act appears herein in chronological order.

**Cross Reference, Monticello Dam.** The Legislative History, S. 2755, Public Law Act of July 2, 1958, 72 Stat. 287, designates the dam impounding the waters of 494 in the 84th Congress. S. Rept. No. 1633. H.R. Rept. No. 1990 (on H.R. 7858).

## TRANSFER OF ADMINISTRATION, RED WILLOW DAM AND WILSON DAM, MISSOURI RIVER BASIN PROJECT

An act to provide for transfer of administrative jurisdiction over Red Willow Dam and Reservoir, Nebraska, to the Secretary of the Interior and over Wilson Dam and Reservoir, Kansas, to the Secretary of the Army. (Act of May 2, 1956, ch. 231, 70 Stat. 126)

[**Sec. 1. Missouri River Basin Project—Transfer of administration—Reports to Congress.**]—Administrative jurisdiction over the construction, operation, and maintenance of Red Willow Dam and Reservoir, Nebraska, an authorized unit of the Missouri River Basin project (Act of December 22, 1944, sec. 9, 58 Stat. 887, as amended and supplemented), is hereby transferred from the Secretary of the Army to the Secretary of the Interior and jurisdiction over the construction, operation, and maintenance of Wilson Dam and Reservoir, Kansas, another authorized unit of the same project, is hereby transferred from the Secretary of the Interior to the Secretary of the Army. The principal purposes of Red Willow Dam and Reservoir shall be those of making available a regulated supply of water for irrigation and of assisting in the control of floods, and the principal purposes of Wilson Dam and Reservoir those of flood control and of assisting in making available a regulated supply of water for irrigation and low-flow regulation: *Provided*, That no expenditure of funds shall be made for construction of such projects until the Secretary of the Interior, in the case of the Red Willow Dam and Reservoir, Nebraska, and the Secretary of the Army, in the case of the Wilson Dam and Reservoir, Kansas, with the approval of the President, have submitted to the Congress completed reports demonstrating such projects to be economically justified, and the Congress has approved such reports. (70 Stat. 126)

### EXPLANATORY NOTE

**Implementation.** The report of the Secretary of the Army on Wilson Dam and Reservoir referred to in the proviso in section 1, was approved and construction au-

thorized in section 203 of the Flood Control Act of 1960, 74 Stat. 494, approved July 14, 1960. The relevant provision appears herein in chronological order.

**Sec. 2. [Units to be coordinated and integrated with other Federal works.]**—Both the Secretary of the Interior and the Secretary of the Army shall cause these units of the Missouri River Basin project to be coordinated and integrated physically and financially with the other Federal works constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944, aforesaid, as amended and supplemented. (70 Stat. 126)

**Sec. 3. [Division of flood control and irrigation responsibilities.]**—Notwithstanding any other provisions of this Act, the Secretary of the Army shall, in the case of the Red Willow Dam and Reservoir, be responsible for flood-control regulation as provided in section 7 of the Act of December 22, 1944, and the Secretary of the Interior shall, in the case of Wilson Dam and Reservoir, be

May 2, 1956

1262

## RED WILLOW DAM AND WILSON DAM

responsible for the disposal of water for irrigation or space reserved for this purpose in accordance with the Federal reclamation laws. (70 Stat. 126)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of December 22, 1944, 58 Stat. 887, referred to in sections 1 and 3, is the Flood Control Act of 1944. The Act appears herein in chronological order.

**Background.** The Red Willow Dam and Reservoir are features of the Frenchman-

Cambridge Division, Missouri River Basin Project, Nebraska. The initial features of the division were authorized by the Flood Control Act of December 22, 1944. The Act appears herein in chronological order.

**Legislative History.** S. 1194, Public Law 505 in the 84th Congress. S. Rept. No. 1066. H.R. Rept. No. 1849.

### RELIEF OF WINSTON BROS. COMPANY, ET AL.

An act for the relief of Winston Bros. Company and the Utah Construction Company and the J. A. Terteling & Sons, Inc. (Act of May 10, 1956, ch. 262, 70 Stat. A52)

[**Sec. 1. Payments for increased construction costs authorized.**]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Winston Bros. Company and the Utah Construction Company, jointly, the sum of \$102,475.41, and to J. A. Terteling & Sons, Inc., the sum of \$24,666.41. The payment of such sums shall be in full satisfaction of all claims of Winston Bros. Company and the Utah Construction Company and J. A. Terteling & Sons, Inc., against the United States for compensation for increased costs incurred as the result of the disruption or delay in performing certain construction work for the Bureau of Reclamation on the Columbia Basin project under contracts numbered 12r-16197, dated June 28, 1946, 12r-16796, dated October 25, 1946, and 12r-16745, dated October 25, 1946. Such disruption or delay was caused by insufficient appropriations by the Congress to continue payment for the normal construction schedules for the fiscal year ending June 30, 1948. The sums appropriated by this Act are the amounts of damages found by the Court of Claims, acting pursuant to Senate Resolution 343, Eighty-second Congress, to have been suffered by the said construction firms because of such disruption or delay. (70 Stat. A52)

**Sec. 2. [Attorneys' fees limited.]**—No part of the amounts appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with these claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (70 Stat. A53)

#### EXPLANATORY NOTE

Legislative History. S. 1905, Private Law H.R. Rept. No. 1791.  
623 in the 84th Congress. S. Rept. No. 1134.

May 14, 1956

1264

## AMEND DISTRIBUTION SYSTEM LOANS ACT

An act to amend the act of July 4, 1955, relating to the construction of irrigation distribution systems. (Act of May 14, 1956, ch. 268, 70 Stat. 155)

[**Conditions to loans.**]—Section 3 of the Act of July 4, 1955 (69 Stat. 245) is hereby amended to read as follows:

“Sec. 3. The Secretary shall require, as conditions to any such loan, that the borrower contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion, not in excess of 10 per centum, of the construction cost of the distribution system (including all costs of acquiring lands and interests in land), that the plans for the system be in accord with sound engineering practices and be such as will achieve the purposes for which the system was authorized, and that the borrower agree to account in full in regard to all disbursements of borrowed funds and to return at once for application toward amortization of the loan all funds which are not expended in the construction of the distribution system. Prior to the consummation of any loan under this Act, the borrower shall also be required to transfer to the United States any lands or interests in land which it then holds and which the Secretary finds are required for the construction, operation, and maintenance of the distribution system and to agree to transfer to the United States any lands or interests in land which it may thereafter acquire and which the Secretary may find are required for this purpose and distribution works constructed, in whole or in part, with moneys lent under this Act for the construction thereof. Title to all such lands, interests in land and distribution works shall remain in the United States until the loan is repaid. Every organization contracting for repayment of a loan under this Act shall operate and maintain its distribution works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States. When full repayment has been made to the United States, the Secretary shall relinquish all claims under said contracts and shall retransfer to the borrower title to the works and all lands and interests in land which were transferred by it to the United States. The head of any department or agency of the Government within whose administrative jurisdiction are lands owned by the United States the use of which is reasonably necessary for the construction, operation, and maintenance of distribution works under this Act may grant to a borrower or prospective borrower under this Act revocable permission for the use thereof in like manner as under the Acts of March 3, 1891, secs. 18–21, 26 Stat. 1101, as amended (43 U.S.C. secs. 946–949), January 21, 1895, 28 Stat. 635, as amended (43 U.S.C., sec. 956), February 15, 1901, 31 Stat. 790, as amended (16 U.S.C., secs. 79, 522, 43 U.S.C., sec. 959), February 1, 1905, 33 Stat. 628 (16 U.S.C., sec. 524), March 1, 1921, 41 Stat. 1194 (43 U.S.C., sec. 950), May 9, 1941, 55 Stat. 183 (43 U.S.C., sec. 931a), July 24, 1946, sec. 7, 60 Stat. 643, as amended (43 U.S.C., sec. 931b), May 31, 1947, 61 Stat. 124 (38 U.S.C., sec. 11i), February 5, 1948, 62 Stat. 17 (25 U.S.C., secs. 323–328), or September 3, 1954, 68 Stat. 1146 (43 U.S.C., secs.

May 14, 1956

AMEND DISTRIBUTION SYSTEM LOANS ACT 1265

931c-931d), or any other similar Act which is applicable to the lands involved: *Provided*, That no such permission shall be granted in the case of lands being administered for national park, national monument, or wildlife purposes. No benefits or privileges under the Federal reclamation laws, including repayment provisions, shall be denied an irrigation distribution system because such system has been constructed pursuant to this Act. The provisions of this Act shall apply only to irrigation purposes, including incidental domestic and stock water, and loans hereunder shall be interest free. Nothing in this Act shall be construed to repeal or limit the procedural and substantive requirements of section 8 of the Act of June 17, 1902." (70 Stat. 155; 43 U.S.C. § 421c)

EXPLANATORY NOTES

Editor's Note, Annotations, Annotations  
of opinions, if any, are found under the  
Act of July 4, 1955.

Legislative History. H.R. 8535, Public  
Law 520 in the 84th Congress. H.R. Rept.  
No. 1822. S. Rept. No. 1800.

May 14, 1956

1266

## CONVEYANCE OF LANDS TO CITY OF HENDERSON

An act to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the city of Henderson, Nevada. (Act of May 14, 1956, ch. 270, 70 Stat. 156)

[**Sec. 1. Henderson, Nevada—Conveyance.**]—The Secretary of the Interior shall issue to the city of Henderson, Nevada, upon the payment by the city into the Treasury of the United States, not more than five years after the Secretary has notified the city of the purchase price, of an amount equal to the fair market value of the lands to be conveyed as determined by the Secretary upon the appraisal of those lands, a patent for the following-described lands, situated in the State of Nevada and comprising approximately six thousand eight hundred and fifty-nine acres (all range references are to the Mount Diablo base and meridian):

- (1) All of sections 2, 3, 4, and 24, township 22 south, range 62 east.
- (2) All of section 33, township 21 south, range 63 east.
- (3) The east half of section 8; the east half of section 17; east half of section 20; west half of section 21; the east half and the northwest quarter of section 28; all of sections 30, 31, and 32; all in township 22 south, range 63 east. (70 Stat. 156)

**Sec. 2. [Existing claims.]**—The conveyance authorized by this Act shall be made subject to any existing valid claims against the lands described in the first section of this Act, and to any reservations necessary to protect continuing uses of those lands by the United States. (70 Stat. 157)

**Sec. 3. [Purchase rights.]**—Nothing contained in the preceding provisions of this Act shall be construed to preclude the city of Henderson, Nevada, from purchasing, in accordance with such preceding provisions, only such portion or portions, by legal subdivision of the public land surveys, of the above-described lands as such city elects, nor shall the purchase by such city of only a portion or portions of such lands be construed to constitute a waiver or relinquishment of any of its rights under this Act to purchase, in accordance with such preceding provisions and by legal subdivisions of the public land surveys, the remainder of such lands, or any portion thereof. (Added by Act of August 27, 1958, 72 Stat. 933)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1958 Amendment.** The Act of August 27, 1958, added section 3 to the 1956 Act. For legislative history of the 1958 Act see S. 3723, Public Law 85-776 in the 85th Con-

gress; S. Rept. No. 1792; H.R. Rept. No. 2456.

**Legislative History.** S. 2267, Public Law 522 in the 84th Congress. S. Rept. No. 1663. H.R. Rept. No. 2074.

## APPROVAL OF REPORT, AINSWORTH UNIT, MISSOURI RIVER BASIN PROJECT

An act to provide for the approval of the report of the Secretary of the Interior on the Ainsworth unit of the Missouri River Basin project. (Act of May 18, 1956, ch. 285, 70 Stat. 160)

[Ainsworth Unit feasibility report approved—Water delivery restriction.]—The report approved by the Secretary of the Interior on November 21, 1955, demonstrating the physical and economic feasibility of the Ainsworth unit of the Missouri River Basin project, integrated as a part of said project by the Act of August 21, 1954 (68 Stat. 757), is hereby approved: *Provided*, That for a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (70 Stat. 160)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of August 21, 1954 (68 Stat. 757), integrating the Ainsworth Unit as part of the Missouri River Basin project, appears herein in chronological order.

**References in the Text.** The definition of "agricultural commodity" in the Agricultural Act of 1949, as amended, referred to

in the text, is found at 63 Stat. 1056, 7 U.S.C. § 1428(c). The definition of "normal supply" in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. § 1301 (b)(10). Neither act appears herein.

**Legislative History.** H.R. 9132, Public Law 531 in the 84th Congress. H.R. Rept. No. 1764. S. Rept. No. 1799 (on S. 2206).

June 4, 1956

1268

## JUNIPER DIVISION, WAPINITIA PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Juniper division of the Wapinitia Federal reclamation project, Oregon. (Act of June 4, 1956, ch. 360, 70 Stat. 244)

[**Sec. 1. Wapinitia Federal reclamation project, Oreg.—Construction.**]—For the purpose of furnishing water for the irrigation of approximately two thousand and one hundred acres of arid land in Wasco County, Oregon, the Secretary of the Interior is authorized to construct, operate, and maintain the Juniper division of the Wapinitia Federal reclamation project in accordance with the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The Secretary is further authorized to investigate, plan, and construct the minimum basic facilities required for access by the visiting public to, and for the protection of its health and safety and of public property on, lands withdrawn or acquired for the Juniper division. The costs thereof, in the amount of not more than \$34,870, shall be nonreimbursable and nonreturnable. (70 Stat. 244)

**Sec. 2. [Appropriation.]**—There are hereby authorized to be appropriated for construction of the Juniper division \$563,000, plus such amounts, if any, as may be required by reason of changes in the cost of construction of the types involved therein as shown by engineering cost indices and, in addition thereto, such sums as are required to operate and maintain the division. (70 Stat. 245)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 559 in the 84th Congress. H.R. Rept. the U.S. Code. No. 1745. S. Rept. No. 2008.

**Legislative History.** H.R. 1779, Public

## DRAINAGE AND MINOR CONSTRUCTION

An act to facilitate the construction of drainage works and other minor items on Federal reclamation and like projects. (Act of June 13, 1956, ch. 382, 70 Stat. 274)

[Use of funds for drainage facilities and other minor items—Waiting period for contract of over \$200,000.]—Funds appropriated for the construction of irrigation works authorized to be undertaken pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Act of August 11, 1939 (53 Stat. 1418), as amended, or other Acts of Congress may, insofar as such funds are available for the construction of drainage facilities and other minor items, be utilized by the Secretary of the Interior to accomplish such work by contract, by force account or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary shall deem appropriate for the protection of the United States, by contract entered into with the repayment organization concerned whereby said organization shall perform such work: *Provided*, That in the event construction work to be accomplished by any one repayment organization, pursuant to contract with the United States, exceeds a total cost of \$200,000, such contract shall not be executed by the Secretary prior to the expiration of sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which it has been submitted to the Speaker of the House and the President of the Senate for reference to the appropriate Committees, except that such contract may be executed prior to expiration of such sixty days in any case in which both such Committees approve said contract and notify the Secretary in writing of such approval. (70 Stat. 274; 43 U.S.C. § 505)

### EXPLANATORY NOTES

**Reference in the Text.** The Act of August 11, 1939 (53 Stat. 1418), as amended, referred to in the text, is the Water Conservation and Utilization Act. The Act appears herein in chronological order.

**Legislative History.** H.R. 6268, Public Law 575 in the 84th Congress. H.R. Rept. No. 1768. S. Rept. No. 1037 (on S. 1534). H.R. Rept. No. 2199 (conference report).

June 29, 1956

1270

## AMENDED CONTRACT WITH YUMA COUNTY WATER USERS' ASSOCIATION

An act to authorize the Secretary of the Interior to enter into an additional contract with the Yuma County Water Users' Association with respect to payment of construction charges on the Valley division, Yuma reclamation project, Arizona, and for other purposes. (Act of June 29, 1956, ch. 475, 70 Stat. 409)

[Sec. 1. Yuma County Water Users' Association, Ariz.—Contract.]—The Secretary of the Interior, hereinafter in this Act referred to as the Secretary, is hereby authorized to enter into a contract with the Yuma County Water Users' Association, an Arizona corporation providing for the collection and retention by the association of all construction charge payments made subsequent to the date of such contract under water-right applications on the Valley division of the Yuma reclamation project outstanding on the date of said contract and water-right applications thereafter approved on said division and the release of the association from its guaranty to the United States of all amounts then due or thereafter to become due on said applications in consideration of the assumption by the association of the general repayment obligation defined in section 2 hereof payable to the United States without interest in annual installments not smaller than the aggregate of the payments which, in the opinion of the Secretary, would have become due pursuant to the provisions of said water-right applications. (70 Stat. 409)

Sec. 2. [Basis for repayment—Southern Pacific Ry. trestle—Transfers of structures.]—The general repayment obligation payable under the contract authorized by section 1 of this Act shall be ascertained by the Secretary (a) by adding to \$165,605.46 any operation and maintenance costs incurred on or after January 1, 1955, which are unpaid on the date of the contract, (b) by subtracting from the sum thereof (i) any payments under water-right applications heretofore or hereafter approved by the Secretary on the Valley division which have become due and payable and which have been received beginning with January 1, 1955, and prior to the date of the contract, and (ii) net profits earned on or after January 1, 1955, and prior to June 30 preceding the date of the contract which are determined by the Secretary to be properly allocable to the Valley division, all as provided in section 3 of this Act, and (c) by adjusting the difference between (a) and (b) to reflect an appropriate share, as determined by the Secretary, of any amount by which the cost to the Government of a certain trestle to be constructed by the Southern Pacific Railway Company across the Yuma Main Canal pursuant to the contract dated April 15, 1912, between it and the United States varies from \$175,306. The Secretary is hereby authorized to transfer to the association, (a) those structures covered by agreement between the United States and the association dated April 1, 1953, and bearing contract numbered 14-06-303-490, as amended March 29, 1955, and a twenty-four-stall garage in the vicinity of said structures in consideration of the cash payment or

June 29, 1956

YUMA COUNTY WATER USERS' ASSOCIATION 1271

addition to the said general repayment obligation of the net book cost of \$15,000 less the aggregate of payments made by the association to the United States prior to the date of such transfer under said agreement and under agreement between the United States and the association dated November 6, 1952, and bearing contract numbered 14-06-303-79; and (b) the buildings located at 105, 115, and 121 North Fifth Avenue, respectively, and at 460 First Street, within the exterior boundaries of the city of Yuma, Arizona, in consideration of the cash payment or addition to said general repayment obligation of the further sum of \$3,756.87: *Provided*, That such transfers shall not include title to the lands on which any such structures or buildings are located. (70 Stat. 409)

**Sec. 3. [Crediting of profits.]**—The net profits to be deducted pursuant to section 2 hereof shall constitute the portion determined by the Secretary to be allocable to said Valley Division of such profits derived to and including the June 30 immediately preceding the date of said contract from the following: leases, permits, and other arrangements for use of project lands and other project property within the division, the sale or use of townsites within the division, the sale of small tracts within the division pursuant to the Act of March 31, 1950 (64 Stat. 39, 43 U.S.C., secs. 375b-375f), and the furnishing of water or water service to other than water-right applicants from the irrigation works of the division. The contract authorized by section 1 hereof may also provide that for each subsequent fiscal year that portion of the net profits derived from the above-mentioned sources as well as the net profits from the Siphon Drop Powerplant after reserves for replacements, and/or depreciation and/or other appropriate purposes determined by the Secretary to be allocable to the division shall be credited annually, first on account of general repayment installments under said contract to become payable for the calendar year next following such fiscal year and second on account of operation and maintenance charges to become payable by the association to the United States for such calendar year, including but not limited to advance payments by the association for operation and maintenance of Siphon Drop Powerplant and payments for any rehabilitation work undertaken by the United States on behalf of the division. There is authorized to be transferred and deposited from time to time to the credit of the operation and maintenance appropriation for the Bureau of Reclamation from project revenues deposited in the reclamation fund amounts equal to the credits so applied on account of operation and maintenance charges payable by the association to the United States. The amounts thus credited to the operation and maintenance appropriation may be expended for the same objects and in the same manner as sums advanced by the association for the operation and maintenance of works retained by the United States: *Provided*, That if the Secretary determines that the portion of such net profits allocable to the division and available for such credit during any calendar year exceeds the aggregate of the general repayment installment, if any, and the operation and maintenance charge payable by the association to the United States, he may pay the amount of such excess to the association from the reclamation fund. (70 Stat. 410)

June 29, 1956

1272 YUMA COUNTY WATER USERS' ASSOCIATION

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of March 31, 1950 (64 Stat. 39, 43 U.S.C., secs. 375b-375f), referred to in the text, authorizes the disposal of withdrawn public tracts too

small to be classed as a farm unit under the Reclamation Act. The Act appears herein in chronological order.

**Legislative History.** S. 2202, Public Law 633 in the 84th Congress. S. Rept. No. 1798. H.R. Rept. No. 2304 (on H.R. 6940).

July 2, 1956

1273

## PUBLIC WORKS APPROPRIATION ACT, 1957

[Extracts from] An act making appropriations for the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1957, and for other purposes. (Act of July 2, 1956, ch. 490, 70 Stat. 474)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, to remain available until expended, . . .

[**Savage Rapids Dam—Hayden Lake unit.**]—. . . *Provided further*, That not to exceed \$208,000 of this appropriation shall be available for the construction of fish protective facilities at Savage Rapids Dam, Oregon, to be nonreimbursable and nonreturnable: . . . *Provided further*, That not to exceed \$520,000 shall be available toward emergency rehabilitation of the works of the Hayden Lake unit, Rathdrum Prairie project, Idaho, to be repaid in full under conditions satisfactory to the Secretary of the Interior: . . . (70 Stat. 476)

### EXPLANATORY NOTES

**Popular Name.** The Grants Pass project, of which Savage Rapids Dam is a part, is known as a Cordon amendment project after Senator Guy Cordon of Oregon. The appropriation for the project constitutes

**Cross Reference, Grants Pass Project.** Other appropriations for the Grants Pass project are contained in the Act of October 12, 1949, 63 Stat. 780, and the Act of July 9, 1952, 66 Stat. 451.

[**Grand Coulee Dam—Lighting the spillway—Protection of medicinal waters of Soap Lake.**] . . . *Provided further*, That not to exceed \$200,000 of this appropriation shall be available for lighting the spillway of Grand Coulee Dam and shall be nonreimbursable and nonreturnable: *Provided further*, That not to exceed \$233,800 shall be available for the emergency protection of medicinal waters of Soap Lake, Washington, from irrigation operations of the Columbia Basin project, which amount beyond the ability of the water users to repay shall be repayable from surplus power revenues of Grand Coulee Dam: . . . (70 Stat. 476)

\* \* \* \* \*

[**Trinity division—Increase in generating capacity.**]—Funds made available herein and hereafter to the Trinity division, Central Valley project, shall be available for the design and construction of power and hydraulic facilities totaling not to exceed approximately four hundred thousand kilowatts. (70 Stat. 478)

July 2, 1956

EXPLANATORY NOTES

**Cross Reference, Central Valley Project, California.** The Central Valley project, referred to in the text, was authorized by a finding of feasibility by the Secretary of the Interior, approved by the President on December 2, 1935. The project was reauthorized by section 2 of the Act of August 26, 1937, 50 Stat. 850. The 1937 Act appears herein in chronological order. For references to other authorizations in the

Central Valley project, California, see the explanatory notes following section 2 of the 1937 Act.

**Increase in Generating Capacity.** Section 1 of the Act of August 12, 1955, authorizing the Trinity River division, provided for generating capacity of approximately 233,000 kilowatts. The Act appears herein in chronological order.

[**Columbia Basin project—Wahluke siphon—Deferral of reimbursement of certain costs.**]—All funds expended for construction, operation, and maintenance of the two thousand-second-foot Wahluke siphon, Columbia Basin project, shall be reimbursable, but repayment of those parts thereof and of other expenditures for said project which the Secretary finds properly allocable to irrigable lands located on the Wahluke slope shall be deferred until they are no longer needed in connection with operations of the Atomic Energy Commission and have been irrigated. (70 Stat. 478)

\* \* \* \* \*

**[Short title.]**—This Act may be cited as the "Public Works Appropriation Act, 1957". (70 Stat. 482)

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation

acts appear herein only in the act in which first used.

**Legislative History.** H.R. 11319, Public Law 641 in the 84th Congress. H.R. Rept. No. 2181. S. Rept. No. 2169. H.R. Rept. No. 2413 (conference report).

July 2, 1956

1275

## ADMINISTRATION OF CONTRACTS UNDER SECTION 9, RECLAMATION PROJECT ACT OF 1939

An act relating to the administration by the Secretary of the Interior of section 9, subsections (d) and (e), of the Reclamation Project Act of 1939. (Act of July 2, 1956, ch. 492, 70 Stat. 483)

[**Sec. 1. Reclamation projects—Administration of contracts.**]—In administering section 9, subsections (d) and (e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), the Secretary of the Interior shall—

- (1) include in any long-term contract hereafter entered into under said subsection (e) provision, if the other contracting party so requests, for renewal thereof under stated terms and conditions mutually agreeable to the parties. Such terms and conditions shall provide for an increase or decrease in the charges set forth in the contract to reflect, among other things, increases or decreases in construction, operation, and maintenance costs and improvement or deterioration in the party's repayment capacity. Any right of renewal shall be exercised within such reasonable time prior to the expiration of the contract as the parties shall have agreed upon and set forth therein;
- (2) include in any long-term contract hereafter entered into under said subsection (e) with a contracting organization provision, if the organization so requests, for conversion of said contract, under stated terms and conditions mutually agreeable to the parties, to a contract under subsection (d) at such time as, account being taken of the amount credited to return by the organization as hereinafter provided, the remaining amount of construction cost which is properly assignable for ultimate return by it can probably be repaid to the United States within the term of a contract under said subsection (d);
- (3) credit each year to every party which has entered into or which shall enter into a long-term contract pursuant to said subsection (e) so much of the amount paid by said party on or before the due date as is in excess of the share of the operation and maintenance costs of the project which the Secretary finds is properly chargeable to that party. Credit for payments heretofore made under any such contract shall be established by the Secretary as soon after the enactment of this Act as it is feasible for him to do so. After the sum of such credits is equal to the amount which would have been for repayment by the party if a repayment contract under subsection (d) had been entered into, which amount shall be established by the Secretary upon completion of the project concerned or as far in advance thereof as is feasible, no construction component shall be included in any charges made for the furnishing of water to the contracting party and any charges theretofore fixed by contract or otherwise shall be reduced accordingly;
- (4) provide that the other party to any contract entered into pursuant to said subsection (d) or to any long-term contract entered into pursuant to

July 2, 1956

1276 ADMINISTRATION OF SECTION 9 CONTRACTS

said subsection (e) shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right (to which the rights of the holders of any other type of irrigation water contract shall be subordinate) to a stated share or quantity of the project's available water supply for beneficial use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right to such share or quantity upon completion of payment of the amount assigned for ultimate return by the party subject to payment of an appropriate share of such costs, if any, as may thereafter be incurred by the United States in its operation and maintenance of the project works; and

(5) provide for payment of rates under any contract entered into pursuant to said subsection (e) in advance of delivery of water on an annual or semiannual basis as specified in the contract.

(6) include a reasonable construction component in the rates set out in any long-term contract hereafter entered into under said subsection (e) prior to amortization of that part of the cost of constructing the project which is assigned to be repaid by the contracting party. (70 Stat. 483; 43 U.S.C. § 485h-1)

**Sec. 2. [Contract amendments.]**—The Secretary is hereby authorized to negotiate amendments to existing contracts entered into pursuant to section 9, subsection (e), of the Reclamation Project Act of 1939 to conform said contracts to the provisions of this Act. (70 Stat. 484; 43 U.S.C. § 485h-2)

**Sec. 3. ["Long-term contract".]**—As used in this Act, the term "long-term contract" shall mean any contract the term of which is more than ten years. (70 Stat. 484; 43 U.S.C. § 485h-3)

**Sec. 4. [Effectivity.]**—Nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary in carrying out the provisions of this Act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated and beneficial use shall be the basis, the measure, and the limit of the right. (70 Stat. 484; 43 U.S.C. § 485h-4)

**Sec. 5. [Reclamation laws.]**—This Act shall be a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). (70 Stat. 484; 43 U.S.C. § 485h-5)

EXPLANATORY NOTES

**Reference in the Text.** The Reclamation Project Act of 1939 (enacted August 4, 1939), referred to in the text, appears herein in chronological order.

**Legislative History.** H.R. 101, Public Law 643 in the 84th Congress. H.R. Rept. No. 1754. S. Rept. No. 2241.

July 2, 1956

ADMINISTRATION OF SECTION 9 CONTRACTS

1277

NOTE OF OPINION

**1. Contracts, validity of**

Objections of appellees that contracts executed under section 9 of the Reclamation Project Act of 1939 are invalid because they imply that water users are not entitled to water rights beyond the 40-year terms of

the contracts and because they do not make clear that the districts and landowners become free of indebtedness upon repayment, are answered by the Act of July 2, 1956, 70 Stat. 483, *Ivanhoe Irr. Dist. v. McCracken*, 357 U.S. 275, 297-8 (1958).

July 9, 1956

## FEDERAL WATER POLLUTION CONTROL ACT

An act to extend and strengthen the Water Pollution Control Act. (Act of July 9, 1956, ch. 518, 70 Stat. 498)

### DECLARATION OF POLICY

**Section 1.** (a) The purpose of this Act is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution.

(b) In connection with the exercise of jurisdiction over the waterways of the Nation and in consequence of the benefits resulting to the public health and welfare by the prevention and control of water pollution, it is hereby declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in preventing and controlling water pollution, to support and aid technical research relating to the prevention and control of water pollution, and to provide Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution. The Secretary of the Interior (hereinafter in this Act called "Secretary") shall administer this Act through the Administration created by section 2 of this Act, and with the assistance of an Assistant Secretary of the Interior designated by him, shall supervise and direct the head of such Administration in administering this Act. Such Assistant Secretary shall perform such additional functions as the Secretary may prescribe.

(c) Nothing in this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States. (62 Stat. 1155; Act of July 9, 1956, 70 Stat. 498; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466)

### EXPLANATORY NOTES

**Amendments.** The Water Pollution Control Act, approved June 30, 1948, was the original act dealing with water pollution control. However, the act as amended by the act "to extend and strengthen the Water Pollution Control Act", approved July 9, 1956, is considered the basic act. It was later amended by the Water Pollution Control Act amendments of 1961, approved July 20, 1961; by the Water Quality Act of 1965, approved October 2, 1965; and by the Clean Water Restoration Act of 1966, approved November 3, 1966.

**Transfer of Functions.** Functions of the Secretary of Health, Education, and Welfare under this Act were transferred, effective May 10, 1966, to the Secretary of the Interior pursuant to Reorganization Plan No. 2 of 1966. The reorganization plan excepted from the transfer certain functions related to public health aspects of water pollution. The Act as it appears here reflects the transfer of functions pursuant to the reorganization plan. The reorganization plan appears herein following the text of this Act.

### FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

**Sec. 2.** Effective ninety days after the date of enactment of this section there is created within the Department of the Interior a Federal Water Pollution Control Administration (hereinafter in this Act referred to as the "Administration").

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 3 1279

The head of the Administration shall be appointed, and his compensation fixed, by the Secretary. The head of the Administration may, in addition to regular staff of the Administration, which shall be initially provided from the personnel of the Department, obtain, from within the Department or otherwise as authorized by law, such professional, technical, and clerical assistance as may be necessary to discharge the Administration's functions and may for that purpose use funds available for carrying out such functions; and he may delegate any of his functions to, or otherwise authorize their performance by, any officer or employee of, or assigned or detailed to, the Administration. (62 Stat. 1155; Added by Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466-1)

**COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL**

**Sec. 3.** (a) The Secretary shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution control agencies and interstate agencies, and with the municipalities and industries involved, prepare or develop comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries thereof and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this section, the Secretary is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

(b) (1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Secretary, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

(c) (1) The Secretary shall, at the request of the Governor of a State, or a majority of the governors when more than one State is involved, make a grant

July 9, 1956

1280 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 4

to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed 3 years, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international, interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin which—

(A) is consistent with any applicable water quality standards established pursuant to current law within the basin;

(B) recommends such treatment works and sewer systems as will provide the most effective and economical means of collection, storage, treatment, and purification of wastes and recommends means to encourage both municipal and industrial use of such works and systems; and

(C) recommends maintenance and improvement of water quality standards within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan.

(3) For the purposes of this subsection the term "basin" includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby. (62 Stat. 1155; Act of July 9, 1956, 70 Stat. 498; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; Act of Nov. 3, 1966, 80 Stat. 1246; 33 U.S.C. § 466a)

**EXPLANATORY NOTE**

**1961 Amendment: Water Quality Control Authorized as a Project Purpose.** Section 2 of the Act of July 20, 1961, added subsection (b), which authorizes water quality control as a purpose of Federal water resources projects.

**INTERSTATE COOPERATION AND UNIFORM LAWS**

**Sec. 4. (a)** The Secretary shall encourage cooperative activities by the States for the prevention and control of water pollution; encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution; and encourage compacts between States for the prevention and control of water pollution.

(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of water pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress. (62 Stat. 1157; Act of July 9, 1956, 70 Stat. 498; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466b)

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 5 1281

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

**Sec. 5.** (a) The Secretary shall conduct in the Department of the Interior and encourage, cooperate with, and render assistance to other appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, control, and prevention of water pollution. In carrying out the foregoing, the Secretary is authorized to—

- (1) collect and make available, through publications and other appropriate means, the results of and other information as to research, investigations, and demonstrations relating to the prevention and control of water pollution, including appropriate recommendations in connection therewith;
- (2) make grants-in-aid to public or private agencies and institutions and to individuals for research or training projects and for demonstrations, and provide for the conduct of research, training, and demonstrations by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;
- (3) secure, from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a);
- (4) establish and maintain research fellowships in the Department of the Interior with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships: *Provided*, That the Secretary shall report annually to the appropriate committees of Congress on his operations under this paragraph; and
- (5) provide training in technical matters relating to the causes, prevention, and control of water pollution to personnel of public agencies and other persons with suitable qualifications.

EXPLANATORY NOTES

**Reference in the Text.** Section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), referred to in the text, provides that when authorized in an appropriation or other act, a department head may procure the temporary or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, without regard to the civil service and classification laws.

**References in the Text.** Section 3648 of the Revised Statutes (31 U.S.C. § 529), referred to in the text, deals with advances of public money. Section 3709 of the Revised Statutes (41 U.S.C. § 5), also referred to in the text, deals with competitive bidding. Both sections are found herein in the Appendix.

- (b) The Secretary may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and research and make surveys concerning any specific problem of water pollution confronting any State, interstate agency, community, municipality, or industrial plant, with a view of recommending a solution of such problem.

July 9, 1956

1282 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 5

(c) The Secretary shall, in cooperation with other Federal, State, and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and biological water quality and other information insofar as such data or other information relate to water pollution and the prevention and control thereof.

(d) In carrying out the provisions of this section the Secretary shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(A) Practicable means of treating municipal sewage and other water-borne wastes to remove the maximum possible amounts of physical, chemical, and biological pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

(B) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

(C) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control water pollution not susceptible to other means of abatement.

(e) The Secretary shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of water pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

(f) The Secretary shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving water pollution problems (including additional waste treatment measures) with respect to such waters.

(g)(1) The Secretary shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, a comprehensive study of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such study shall also consider the effect of demographic trends, the exploitation of mineral resources

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 6 1283

and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting the above study, the Secretary shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Secretary shall submit to the Congress a final report of the study authorized by this subsection not later than three years after the date of enactment of this subsection. Copies of the report shall be made available to all interested parties, public and private. The report shall include, but not be limited to—

(A) an analysis of the importance of estuaries to the economic and social well-being of the people of the United States and of the effects of pollution upon the use and enjoyment of such estuaries;

(B) a discussion of the major economic, social, and ecological trends occurring in the estuarine zones of the Nation;

(C) recommendations for a comprehensive national program for the preservation, study, use, and development of estuaries of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by public and private interests.

(4) There is authorized to be appropriated the sum of \$1,000,000 per fiscal year for the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, to carry out the purposes of this subsection.

(5) For the purpose of this subsection, the term "estuarine zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a navigable or interstate river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(h) There is authorized to be appropriated to carry out this section, other than subsection (g), not to exceed \$60,000,000 for the fiscal year ending June 30, 1968, and \$65,000,000 for the fiscal year ending June 30, 1969. Sums so appropriated shall remain available until expended. (62 Stat. 1158; Act of July 9, 1956, 70 Stat. 499; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; Act of Nov. 3, 1966, 80 Stat. 1247; 33 U.S.C. § 466c)

GRANTS FOR RESEARCH AND DEVELOPMENT

Sec. 6. (a) The Secretary is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of—

(1) assisting in the development of any project which will demonstrate a new or improved method of controlling the discharge into any waters of untreated or inadequately treated sewage or other wastes from sewers

July 9, 1956

1284 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 6

which carry storm water or both storm water and sewage or other wastes, or

(2) assisting in the development of any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes) or new or improved methods of joint treatment systems for municipal and industrial wastes,

and for the purpose of reports, plans, and specifications in connection therewith.

(b) The Secretary is authorized to make grants to persons for research and demonstration projects for prevention of pollution of waters by industry including, but not limited to, treatment of industrial waste.

(c) Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Secretary;

(2) No grant shall be made for any project in an amount exceeding 75 per centum of the estimated reasonable cost thereof as determined by the Secretary; and

(3) No grant shall be made for any project under this section unless the Secretary determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

(d) Federal grants under subsection (b) of this section shall be subject to the following limitations:

(1) No grant shall be made under this section in excess of \$1,000,000;

(2) No grant shall be made for more than 70 per centum of the cost of the project; and

(3) No grant shall be made for any project unless the Secretary determines that such project will serve a useful purpose in the development or demonstration of a new or improved method of treating industrial wastes or otherwise preventing pollution of waters by industry, which method shall have industry-wide application.

(e) For the purposes of this section there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1966, and for each of the next three succeeding fiscal years, the sum of \$20,000,000 per fiscal year for the purposes set forth in subsections (a) and (b) of this section, including contracts pursuant to such subsections for such purposes;

(2) for the fiscal year ending June 30, 1967, and for each of the next two succeeding fiscal years, the sum of \$20,000,000 per fiscal year for the purpose set forth in clause (2) of subsection (a); and

(3) for the fiscal year ending June 30, 1967, and for each of the next two succeeding fiscal years, the sum of \$20,000,000 per fiscal year for the purpose set forth in subsection (b). (Added by Act of Oct. 2, 1965, 79 Stat. 905; Act of Nov. 3, 1966, 80 Stat. 1246; 33 U.S.C. § 466c-1)

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 7 1285

GRANTS FOR WATER POLLUTION CONTROL PROGRAMS

Sec. 7. (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1961, \$3,000,000, for each succeeding fiscal year to and including the fiscal year ending June 30, 1967, \$5,000,000, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1971, \$10,000,000 for grants to States and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

(b) The portion of the sums appropriated pursuant to subsection (a) for a fiscal year which shall be available for grants to interstate agencies and the portion thereof which shall be available for grants to States shall be specified in the Act appropriating such sums.

(c) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to the several States, in accordance with regulations, on the basis of (1) the population, (2) the extent of the water pollution problem, and (3) the financial need of the respective States.

(d) From each State's allotment under subsection (c) for any fiscal year the Secretary shall pay to such State an amount equal to its Federal share (as determined under subsection (h)) of the cost of carrying out its State plan approved under subsection (f), including the cost of training personnel for State and local water pollution control work and including the cost of administering the State plan.

(e) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to interstate agencies, in accordance with regulations, on such basis as the Secretary finds reasonable and equitable. He shall from time to time pay to each such agency, from its allotment, an amount equal to such portion of the cost of carrying out its plan approved under subsection (f) as may be determined in accordance with regulations, including the cost of training personnel for water pollution control work and including the cost of administering the interstate agency's plan. The regulations relating to the portion of the cost of carrying out the interstate agency's plan which shall be borne by the United States shall be designed to place such agencies, so far as practicable, on a basis similar to that of the States.

(f) The Secretary shall approve any plan for the prevention and control of water pollution which is submitted by the State water pollution control agency or, in the case of an interstate agency, by such agency, if such plan—

(1) provides for administration or for the supervision of administration of the plan by the State water pollution control agency or, in the case of a plan submitted by an interstate agency, by such interstate agency;

(2) provides that such agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require to carry out his functions under this Act;

(3) sets forth the plans, policies, and methods to be followed in carrying out the State (or interstate) plan and in its administration;

July 9, 1956

1286 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 7

(4) provides for extension or improvement of the State or interstate program for prevention and control of water pollution;

(5) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan; and

(6) sets forth the criteria used by the State in determining priority of projects as provided in section 8(b) (4).

The Secretary shall not disapprove any plan without first giving reasonable notice and opportunity for hearing to the State water pollution control agency or interstate agency which has submitted such plan.

(g) (1) Whenever the Secretary, after reasonable notice and opportunity for hearing to a State water pollution control agency or interstate agency finds that—

(A) the plan submitted by such agency and approved under this section has been so changed that it no longer complies with a requirement of subsection (f) of this section; or

(B) in the administration of the plan there is a failure to comply substantially with such a requirement,

the Secretary shall notify such agency that no further payments will be made to the State or to the interstate agency, as the case may be, under this section (or in his discretion that further payments will not be made to the State, or to the interstate agency, for projects under or parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State, or to such interstate agency, as the case may be, under this section (or shall limit payments to projects under or parts of the plan in which there is no such failure).

(2) If any State or any interstate agency is dissatisfied with the Secretary's action with respect to it under this subsection, it may appeal to the United States court of appeals for the circuit in which such State (or any of the member States, in the case of an interstate agency) is located. The summons and notice of appeal may be served at any place in the United States. The findings of fact by the Secretary, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. Such new or modified findings of fact shall likewise be conclusive unless contrary to the weight of the evidence. The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(h) (1) The "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that

(A) the Federal share shall in no case be more than  $66\frac{2}{3}$  per centum or less than  $33\frac{1}{3}$  per centum, and (B) the Federal share for Puerto Rico and the Virgin Islands shall be  $66\frac{2}{3}$  per centum.

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 8 1287

(2) The "Federal shares" shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(3) As used in this subsection, the term "United States" means the fifty States and the District of Columbia.

(4) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available for the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(i) The population of the several States shall be determined on the basis of the latest figures furnished by the Department of Commerce.

(j) The method of computing and paying amounts pursuant to subsection (d) or (e) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State (or to each interstate agency in the case of subsection (e)) under the provisions of such subsection for such period, such estimate to be based on such records of the State (or the interstate agency) and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay to the State (or to the interstate agency), from the allotment available therefor, the amount so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State (or such interstate agency) for any prior period under such subsection was greater or less than the amount which should have been paid to such State (or such agency) for such prior period under such subsection. Such payments shall be made through the disbursing facilities of the Treasury Department, in such installments as the Secretary may determine. (62 Stat. 1158; Act of July 9, 1956, 70 Stat. 499; Act of June 25, 1959, 73 Stat. 148; Act of July 12, 1960, 74 Stat. 417; Act of July 20, 1961, 75 Stat. 204; Act of October 2, 1965, 79 Stat. 903; Act of November 3, 1966, 80 Stat. 1248; 33 U.S.C. § 466d)

GRANTS FOR CONSTRUCTION

Sec. 8. (a) The Secretary is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters and for the purpose of reports, plans, and specifications in connection therewith.

July 9, 1956

1288 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 8

(b) Federal grants under this section shall be subject to the following limitations: (1) No grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Secretary and unless such project is included in a comprehensive program developed pursuant to this Act; (2) no grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Secretary; (3) no grant shall be made unless the grantee agrees to pay the remaining cost; (4) no grant shall be made for any project under this section until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof; and (5) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs; (6) the percentage limitation of 30 per centum imposed by clause (2) of this subsection shall be increased to a maximum of 40 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 30 per centum of the estimated reasonable cost (as determined by the Secretary) of all projects for which Federal grants are to be made under this section from such allocation; (7) the percentage limitations imposed by clause (2) of this subsection shall be increased to a maximum of 50 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 25 per centum of the estimated reasonable costs (as determined by the Secretary) of all projects for which Federal grants are to be made under this section from such allocation and if enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section 10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

(c) In determining the desirability of projects for treatment works and of approving Federal financial aid in connection therewith, consideration shall be given by the Secretary to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof. The sums appropriated pursuant to subsection (d) for each fiscal year ending on or before June 30, 1965, and the first \$100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, as follows: (1) 50 per centum of such sums in the ratio that the population of each State bears to the population of all the States, and (2) 50 per centum of such sums in the ratio that the quotient

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 8 1289

obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. All sums in excess of \$100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State under the two preceding sentences which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b)(1) of this section and certified as entitled to priority under subsection (b)(4) of this section, shall be reallocated by the Secretary, on such basis as he determines to be reasonable and equitable and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made because of lack of funds: *Provided, however,* That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant with respect to such project which will in his judgment reflect an equitable contribution for the need caused by such Federal institution or activity. Any sum made available to a State by reallocation under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second, third, and fourth sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section, except that in the case of any project on which construction was initiated in such State after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary finds meets the requirements of this section but was constructed without such assistance, such allotments for any fiscal year ending prior to July 1, 1971, shall also be available for payments in reimbursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if such project had been approved pursuant to this section and adequate funds had been available. In the case of any project on which construction was initiated in such State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, such allotments shall also be available for payments in reimbursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a finding by the Secretary that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project. For purposes of this section, population shall be determined on the basis of the latest decennial census for which figures are

July 9, 1956

1290 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 8

available, as certified by the Secretary of Commerce, and per capita income for each State and for the United States shall be determined on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(d) There are hereby authorized to be appropriated for each fiscal year through and including the fiscal year ending June 30, 1961, the sum of \$50,000,000 per fiscal year for the purpose of making grants under this section. There are hereby authorized to be appropriated, for the purpose of making grants under this section, \$80,000,000 for the fiscal year ending June 30, 1962, \$90,000,000 for the fiscal year ending June 30, 1963, \$100,000,000 for the fiscal year ending June 30, 1964, \$100,000,000 for the fiscal year ending June 30, 1965, \$150,000,000 for the fiscal year ending June 30, 1966, \$150,000,000 for the fiscal year ending June 30, 1967, \$450,000,000 for the fiscal year ending June 30, 1968, \$700,000,000 for the fiscal year ending June 30, 1969; \$1,000,000,000 for the fiscal year ending June 30, 1970; and \$1,250,000,000 for the fiscal year ending June 30, 1971. Sums so appropriated shall remain available until expended. At least 50 per centum of the funds so appropriated for each fiscal year ending on or before June 30, 1965, and at least 50 per centum of the first \$100,000,000 so appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for grants for the construction of treatment works servicing municipalities of one hundred and twenty-five thousand population or under.

(e) The Secretary shall make payments under this section through the disbursing facilities of the Department of the Treasury. Funds so paid shall be used exclusively to meet the cost of construction of the project for which the amount was paid. As used in this section the term "construction" includes preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

(f) Notwithstanding any other provisions of this section, the Secretary may increase the amount of a grant made under subsection (b) of this section by an additional 10 per centum of the amount of such grant for any project which has been certified to him by an official State, metropolitan, or regional planning agency empowered under State or local laws or interstate compact to perform metropolitan or regional planning for a metropolitan area within which the assistance is to be used, or other agency or instrumentality designated for such purposes by the Governor (or Governors in the case of interstate planning) as being in conformity with the comprehensive plan developed or in process of development for such metropolitan area. For the purposes of this subsection, the term "metropolitan area" means either (1) a standard metropolitan statistical area as defined by the Bureau of the Budget, except as may be determined by the President as not being appropriate for the purposes hereof, or (2) any urban

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 9 1291

area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities, which in the opinion of the President lends itself as being appropriate for the purposes hereof.

(g) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects for which grants are made under this section shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., secs. 276a through 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c). (62 Stat. 1158; Act of July 9, 1956, 70 Stat. 502; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; Act of Nov. 3, 1966, 80 Stat. 1249; 33 U.S.C. § 466e)

WATER POLLUTION CONTROL ADVISORY BOARD

Sec. 9. (a) (1) There is hereby established in the Department of the Interior a Water Pollution Control Advisory Board, composed of the Secretary or his designee, who shall be chairman and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate and local governmental agencies, of public or private interests contributing to, affected by, or concerned with water pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of water pollution prevention and control, as well as other individuals who are expert in this field.

(2) (A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceding terms" for purposes of this sentence.

July 9, 1956

1292 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding \$50 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(b) The Board shall advise, consult with, and make recommendations to the Secretary on matters of policy relating to the activities and functions of the Secretary under this Act.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Department of the Interior. (62 Stat. 1159; Act of July 17, 1952, 66 Stat. 755; Act of July 9, 1956, 70 Stat. 503; Act of July 20, 1961, 75 Stat. 204, Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466f)

**EXPLANATORY NOTE**

**Advisory Board Membership.** Reorganization Plan No. 2 of 1966 provides that the Secretary of Health, Education, and Welfare shall be an additional member of the Advisory Board.

**ENFORCEMENT MEASURES AGAINST POLLUTION OF INTERSTATE OR NAVIGABLE WATERS**

**Sec. 10.** (a) The pollution of interstate or navigable waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of any persons, shall be subject to abatement as provided in this Act.

(b) Consistent with the policy declaration of this Act, State and interstate action to abate pollution of interstate or navigable waters shall be encouraged and shall not, except as otherwise provided by or pursuant to court order under subsection (h), be displaced by Federal enforcement action.

(c) (1) If the Governor of a State or a State water pollution control agency files, within one year after the date of enactment of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate waters or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Secretary determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof.

(2) If a State does not (A) file a letter of intent or (B) establish water quality standards in accordance with paragraph (1) of this subsection, or if the Secretary or the Governor of any State affected by water quality standards established

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10 1293

pursuant to this subsection desires a revision in such standards, the Secretary may, after reasonable notice and a conference of representatives of appropriate Federal departments and agencies, interstate agencies, States, municipalities and industries involved, prepare regulations setting forth standards of water quality to be applicable to interstate waters or portions thereof. If, within six months from the date the Secretary publishes such regulations, the State has not adopted water quality standards found by the Secretary to be consistent with paragraph (3) of this subsection, or a petition for public hearing has not been filed under paragraph (4) of this subsection, the Secretary shall promulgate such standards.

(3) Standards of quality established pursuant to this subsection shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. In establishing such standards the Secretary, the Hearing Board, or the appropriate State authority shall take into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses.

(4) If at any time prior to 30 days after standards have been promulgated under paragraph (2) of this subsection, the Governor of any State affected by such standards petitions the Secretary for a hearing, the Secretary shall call a public hearing, to be held in or near one or more of the places where the water quality standards will take effect, before a Hearing Board of five or more persons appointed by the Secretary. Each State which would be affected by such standards shall be given an opportunity to select one member of the Hearing Board. The Department of Commerce and other affected Federal departments and agencies shall each be given an opportunity to select a member of the Hearing Board and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Department of the Interior. The members of the Board who are not officers or employees of the United States, while participating in the hearing conducted by such Hearing Board or otherwise engaged on the work of such Hearing Board, shall be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Notice of such hearing shall be published in the Federal Register and given to the State water pollution control agencies, interstate agencies and municipalities involved at least 30 days prior to the date of such hearing. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the Hearing Board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the standards as published or promulgated by the Secretary, the Secretary shall promulgate revised regulations setting forth standards of water quality in accordance with the Hearing Board's recommendations which will become effective immediately upon promulgation.

July 9, 1956

1294 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10

(5) The discharge of matter into such interstate waters or portions thereof, which reduces the quality of such waters below the water quality standards established under this subsection (whether the matter causing or contributing to such reduction is discharged directly into such waters or reaches such waters after discharge into tributaries of such waters), is subject to abatement in accordance with the provisions of paragraph (1) or (2) of subsection (g) of this section, except that at least 180 days before any abatement action is initiated under either paragraph (1) or (2) of subsection (g) as authorized by this subsection, the Secretary shall notify the violators and other interested parties of the violation of such standards. In any suit brought under the provisions of this subsection the court shall receive in evidence a transcript of the proceedings of the conference and hearing provided for in this subsection, together with the recommendations of the conference and Hearing Board and the recommendations and standards promulgated by the Secretary, and such additional evidence, including that relating to the alleged violation of the standards, as it deems necessary to a complete review of the standards and to a determination of all other issues relating to the alleged violation. The court, giving due consideration to the practicability and to the physical and economic feasibility of complying with such standards, shall have jurisdiction to enter such judgment and orders enforcing such judgment as the public interest and the equities of the case may require.

(6) Nothing in this subsection shall (A) prevent the application of this section to any case to which subsection (a) of this section would otherwise be applicable, or (B) extend Federal jurisdiction over water not otherwise authorized by this Act.

(7) In connection with any hearings under this section no witness or any other person shall be required to divulge trade secrets or secret processes.

EXPLANATORY NOTE

**Hearing Board Membership.** Reorganization Plan No. 2 of 1966 provides that the Secretary of Health, Education, and Welfare shall give the Secretary of the Interior an opportunity to select a member of the Hearing Board.

(d)(1) Whenever requested by the Governor of any State or a State water pollution control agency, or (with the concurrence of the Governor and of the State water pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originates, give formal notification thereof to the water pollution control agency and interstate agency, if any, of the State or States where such discharge or discharges originate and shall call promptly a conference of such agency or agencies and of the State water pollution control agency and interstate agency, if any, of the State or States, if any, which may be adversely affected by such pollution. Whenever requested by the Governor of any State, the Secretary shall, if such request refers to pollution of interstate or navigable waters which is endangering the health or welfare of

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10 1295

persons only in the requesting State in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the water pollution control agency and interstate agency, if any, of such State and shall promptly call a conference of such agency or agencies, unless, in the judgment of the Secretary, the effect of such pollution on the legitimate uses of the waters is not of sufficient significance to warrant exercise of Federal jurisdiction under this section. The Secretary shall also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) and endangering the health or welfare of persons in a State other than that in which the discharge or discharges originate is occurring; or he finds that substantial economic injury results from the inability to market shellfish or shellfish products in interstate commerce because of pollution referred to in subsection (a) and action of Federal, State, or local authorities.

(2) Whenever the Secretary, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) of this section which endangers the health or welfare of persons in a foreign country is occurring, and the Secretary of State requests him to abate such pollution he shall give formal notification thereof to the State water pollution control agency of the State in which such discharge or discharges originate and to the interstate water pollution control agency, if any, and shall call promptly a conference of such agency or agencies, if he believes that such pollution is occurring in sufficient quantity to warrant such action. The Secretary, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State water pollution control agency. This paragraph shall apply only to a foreign country which the Secretary determines has given the United States essentially the same rights with respect to the prevention and control of water pollution occurring in that country as is given that country by this paragraph. Nothing in this paragraph shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of water pollution in waters covered by those treaties.

(3) The agencies called to attend such conference may bring such persons as they desire to the conference. In addition, it shall be the responsibility of the chairman of the conference to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the conference. Not less than three weeks' prior notice of the conference date shall be given to such agencies.

(4) Following this conference, the Secretary shall prepare and forward to all the water pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of pollution of interstate

July 9, 1956

1296 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10

or navigable waters subject to abatement under this Act; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

EXPLANATORY NOTES

**Reference in the Text.** The 1909 Boundary Waters Treaty between Canada and the United States, referred to in the text, is the Boundary Waters Treaty with Great Britain signed at Washington on January 11, 1909. The treaty appears herein in chronological order as of the date it was signed.

**Reference in the Text.** The Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), referred to in the text, is the Mexican Water Treaty signed at Washington on February 3, 1944. The treaty appears herein in chronological order as of the date it was signed.

(e) If the Secretary believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the appropriate State water pollution control agency that it take necessary remedial action. The Secretary shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

(f) (1) If, at the conclusion of the period so allowed, such remedial action has not been taken or action which in the judgment of the Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a Hearing Board of five or more persons appointed by the Secretary. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of the Hearing Board and at least one member shall be a representative of the Department of Commerce, and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Department of the Interior. At least three weeks' prior notice of such hearing shall be given to the State water pollution control agencies and interstate agencies, if any, called to attend the aforesaid hearing and the alleged polluter or polluters. It shall be the responsibility of the Hearing Board to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the Hearing Board. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether pollution referred to in subsection (a) is occurring and whether effective progress toward abatement thereof is being made. If the Hearing Board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10 1297

pollution. The Secretary shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution, and shall also send such findings and recommendations and such notice to the State water pollution control agency and to the interstate agency, if any, of the State or States where such discharge or discharges originate.

(2) In connection with any hearing called under this section the Secretary is authorized to require any person whose alleged activities result in discharges causing or contributing to water pollution to file with him, in such form as he may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. No person shall be required in such report to divulge trade secrets or secret processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

(3) If any person required to file any report under paragraph (2) of this subsection shall fail to do so within the time fixed by the Secretary for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business. The Secretary may upon application therefor remit or mitigate any forfeiture provided for under this paragraph and he shall have authority to determine the facts upon all such applications.

(4) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

EXPLANATORY NOTE

**Hearing Board Membership.** Reorganization Plan No. 2 of 1966 provides that the Secretary of Health, Education, and Welfare shall give the Secretary of the Interior an opportunity to select a member of the Hearing Board.

(g) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Secretary—

July 9, 1956

1298 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 10

(1) in the case of pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States to secure abatement of pollution, and

(2) in the case of pollution of waters which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, may, with the written consent of the Governor of such State, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution.

(h) The court shall receive in evidence in any such suit a transcript of the proceedings before the Board and a copy of the Board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

(i) Members of any Hearing Board appointed pursuant to subsection (f) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such Board or otherwise engaged on the work of such Board, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(j) As used in this section the term—

(1) "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State, and

(2) "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(k) (1) At the request of a majority of the conferees in any conference called under this section the Secretary is authorized to request any person whose alleged activities result in discharges causing or contributing to water pollution, to file with him a report (in such form as may be prescribed in regulations promulgated by him) based on existing data, furnishing such information as may reasonably be requested as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. No person shall be required in such report to divulge trade secrets or secret processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 12 1299

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by regulations for filing the same, and such failure shall continue for thirty days after notice of such default, such person may, by order of a majority of the conferees, be subject to a forfeiture of \$100 for each and every day of the continuance of such failure which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business. The Secretary may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures. (62 Stat. 1159; Act of July 17, 1952, 66 Stat. 755; Act of July 9, 1956, 70 Stat. 504; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; Act of Nov. 3, 1966, 80 Stat. 1250; 33 U.S.C. § 466g)

COOPERATION TO CONTROL POLLUTION FROM FEDERAL INSTALLATIONS

**Sec. 11.** It is hereby declared to be the intent of the Congress that any Federal department or agency having jurisdiction over any building, installation, or other property shall, insofar as practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of the Interior, and with any State or interstate agency or municipality having jurisdiction over waters into which any matter is discharged from such property, in preventing or controlling the pollution of such waters. In his summary of any conference pursuant to section 10(d)(3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 10(f) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board. (62 Stat. 1160; Act of July 9, 1956, 70 Stat. 506; Act of July 20, 1961, 75 Stat. 210; Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466h)

ADMINISTRATION

**Sec. 12.** (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Secretary, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

July 9, 1956

1300 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 13

(c) There are hereby authorized to be appropriated to the Department of the Interior such sums as may be necessary to enable it to carry out its functions under this Act.

(d) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(e) The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act. (62 Stat. 1160; Act of July 9, 1956, 70 Stat. 506; Act of July 20, 1961, 75 Stat. 204; Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466i)

DEFINITIONS

Sec. 13. When used in this Act—

(a) The term "State water pollution control agency" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency.

(b) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution of waters.

(c) The term "treatment works" means the various devices used in the treatment of sewage or industrial wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(e) The term "interstate waters" means all rivers, lakes, and other waters that flow across or form a part of State boundaries, including coastal waters.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, and an Indian tribe or an authorized Indian tribal organization. (62 Stat. 1161; Act of July 9, 1956, 70 Stat. 506; Act of June 25, 1959, 73 Stat. 148; Act of July 12,

July 9, 1956

FEDERAL WATER POLLUTION CONTROL ACT—SEC. 16 1301

1960, 74 Stat. 418; Act of July 20, 1961, 75 Stat. 210; Act of Oct. 2, 1965, 79 Stat. 903; Act of Nov. 3, 1966, 80 Stat. 1251; 33 U.S.C. § 466j)

OTHER AUTHORITY NOT AFFECTED

**Sec. 14.** This Act shall not be construed as (1) superseding or limiting the functions, under any other law, of the Surgeon General or of the Public Health Service, or of any other officer or agency of the United States, relating to water pollution, or (2) affecting or impairing the provisions of the Oil Pollution Act, 1924, or sections 13 through 17 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors and for other purposes", approved March 3, 1899, as amended, or (3) affecting or impairing the provisions of any treaty of the United States. (Added by Act of July 9, 1956, 70 Stat. 507; Act of Oct. 2, 1965, 79 Stat. 903; 33 U.S.C. § 466k)

EXPLANATORY NOTES

**Reference in the Text.** The Oil Pollution Act, 1924, referred to in the text, 43 Stat. 604, was amended and reenacted by section 211 of the Clean Water Restoration Act of 1966, 80 Stat. 1252, 33 U.S.C. § 437, *et seq.* As amended, responsibility for administration of the act was transferred from the Secretary of the Army to the Secretary of the Interior.

**Reference in the Text.** Sections 13 through 17 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors and for other

purposes", approved March 3, 1899, as amended, referred to in the text, is found at 30 Stat. 1152, 33 U.S.C. § 407-13. These sections deal with the deposit of refuse in navigable waters generally, deposits of debris of mines and stamp works in such streams, with the obstruction of navigable streams, etc., and provides for the enforcement of these provisions. An important exception in section 13 to the prohibition against the deposit of refuse in navigable waters is refuse "flowing from streets and sewers and passing therefrom in a liquid state. . .".

SEPARABILITY

**Sec. 15.** If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby. (62 Stat. 1161)

**Sec. 16. (a)** In order to provide the basis for evaluating programs authorized by this Act, the development of new programs, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1968, the Secretary, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall make a detailed estimate of the cost of carrying out the provisions of this Act; a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain such water quality standards as established

July 9, 1956

1302 FEDERAL WATER POLLUTION CONTROL ACT—SEC. 17

pursuant to this Act or applicable State law. The Secretary shall submit such detailed estimate and such comprehensive study of such cost for the five-year period beginning July 1, 1968, to the Congress no later than January 10, 1968, such study to be updated each year thereafter.

(b) The Secretary shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this Act and other programs for the same purpose as this Act, and (2) means of using existing Federal training programs to train such personnel. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1967. (Added by Act of November 3, 1966, 80 Stat. 1252; 33 U.S.C. § 466l)

**Sec. 17.** The Secretary of the Interior shall, in consultation with the Secretary of the Army, the Secretary of the department in which the Coast Guard is operating, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, conduct a full and complete investigation and study of the extent of the pollution of all navigable waters of the United States from litter and sewage discharged, dumped, or otherwise deposited into such waters from watercraft using such waters, and methods of abating either in whole or in part such pollution. The Secretary shall submit a report of such investigation to Congress, together with his recommendations for any necessary legislation, not later than July 1, 1967. (Added by Act of November 3, 1966, 80 Stat. 1252; 33 U.S.C. § 466m)

**Sec. 18.** The Secretary of the Interior shall conduct a full and complete investigation and study of methods for providing incentives designed to assist in the construction of facilities and works by industry designed to reduce or abate water pollution. Such study shall include, but not be limited to, the possible use of tax incentives as well as other methods of financial assistance. In carrying out this study the Secretary shall consult with the Secretary of the Treasury as well as the head of any other appropriate department or agency of the Federal Government. The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than January 30, 1968. (Added by Act of November 3, 1966, 80 Stat. 1252; 33 U.S.C. § 466n)

SHORT TITLE

**Sec. 19.** This Act may be cited as the "Federal Water Pollution Control Act".  
(62 Stat. 1161)

EXPLANATORY NOTES

**Not Codified.** Sections 15 and 19 of this Act are not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** S. 890, Public Law 660 in the 84th Congress. S. Rept. No. 543. H.R. Rept. No. 1446. H.R. Rept. No. 2479 (conference report). H.R. 9540 (companion bill). H.R. Rept. No. 2190.

July 9, 1956

REORGANIZATION PLAN NO. 2 OF 1966

1303

REORGANIZATION PLAN NO. 2 OF 1966

(EFFECTIVE MAY 10, 1966)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 28, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.

WATER POLLUTION CONTROL

*Section 1. Transfers of functions and agencies.* (a) Except as otherwise provided in this section, all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Federal Water Pollution Control Act, as amended, hereinafter referred to as the Act (33 U.S.C. 466 et seq.), including all functions of other officers, or of employees or agencies, of that Department under the Act, are hereby transferred to the Secretary of the Interior.

(b) The Federal Water Pollution Control Administration is hereby transferred to the Department of the Interior.

(c) (1) The Water Pollution Control Advisory Board, together with its functions, is hereby transferred to the Department of the Interior.

(2) The functions of the Secretary of Health, Education, and Welfare (including those of his designee) under section 9 of the Act shall be deemed to be hereby transferred to the Secretary of the Interior.

(3) The Secretary of Health, Education, and Welfare shall be an additional member of the said Board as provided for by section 9 of the Act and as modified by this reorganization plan.

(d) (1) The Hearing Boards provided for in sections 10(c)(4) and 10(f) of the Act, including any Boards so provided for which may be in existence on the effective date of this reorganization plan, together with their respective functions, are hereby transferred to the Department of the Interior.

(2) The functions of the Secretary of Health, Education, and Welfare under the said sections 10(c)(4) and 10(f) shall be deemed to be hereby transferred to the Secretary of the Interior.

(3) The Secretary of the Interior shall give the Secretary of Health, Education, and Welfare opportunity to select a member of each Hearing Board appointed pursuant to sections 10(c)(4) and 10(f) of the Act as modified by this reorganization plan.

(e) There are excepted from the transfers effected by subsection (a) of this section (1) the functions of the Secretary of Health, Education, and Welfare and the Assistant Secretary of Health, Education, and Welfare under clause (2) of the second sentence of section 1(b) of the Act, and (2) so much of the functions of the Secretary of Health, Education, and Welfare under section 3(b)(2) of the Act as relates to public health aspects.

(f) The functions of the Surgeon General under section 2(k) of the Water Quality Act of 1965 (79 Stat. 905) are transferred to the Secretary of Health,

July 9, 1956

Education, and Welfare. Within 90 days after this reorganization plan becomes effective, the Secretary of the Interior and the Secretary of Health, Education, and Welfare shall present to the President for his approval an interdepartmental agreement providing in detail for the implementation of the consultations provided for by said section 2(k). Such interdepartmental agreement may be modified from time to time by the two Secretaries with the approval of the President.

EXPLANATORY NOTE

**Reference in the Text.** Section 2(k) of the Water Quality Act of 1965 (79 Stat. 905), referred to in the text, does not amend the Federal Water Pollution Control Act. The subsection requires that The Surgeon

General shall be consulted by the head of the Federal Water Pollution Control Administration on the public health aspects relating to water pollution.

(g) The functions of the Secretary of Health, Education, and Welfare under sections 2 (b), (c), and (g) of the Water Quality Act of 1965 are hereby transferred to the Secretary of the Interior: *Provided*, That the Secretary of the Interior may exercise the authority to provide further periods for the transfer to classified positions in the Federal Water Pollution Control Administration of commissioned officers of the Public Health Service under said section 2(b) only with the concurrence of the Secretary of Health, Education, and Welfare.

EXPLANATORY NOTE

**Reference in the Text.** Section 2 of the Water Quality Act of 1965 includes provisions relating to the voluntary transfer to civil service status of commissioned officers of the Public Health Service performing

functions relating to the Federal Water Pollution Control Act. These provisions, however, do not amend the Federal Water Pollution Control Act.

(h) The functions of the Secretary of Health, Education, and Welfare under the following provisions of law are hereby transferred to the Secretary of the Interior:

(1) Section 702(a) of the Housing and Urban Development Act of 1965 (79 Stat. 490).

(2) Section 212 of the Appalachian Regional Development Act of 1965 (79 Stat. 16).

(3) Section 106 of the Public Works and Economic Development Act of 1965 (79 Stat. 554).

EXPLANATORY NOTES

**Reference in the Text.** Section 702(a) of the Housing and Urban Development Act of 1965 (79 Stat. 490), referred to in the text, provides that no grant for sewer facilities may be made under the subsection unless the Secretary of Health, Education, and Welfare certifies to the Secretary of Housing and Urban Development that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

**Reference in the Text.** Section 212 of the Appalachian Regional Development Act of 1965 (79 Stat. 16), referred to in the text, authorizes the Secretary of Health, Education, and Welfare to make grants for the construction of sewage treatment works in the Appalachian Region in accordance with the provisions of the Federal Water Pollution Control Act, without regard to appropriation authorization ceilings or State allotments.

**Reference in the Text.** Section 106 of the Public Works and Economic Development

Act of 1965 (79 Stat. 554), referred to in the text, provides that no financial assistance, through grants, loans, guarantees, or otherwise, shall be made under the Act to be used directly or indirectly for sewer or other waste disposal facilities unless the Secretary of Health, Education, and Welfare

certifies to the Secretary of Commerce that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

*Sec. 2. Assistant Secretary of the Interior.* There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall, except as the Secretary of the Interior may direct otherwise, assist the Secretary in the discharge of the functions transferred to him hereunder, who shall perform such other duties as the Secretary shall from time to time prescribe, and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

*Sec. 3. Performance of transferred functions.* The provisions of sections 2 and 5 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262) shall be applicable to the functions transferred hereunder to the Secretary of the Interior to the same extent as they are applicable to the functions transferred to the Secretary thereunder.

#### EXPLANATORY NOTE

**Reference in the Text.** Reorganization Plan No. 3 of 1950 (64 Stat. 1262), referred to in the text, transferred to the Secretary of the Interior, with certain exceptions, all functions of all other officers of the Department and all functions of all agencies and all employees of the Department. Section 2 of the Plan authorizes the Secretary to delegate functions to any other

officer, any agency, or any employee of the Department. Section 5 authorizes the Secretary to effect incidental transfers within the Department of records, property, personnel, and unexpended funds. The Reorganization Plan became effective May 24, 1950, and appears herein in chronological order as of that date.

*Sec. 4. Incidental provisions.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of the Interior or the Department of the Interior by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Department of the Interior at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) This reorganization plan shall not impair the transfer rights and benefits of commissioned officers of the Public Health Service provided by section 2 of the Water Quality Act of 1965.

#### EXPLANATORY NOTE

**Reference in the Text.** Section 2 of the Water Quality Act of 1965 includes provisions relating to the voluntary transfer to civil service status of commissioned officers of the Public Health Service performing

functions relating to the Federal Water Pollution Control Act. These provisions, however, do not amend the Federal Water Pollution Control Act.

July 9, 1956

**Sec. 5. Abolition of office.** (a) There is hereby abolished that office of Assistant Secretary of Health, Education, and Welfare the incumbent of which is on date of the transmittal of this reorganization plan to the Congress the Assistant Secretary of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare under the provisions of section 1(b) of the Act.

(b) The Secretary of Health, Education, and Welfare shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the Assistant Secretary whose office is abolished by subsection (a) of this section.

## INVOLUNTARY ACQUISITION OF EXCESS LAND

An act to amend the reclamation laws to provide that excess lands acquired by foreclosure or inheritance may receive water temporarily for five years. (Act of July 11, 1956, ch. 563, 70 Stat. 524)

[**Sec. 1. Excess lands—Receipt of water temporarily.**]—Section 46 of the Omnibus Adjustment Act of May 25, 1926 (44 Stat. 649; 43 U.S.C. 423(e)) is amended by adding thereto after the words “land involved in such fraudulent sales;” and before the words “*Provided further*” the following: “*Provided, however,* That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor;”. (70 Stat. 524; 43 U.S.C. § 423e)

### EXPLANATORY NOTE

**Editor's Note, Annotations.** Annotations 46 of the Act of May 25, 1926, the Omnibus of opinions, if any, are found under section Adjustment Act.

**Sec. 2. [Receipt of water temporarily as in section 1.]**—Section 3 of the Act of August 9, 1912 (37 Stat. 266; 43 U.S.C. 544), is amended by deleting that portion reading “but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition;” and adding in lieu thereof “but any such excess land acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, may be held for five years and no longer after its acquisition, and water may be temporarily furnished during that time;”. (70 Stat. 524; 43 U.S.C. § 544)

### EXPLANATORY NOTE

**Editor's Note, Annotations.** Annotations 3 of the Act of August 9, 1912. of opinions, if any, are found under section

**Sec. 3. [Authority to amend contracts.]**—The Secretary of the Interior is authorized, upon request of any holder of an existing contract under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to amend the contract to conform to the provisions of sections 1 and 2 of this Act. (70 Stat. 524; 43 U.S.C. § 423e)

### EXPLANATORY NOTE

**Legislative History.** H.R. 6643, Public No. 1748. S. Rept. No. 2378. Law 690 in the 84th Congress. H.R. Rept.

July 14, 1956

1308

## CLAIMS FOR DAMAGES, ELEPHANT BUTTE DAM

An act conferring jurisdiction upon the United States District Court for the District of New Mexico, to hear, determine, and render judgment upon certain claims arising as a result of the construction by the United States of Elephant Butte Dam on the Rio Grande. (Act of July 14, 1956, ch. 609, 70 Stat. A121)

[Sec. 1. Jurisdiction to judge claims granted District Court regardless of statute of limitations.]—Notwithstanding any statute of limitations or lapse of time or any limitation upon the jurisdiction of the United States district courts to hear, determine, and render judgment on claims against the United States, jurisdiction is hereby conferred upon the United States District Court for the District of New Mexico to hear, determine, and render judgment upon the claims of Max T. Martinez, Antonio Gonzales, Epigmenio Ramirez, Triunfo Silva, Felix Vallejos, Octaviano Trujeque, Margarite Torres y Gallegos, Eugenio Torres, Emilio Torres, Benito Silva, Juan Saavedra, Santiago Romero, Gernimo Romero, Monico Rivas, Benito M. Pargas, Mrs. Pablo M. Padilla, Jose Padilla, Jose P. Lopez, Casimro Martinez, Frank Martinez, Manuel Martinez, Mrs. C. C. Montoya, Joseph W. Milligan, Tom Olguin, Ruben Gutierrez, Espiridion Gutierrez, Mrs. Pat Gonzales, Salomon Anaya, G. E. Baca, Paul G. Baca, Herminio Baldonado, Mariana O. Gallegos, Vicente Chavez, Mrs. Altagracia Carreaga, David Benavides, Delfino Gonzales, Vidal S. Chavez, Fortunato Gallegos, Damariz Romero, S. Gray Hanna, Pablo Alderete, Charles M. Crossman, Alta Carreaga, Andres Mora, Patricino Trujeque, Conrado Trujeque, Epitacio Torres, Estanislado Torres, Climaco M. Springer, Feliciano Serna, Frank Saavedra, Luiz Romero, Celedon Romero, Junior, Dionicia Pargas, Pablo Padilla, Jose M. Padilla, Antonio Lopez, Juanita P. Lopez, Dan Martinez, Juan A. Martinez, Pedro Martinez, Louis Mora, Charles H. Nattress, Senior, Doloritas R. Padilla, Jose A. Gutierrez, Mrs. Refugia B. Gonzales, Jose Maria Gonzalez, Alfredo Armijo, Librada Baca, Frank Barela, Damacia Gonzales Barreras, Charles Eaton, Aurora O. Dreyfus, James Carmody, Veronica Gallegos, Jose Gonzales, Rumaldita Gallegos, Jose Herrera, and Trinidad Trujillo against the United States for compensation for the taking of or for damage to real or personal property in the flooding of lands in the Rio Grande Valley in the vicinity of San Marcial, New Mexico, in 1929, which flooding allegedly resulted from the construction by the United States of Elephant Butte Dam on the Rio Grande. (70 Stat. A121)

Sec. 2. [Suit upon any such claim may be instituted within three years of enactment of this Act.]—Suit upon any such claim may be instituted by the owner of the property with respect to which the claim is made or by his heirs at any time within three years after the date of enactment of this Act. Proceedings for the determination of any such claim and review thereof of any payment of any judgment thereon shall be in accordance with the provisions of law applicable in the case of the taking by the United States of private property for public use, but nothing contained in this Act shall be construed as an inference

July 14, 1956

CLAIMS FOR DAMAGES, ELEPHANT BUTTE DAM 1309

of liability on the part of the United States Government. Any claims approved for payment under the provisions of this Act shall be liabilities of the United States Government and shall not be charged against irrigation districts located on the Rio Grande project (New Mexico-Texas). (70 Stat. A121)

EXPLANATORY NOTE

**Legislative History.** S. 220, Private Law 767 in the 84th Congress. S. Rept. No. 1686. H.R. Rept. No. 2461.

NOTE OF OPINION

**1. Test case on liability**

One case was fully tried on the sole issue of liability. By agreement between counsel representing all plaintiffs and counsel representing the Government, all related cases were to be governed by this decision as to liability. In a trial to the court, no causal

connection was found between the construction and operation of Elephant Butte Dam and the flood of 1929. Further, the flood was found to be of such magnitude that the city would have been inundated even if the dam had not been built. *Nattress v. United States*, 186 F. Supp. 180 (D.N.M. 1960).

July 14, 1956

1310

## SALE OF PURDY LANDS, FOLSOM DAM

An act to provide for the sale by the Secretary of the Interior of certain public lands of the United States which have not been used for the purpose for which acquired. (Act of July 14, 1956, ch. 619, 70 Stat. A126).

[**Sec. 1. Sale of lands not needed for project purposes authorized.**]—The Secretary of the Interior shall, as soon as practicable after the date of the enactment of this Act, sell approximately eighteen acres of land, more particularly described in section 2 which was acquired by the United States from W. E. Purdy and Zemma Purdy as necessary for the Folsom Dam and Reservoir project and which is not being used for project purposes. W. E. Purdy and Zemma Purdy shall have the right of first preference to purchase such real property at the full current appraised value as determined by the Secretary of the Army. (70 Stat. A126)

**Sec. 2. [Legal description of the lands.]**—That certain parcel of land located in the southeast quarter of the southeast quarter of section 11, township 10 north, range 7 east, Mount Diablo base and meridian, said southeast quarter of the southeast quarter also being known as lots 15 and 16, Rosedale Colony tract, as designated on a map filed March 27, 1903, in book "A" of maps at page 38 in the office of the recorder, Placer County, State of California; and in the northeast quarter of the northeast quarter of section 14, township 10 north, range 7 east, Mount Diablo base and meridian; more particularly described as follows:

\* \* \* \* \*

(Legal description omitted, 70 Stat. A127)

\* \* \* \* \*

### EXPLANATORY NOTE

**Legislative History.** H.R. 3350, Private Law 777 in the 84th Congress. H.R. Rept. No. 2168. S. Rept. No. 2406.

**SALE OF BRIGGS LANDS, FOLSOM DAM**

An act to provide for the sale by the Secretary of the Interior of certain public lands of the United States which have not been used for the purpose for which acquired. (Act of July 14, 1956, ch. 620, 70 Stat. A127)

[**Sec. 1. Sale of unneeded project lands authorized.**]—The Secretary of the Interior shall, as soon as practicable after the date of the enactment of this Act, sell approximately forty-seven acres of land, more particularly described in section 2, which was acquired by the United States from Elvie Briggs as necessary for the Folsom Dam and Reservoir project and which is not being used for project purposes. Elvie Briggs shall have the right of first preference to purchase such real property at the full current appraised value as determined by the Secretary of the Army. (70 Stat. A127)

[**Sec. 2. [Legal description of the lands.]**]

(Legal description omitted, 70 Stat. A127)

**EXPLANATORY NOTE**

**Legislative History.** H.R. 3351, Private No. 2169. S. Rept. No. 2408.

Law 778 in the 84th Congress. H.R. Rept.

July 19, 1956

1312

## PAYMENT FOR IMPROVEMENTS ON PUBLIC LANDS, RAPID VALLEY UNIT

An act to authorize the Secretary of the Interior to make payment for certain improvements located on public lands in the Rapid Valley unit, South Dakota, of the Missouri River Basin project, and for other purposes. (Act of July 19, 1956, ch. 642, 70 Stat. A135)

[Payment authorized for removal of improvements on public lands.]—The Secretary of the Interior is authorized to pay, out of any moneys available for construction of the Missouri River Basin project, to the following named persons the amounts set forth opposite their names for the purposes there specified, the parcel numbers in each case referring to tracts of public lands of the United States within the boundaries of the said Rapid Valley unit:

(a) The Synod of the Presbyterian Church of South Dakota, a South Dakota corporation, a sum of not more than \$18,383 as reimbursement for the removal of its improvements, constituting a church camp on parcel numbered 10 and the necessary relocation thereof on other lands;

(b) The Pactola Methodist Assembly Park Association, Rapid City, South Dakota, the sum of not more than \$14,880 for its improvements on parcel numbered 30 constituting a church camp owned by said association: *Provided*, That in order to assist in the relocation of said camp the Secretary may also sell at appraised values or, in lieu of making the payment above provided for, may exchange and sell at appraised values improvements on other lands of the United States acquired or administered by him in connection with the Rapid Valley unit;

(c) Pactola School District Numbered 5, the sum of not more than \$1,449.79 as reimbursement for the actual cost of moving its school buildings from parcel numbered 22 and relocating them on a site outside the area required for the construction, operation, or maintenance of the Rapid Valley unit;

(d) Hilda M. Coon, a widow, the sum of not more than \$2,000 for a summer home owned by her on parcel numbered 25; and

(e) Berry Marvel O'Harra and Cecile Matrux O'Harra, husband and wife, Wayne G. O'Harra and Mary Bland O'Harra, husband and wife, and Mariam Pollock, a widow, the sum of not more than \$2,200 for a summer home owned by them on parcel numbered 18.

Said payments, and the ratification hereby of other like payments which have heretofore been made to N. M. Bratton and Mrs. N. M. Bratton, his wife (\$2,000 for a summer home owned by them on parcel numbered 23) and to L. E. Reemsta and Hanna Reemsta, his wife (\$2,000 for a summer home owned by them on parcel numbered 24), shall constitute a full and complete settlement of any claims which the said parties may have or assert against the United States with respect to their use or occupancy of the tracts in question, their improvements thereon, or the disposition of such improvements or their removal therefrom but shall not constitute an admission by the United States of the legitimacy of any such claim: *Provided*, That no part of any amount provided for in this

July 19, 1956

PAYMENT FOR IMPROVEMENTS, RAPID VALLEY 1313

Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with these claims, and any such payment, delivery, or receipt shall, any contract to the contrary notwithstanding, be unlawful. Any person paying, delivering, or receiving such excess amount shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not more than \$1,000. (70 Stat. A135)

EXPLANATORY NOTE

**Legislative History.** S. 1622, Private Law No. 2618 and H.R. Rept. No. 2677 (conference reports).  
787 in the 84th Congress. S. Rept. No. 1856. H.R. Rept. No. 2314. H.R. Rept.

July 24, 1956

1314

## CONVEYANCE OF LAND TO CARLSBAD IRRIGATION DISTRICT

An act to provide for transfer of title of certain lands to the Carlsbad Irrigation District, New Mexico. (Act of July 24, 1956, ch. 674, 70 Stat. 608)

[Conveyance of land to Carlsbad Irrigation District authorized.]—The Secretary of the Interior is authorized and directed to convey by quitclaim deed to the Carlsbad Irrigation District, Carlsbad, New Mexico, at no cost to the district, all rights, title, and interest of the United States in and to the following described land situated in Eddy County, State of New Mexico: lots 1 and 3, block 43; Stevens addition to the town of Eddy, now city of Carlsbad, Eddy County, New Mexico, located at the corner of Fox and Canal Streets in the city of Carlsbad, New Mexico. (70 Stat. 608)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 762 in the 84th Congress. S. Rept. No. 2389.  
the U.S. Code. H.R. Rept. No. 2617 (on H.R. 10030).

**Legislative History.** S. 3482, Public Law

## RELIEF OF CABRILLO LAND COMPANY

An act for the relief of Cabrillo Land Company, of San Diego, California. (Act of July 24, 1956, ch. 702, 70 Stat. A140)

[Payment to Cabrillo Land Company authorized.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Cabrillo Land Company, of San Diego, California, the sum of \$2,756, in full satisfaction of all claims against the United States for payment for petroleum products delivered by said Cabrillo Land Company to the Bureau of Reclamation, United States Department of the Interior, and as reimbursement of moneys withheld from Cabrillo Land Company by the United States: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (70 Stat. A140)

### EXPLANATORY NOTE

Legislative History. H.R. 1535, Private No. 325. S. Rept. No. 2495. Law 797 in the 84th Congress. H.R. Rept.

July 30, 1956

1316

### AMENDED CONTRACT, RIVERSIDE IRRIGATION DISTRICT

An act to authorize the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District, Limited, of Idaho, relating to the rehabilitation of the district's works, and other matters. (Act of July 30, 1956, ch. 793, 70 Stat. 731)

[Amended contract with Riverside Irrigation District, Idaho, authorized.]—The Secretary of the Interior is authorized to negotiate and execute on behalf of the United States a contract with the Riverside Irrigation District, Limited, of Idaho, providing (1) for the expenditure, as under the Act of October 7, 1949 (63 Stat. 724), of not more than \$30,000 for rehabilitation and betterment work in connection with the removal of slides from said Riverside Canal or for the relocation and repair of said canal to reduce the hazard from slides, (2) for the repayment of the amount so expended in accordance with the provisions of the Act aforesaid, and (3) for the return to the United States of the unpaid portion of the obligation undertaken by the district in its contract with the United States dated March 1, 1926. The Secretary is further authorized to relieve the district, from payment of penalties that have accrued under the contract of March 1, 1926, aforesaid. The obligation of the United States with respect to expenditures under (1) above shall be contingent upon the appropriation of funds to carry out the Act of October 7, 1949, aforesaid, and the allotment therefrom of amounts adequate to carry out this Act. (70 Stat. 731)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of October 7, 1949 (63 Stat. 724), referred to in the text, is the Rehabilitation and

Betterment Act. The Act appears herein in chronological order.

**Legislative History.** H.R. 9918, Public Law 849 in the 84th Congress. H.R. Rept. No. 2616. S. Rept. No. 2618.

## SECOND SUPPLEMENTAL APPROPRIATION ACT, 1957

[Extracts from] An act making supplemental appropriations for the fiscal year ending June 30, 1957, and for other purposes. (Act of July 31, 1956, ch. 805, 70 Stat. 763)

\* \* \* \* \*

### BUREAU OF RECLAMATION

#### CONSTRUCTION AND REHABILITATION

[Alamogordo Dam—Dickinson Unit—Safety and public use facilities.]—For an additional amount for “Construction and rehabilitation,” \$12,750,000, of which not to exceed \$25,000 shall be available for the construction of safety and public use facilities at the Alamogordo Dam, Carlsbad Project, New Mexico; and not to exceed \$25,000 shall be available for the construction of safety and public use facilities at the Dickinson Unit, North Dakota, Missouri River Basin Project. (70 Stat. 771)

#### EXPLANATORY NOTE

**Cross Reference.** The Act of September 10, 1959, 73 Stat. 495, contains an additional appropriation of \$25,000 for safety and public-use facilities at the Alamogordo Dam “which shall be nonreimbursable and nonreturnable”.

#### ADMINISTRATIVE PROVISIONS

[Glen Canyon Bridge—Contribution by Secretary of Commerce.]—The Secretary of Commerce is hereby authorized to participate in the construction of the bridge required in the construction of the Glen Canyon Unit, Arizona, Colorado River storage project; and may transfer for this purpose to the Secretary of the Interior funds available for the construction of public lands highways: *Provided*, That the amount transferred shall not exceed the cost of placing such bridge upon and across the dam under the provisions of the Act of July 29, 1946 (60 Stat. 709; 21 U.S.C. 64–70). (70 Stat. 771)

#### EXPLANATORY NOTE

**Reference in the Text.** The Act of July 29, 1946, cited in the text, deals generally with authority of Federal agencies to construct highway bridges upon and across federal dams. The provisions of the 1946

Act are included in a revision and codification of law with respect to highways, extracts from which appear herein under date of August 27, 1958.

[Short title.]— . . . (this Act may be cited as the “Second Supplemental Appropriation Act, 1957”) . . . (70 Stat. 763)

#### EXPLANATORY NOTES

**Not Codified.** Extracts from this Act shown here are not codified in the U.S. Code.

Law 855 in the 84th Congress. H.R. Rept. No. 2849. S. Rept. No. 2770. H.R. Repts. Nos. 2941 and 2950 (conference reports).

**Legislative History.** H.R. 12350, Public

August 1, 1956

1318

## WASHOE PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Washoe reclamation project, Nevada and California. (Act of August 1, 1956, ch. 809, 70 Stat. 775)

[**Sec. 1. Washoe reclamation project, Nev.-Calif.**]—For the purposes of furnishing water for the irrigation of approximately fifty thousand acres of land in the Carson and Truckee River Basins, Nevada and California, providing drainage service to approximately thirty-one thousand acres of land therein, firming the existing water supplies of lands under the Truckee River storage project and the Newlands project, controlling floods, providing hydroelectric power, development of fish and wildlife resources, and for other beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Washoe reclamation project consisting of two principal reservoirs at the Stampede and Watasheamu sites, together with other necessary works for the impounding, diversion, and the delivery of water, the generation and transmission of hydroelectric power, and the drainage of lands. The dam at the Stampede site shall be so constructed as to permit its ultimate enlargement to a height at which the reservoir will have a capacity of approximately one hundred and seventy-five thousand acre-feet. (70 Stat. 775; 43 U.S.C. § 614)

**Sec. 2. (a) [Reclamation laws govern.]**—In constructing, operating, and maintaining the works authorized in section 1 of this Act, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 389, and Acts amendatory thereof or supplementary thereto) except as is otherwise provided in this Act.

**(b) [Repayment provisions—Supplemental water supply.]**—Any contract entered into under section 9, subsection (d) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193; 43 U.S.C., 1952 edition, sec. 458h) for payment of those portions of the costs of constructing, operating, and maintaining the Washoe reclamation project which are properly allocable to irrigation and drainage and which are assigned to be paid by the contracting organization may provide for the repayment of the portion of the construction cost of the project assigned to any project contract unit or, if the contract unit be divided into two or more irrigation or drainage blocks, to any such block over a period of not more than fifty years, exclusive of any permissible development period, or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay: *Provided*, That any contract for a supplemental water supply for irrigation under this Act may omit provisions complying with the third sentence of paragraph (a) of section 46 of the Act of May 25, 1926 (44 Stat. 649), if such contract, in lieu of such provisions, provides that the pro rata share of the irrigation allocation which is attributable to furnishing irrigation benefits, in each particular year,

to land held in private ownership by any one owner in excess of one hundred and sixty irrigated acres, shall be returned with interest determined in accordance with subparagraph (c) of this section, except that such payment for the excess lands shall not exceed an amount equal to the increased payment capacity of the excess lands, as determined by the Secretary of the Interior, resulting from the supplemental water supply.

#### EXPLANATORY NOTE

**Reference in the Text.** The reference in the text to the third sentence of "paragraph (a)" of section 46 of the Act of May 25, 1946 (44 Stat. 649), is in error. It should refer to the third sentence of section 46 itself. The Act is The Omnibus Adjustment Act, which appears herein in chronological order.

(c) [Net revenues.]—Notwithstanding any other provision of law to the contrary, all net revenues derived from the sale of commercial power from the Washoe reclamation project shall be applied, first, to the amortization of that portion of the cost of constructing the project which is allocated to commercial power with interest on the unamortized balance thereof at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act, and thereafter to the amortization of that portion of the cost of constructing the project which is allocated to irrigation but which is beyond the ability of the contracting irrigation organizations to repay as provided above, including interest that would have been paid by the irrigators on that portion of the irrigation allocation attributable to furnishing irrigation benefits to excess lands which is not repaid under section 2 (b) above: *Provided*, That the Secretary, prior to the delivery of project water supplies, shall have entered into a contract or contracts with an organization or organizations as defined in paragraph 2 (g) of the Reclamation Project Act of 1939 (53 Stat. 1187), which have the capacity to levy assessments upon all taxable real property located within their boundaries to assist in making repayments.

(d) [Alpine County, Calif.]—Water users in Alpine County, California, shall have the opportunity to contract for project water made available by the Watasheamu Reservoir before such project water is offered for the development of any new land in Nevada. Should any such project water be contracted for by Alpine County water users, then in that event such users shall be permitted to exchange such water for existing rights to natural flow or stored water of the West Carson River.

(e) [Little Truckee River.]—The use of waters of the Little Truckee River solely for the generation of electric power by the Washoe project shall not impair or preclude the appropriation of such waters in the future for beneficial consumptive use within the Little Truckee River watershed in California to the same extent as such waters may be presently available for such appropriation in the State of California: *Provided*, That if and when an interstate compact covering the distribution and use of the waters of the Truckee and Carson Rivers is approved by the Legislatures of the States of California and Nevada and is consented to by Congress, the operation of the Washoe reclamation project shall

August 1, 1956

1320

## WASHOE PROJECT

be in conformance with such compact, and the foregoing restriction shall not apply. (70 Stat. 775; 43 U.S.C. § 614a)

**Sec. 3. [Facilities for access, public health, etc.—Report to congressional committees.]**—The Secretary is authorized to investigate, plan, construct, operate, and maintain minimum basic facilities for access to, and for the maintenance of public health and safety and the protection of public property on, lands withdrawn or acquired for the development of the Washoe project, to conserve the scenery and natural, historic, and archeologic objects, and to provide for public use and enjoyment of the same and of the water areas created by this project by such means as are consistent with its primary purposes. The Secretary is authorized to withdraw from entry or other disposition under the public land laws such public lands as are necessary for the construction, operation, and maintenance of said minimum basic facilities and for the other purposes specified in this section and to dispose of such lands to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. The Secretary is further authorized to investigate the need for acquiring other lands for said purposes and to report thereon to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, but no lands shall be acquired solely for any of these purposes other than access to project lands and the maintenance of public health and safety and the protection of public property thereon without further authorization by the Congress. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable. (70 Stat. 776; 43 U.S.C. § 614b)

**Sec. 4. [Fish and wildlife resources—Limitation.]**—Facilities shall be provided for the development of the fish and wildlife resources of the project area including facilities to permit increased minimum water releases from Lake Tahoe and restoration of the Pyramid Lake fishery. The cost of such facilities, including operation and maintenance, shall be nonreimbursable. The cost to the Federal Government of constructing these facilities shall not exceed \$2,000,000. This amount shall not include the cost of measures undertaken, pursuant to section 2 of the Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. 661a), to mitigate damages to fish and wildlife resources occasioned by the Washoe project as authorized by section 1 of this Act. (70 Stat. 777; 43 U.S.C. § 614c)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. 661a), referred to in the text, as amended, is the Fish and Wildlife Coordination Act. The Act appears herein in chronological order.

**Sec. 5. [Appropriation.]**—There is hereby authorized to be appropriated for construction of the Washoe reclamation project the sum of \$52,000,000 (April 1958 prices) plus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, such sums as may be required to operate and maintain the project: *Provided*, That the appro-

August 1, 1956

WASHOE PROJECT

1321

priation of funds for the construction, operation, or maintenance of facilities authorized by section 4 of this Act shall not be from the reclamation fund. (70 Stat. 777; Act of August 21, 1958, 72 Stat. 705; 43 U.S.C. § 614d)

EXPLANATORY NOTES

**1958 Amendment.** The Act of August 21, 1958, amended section 5 by striking out "\$43,700,000" and inserting in lieu thereof "\$52,000,000 (April 1958 prices)". The 1958 Act appears herein in chronological order.

**Legislative History.** S. 497, Public Law 858 in the 84th Congress. S. Rept. No. 1829. H.R. Rept. No. 2055 (on H.R. 10643). H.R. Rept. No. 2629 (on H. Res. 581). H.R. Rept. No. 2834 (conference report).

August 1, 1956

1322

## AMENDED CONTRACT WITH TULE LAKE IRRIGATION DISTRICT

An act to authorize the Secretary of the Interior to execute a contract with the Tule Lake Irrigation District, California, and for other purposes. (Act of August 1, 1956, ch. 828, 70 Stat. 799)

[**Sec. 1. Amended repayment contract with Tule Lake Irrigation District authorized.**]—The Secretary of the Interior is authorized to execute, on behalf of the United States, a repayment contract with the Tule Lake Irrigation District, California, substantially in the form in which said contract was negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1192, 43 U.S.C., sec. 485f) and approved at an election of the district held on July 2, 1956. (70 Stat. 799; 43 U.S.C. § 612, note)

**Sec. 2. [Administration of the amended contract—Construction costs assigned to wildlife refuge lands shall be nonreimbursable—Provisions of law repealed—Public notices authorized to be withdrawn.]**—In aid of the administration of said contract and for other purposes—

(a) credits may be given and payments made to the Tule Lake Irrigation District and the Klamath Irrigation District in accordance with said contract without further appropriation but, notwithstanding any other provision of the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388) and Acts amendatory thereof or supplementary thereto), said credits and payments shall be the only credits given or payments made to the Tule Lake Irrigation District.

(b) repayment of those portions of the costs of the works of the Klamath project heretofore or hereafter constructed serving lands within the boundaries of the Tule Lake Irrigation District which are allocated by the Secretary to said lands shall be accounted for by application of the construction charge payments required to be made under the aforesaid contract and, to the extent to which the payments so required do not account in full for said allocation, by application of (a) net revenues heretofore received from the sources described in article 4 of said contract, (b) those net revenues hereafter received from the same sources which are in excess of the amounts to be credited or paid to the district in accordance with said article, and (c) other net project revenues heretofore or hereafter received from project sources which are properly creditable to the Tule Lake division under the Federal reclamation laws.

(c) the lands of the Klamath project, presently within its Tule Lake division, which lie in Siskiyou County, California, west of range 4 east, Mount Diablo meridian, and in the vicinity of Lower Klamath Lake, including lands heretofore uncovered by the changing level of that lake, are hereby severed from said division, and appropriate portions of the costs of the works of the Klamath project heretofore or hereafter constructed which serve said lands shall be allocated by the Secretary to those lands. Any repayment contract entered into under the Federal reclamation laws with

respect to them shall require water users thereon to assume such equitable share of said allocation as is within their repayment ability. Construction costs, if any, in excess of that amount shall be accounted for by the application of net revenues derived after December 31, 1942, from the leasing of Government-owned lands in the area aforesaid. Nothing contained in this subsection shall authorize the levying or collection of charges on account of project construction on lands utilized by the Fish and Wildlife Service in any national wildlife refuge. Any project construction costs assigned by the Secretary to such refuge lands shall be nonreimbursable.

(d) the allocations provided for in subsections (b) and (c) of this section shall extend to all past and future expenditures except those for which special provision was made by section 15 of the Act of May 25, 1926 (44 Stat. 636, 639).

(e) the proviso attached to the item in the Interior Department Appropriation Act, 1941, appropriating funds for construction of the Klamath project (54 Stat. 406, 436), is repealed. Section 2, subsection (d), of the Act of June 17, 1944 (58 Stat. 279, 43 U.S.C., sec. 612) is repealed, but this repeal shall not affect the application of net revenues received prior to January 1, 1943, which was made by the second sentence thereof.

(f) the Secretary is authorized to withdraw any public notice heretofore issued on the Klamath project which is applicable to lands of the Tule Lake division. (70 Stat. 799; 43 U.S.C. § 612, note)

#### EXPLANATORY NOTES

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636, 639), referred to in subsection (d) of the text, is the Omnibus Adjustment Act. The Act appears herein in chronological order.

**Exemption.** The Public Works Appropriation Act, 1964, Act of December 31, 1963, 77 Stat. 850, authorizes certain leasing

revenues to be credited to the Klamath project water rights program notwithstanding the provisions of section 2(c) of the Act of June 17, 1944, and sections 2(a), 2(b), and 2(c) of the Act of August 1, 1956. The relevant extract from the 1963 Act appears herein in chronological order.

**Sec. 3. [Coverage of revenues into reclamation fund.]**—Net revenues of the Tule Lake division which are derived from sources other than those described in subsections (a), (b), and (c) of section 2 of this Act or which, although derived from said sources, are in excess of the amounts required for the purposes therein stated, shall be covered into the reclamation fund for application, to the extent necessary, in aid of divisions or units of the Klamath project, including lands within the Tule Lake Irrigation District, hereafter authorized for construction pursuant to law. (70 Stat. 800; 43 U.S.C. § 612, note)

**Sec. 4. [Homesteading and leasing of public lands.]**—Nothing contained in this Act or in the aforesaid contract shall be construed to affect the homesteading of the now unentered public lands within the Tule Lake Irrigation District as promptly as the United States may deem desirable consistent with other authorized uses, but the Secretary shall, in the meantime, continue the leasing of public lands to provide adequate funds for the purposes of this Act and said contract and to prepare and make said lands available for the designated purposes. (70 Stat. 800; 43 U.S.C. § 612, note)

August 1, 1956

TULE LAKE IRRIGATION DISTRICT

EXPLANATORY NOTE

**Legislative History.** H.R. 12034, Public Law 877 in the 84th Congress. H.R. Rept. No. 2588. S. Rept. No. 2582.

NOTE OF OPINION

**1. Excess lands**

A contract containing a clause terminating excess land limitations upon payment of construction charges is considered not to be affected by the 1961 Solicitor's Opinion holding that payout does not suspend application of excess land laws to pre-existing holdings if such contract has been approved

by Congress, even though it was submitted to Congress for some other reason such as under section 7 of the Reclamation Project Act of 1939. Letter from Secretary Udall to Chairman Wayne Aspinall, House Committee on Interior and Insular Affairs, April 11, 1962, note No 2.

## ACQUIRE MOVABLE PROPERTY FOR TRANSFER TO IRRIGATION DISTRICTS

An act to amend Public Law 551, chapter 616, Eighty-third Congress, second session. (Act of August 2, 1956, ch. 884, 70 Stat. 940)

[**Irrigation works—Title to movable property.**]—The Act of July 29, 1954 (68 Stat. 580, 43 U.S.C. 499a) is amended by adding thereto a new sentence reading as follows: “In order to encourage the assumption by irrigation districts and water users’ organizations of the operation and maintenance of irrigation works, the Secretary is authorized to use appropriated funds available for the project involved to acquire movable property for transfer at the time operation and maintenance is assumed under the terms and conditions hereinbefore provided.” (70 Stat. 940, 43 U.S.C. § 499a)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinion, if any, are included under the Act of July 29, 1954.

**Legislative History.** S. 3556, Public Law 924 in the 84th Congress. S. Rept. No. 2418. H.R. Rept. No. 2723.

August 3, 1956

1326

## FARWELL UNIT, MISSOURI RIVER BASIN PROJECT

An act to reauthorize construction by the Secretary of the Interior of Farwell unit, Nebraska, of the Missouri River Basin project. (Act of August 3, 1956, ch. 923, 70 Stat. 975)

[**Farwell Unit authorized—Watershed management and channel works by Department of Agriculture—Repayment.**]—The authorization for construction, operation, and maintenance of the Farwell unit of the Missouri River Basin project contained in section 9(c) of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, is hereby amended to authorize the construction, operation, and maintenance of works to furnish irrigation water for approximately fifty-two thousand five hundred acres of land in Howard, Sherman, and Valley Counties, Nebraska. The principal works of said unit shall consist of a reservoir at or near the Sherman site, works for the diversion of water from the Middle Loup River and its delivery to said reservoir, and necessary pumping facilities, canals, drains, and related works. There shall also be included as a part of the Farwell unit such watershed management and channel works as are necessary to provide channel stability in the light of the anticipated application of irrigation water to the lands involved and appropriate portions of the costs of constructing, operating, and maintaining such works shall be allocated to irrigation and returned in the same manner and under the same conditions as other irrigation costs of the Missouri River Basin project: *Provided*, That any contract entered into under section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193, 43 U.S.C., sec. 485(h)) for payment of those portions of the costs of constructing, operating, and maintaining the Farwell unit which are allocated to irrigation and assigned to be repaid by the contracting organization may provide for the repayment of the portion of the construction cost assigned to any project contract unit or, if the contract unit be divided into two or more irrigation blocks, to any such block over the period specified in said section 9(d) or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay. The Farwell unit shall be integrated, physically and financially, with the other Federal works in the Missouri River Basin constructed or authorized to be constructed under the comprehensive plan approved by section 9 of the Act of December 22, 1944, as amended and supplemented. The Secretary is authorized to transfer to the Department of Agriculture from funds available for construction of the Farwell unit such sums as are reasonably required to construct necessary water management and channel works as hereinbefore provided. (70 Stat. 975)

August 3, 1956

FARWELL UNIT, MISSOURI RIVER BASIN PROJECT 1327

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** Extracts from the Act of December 22, 1944, including section 9 referred to in the text, appear herein in chronological order. The Act is the Flood

Control Act of 1944.

**Legislative History.** S. 3594, Public Law 952 in the 84th Congress. S. Rept. No. 2532, H.R. Rept. No. 2595 (on H.R. 7435). H.R. Rept. No. 2784 (on H. Res. 610).

August 3, 1956

1328

## CONVEYANCE OF INDIAN LANDS, OWL CREEK UNIT

An act to authorize the conveyance of tribal lands from the Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation in Wyoming to the United States. (Act of August 3, 1956, ch. 931, 70 Stat. 987)

[Sec. 1. Conveyance of Indian lands to the United States authorized at Anchor Dam Site.]—The Shoshone Indian Tribe and the Arapahoe Indian Tribe of the Wind River Reservation are authorized to convey to the United States the tribes' interests in the 388.23 acres of land that are described in section 2 of the Act, subject to a reservation to the tribes of all minerals, including oil and gas, and mineral rights, which may be exercised only in a manner that does not interfere with the construction and operation of the dam site and reservoir of Anchor Dam, a part of the Owl Creek unit, Missouri River Basin project in Hot Springs County, near Thermopolis, Wyoming. The conveyance shall be for a price that is mutually agreeable to the tribes and to the Secretary of the Interior as representing fair and just compensation for the land taken. If the tribes and the Secretary fail to agree on a price to be paid for said land, the Secretary shall report that fact to the President of the Senate and to the Speaker of the House of Representatives on the first day of the Eighty-fifth Congress, and the Secretary is authorized, effective thirty days after said report is filed, to proceed to acquire such land by eminent domain. The consideration payable to the tribes pursuant to this Act shall be paid out of funds appropriated for the Missouri River Basin project and shall be deposited in the Treasury of the United States to the credit and for the use of the respective tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208). (70 Stat. 987)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), authorized the division of the trust funds held in joint ownership by the Shoshone and Arapahoe tribes of the Wind River Reservation, Wyoming, and the establish-

ment of a separate trust fund account for each tribe. The act also authorizes per capita payments to individual members of the tribes and provides for advances or expenditures from the funds for tribal purposes.

**Sec. 2. [Legal description of lands.]**—The lands that are referred to in section 1 of this Act are: Lots 1 and 2, section 13, northwest quarter, north half southwest quarter, west half, northeast quarter, and northwest quarter southeast quarter, section 24, township 8 north, range 1 west, Wind River meridian, Wyoming, containing 388.23 acres. (70 Stat. 987)

August 3, 1956

CONVEYANCE OF INDIAN LANDS, OWL CREEK UNIT 1329

**Sec. 3. [Reconveyance of lands to Indians if dam site is abandoned and purchase price is returned.]**—In the event of the failure or abandonment of the Anchor Dam feature of the Owl Creek unit the interest in the land acquired pursuant to this Act shall be reconveyed by the Secretary of the Interior to the tribes and the title shall be held in the same manner it was held before such acquisition: *Provided*, That the purchase price paid by the United States shall be returned by the tribes. (70 Stat. 987)

**Sec. 4. [Assessment and collection of construction costs allocable to Shoshone and Arapahoe Tribes' irrigable lands deferred—Tribes' water rights.]**—The portion of the construction costs of the Owl Creek unit that is allocable to the irrigable lands of the Shoshone and Arapahoe Tribes of the Wind River Reservation shall be a lien against such lands, but the assessment and collection of such costs shall be deferred in accordance with the provisions of the Act of July 1, 1932 (47 Stat. 564). The irrigable lands of the tribes shall be entitled to their pro rata share of the water storage and regulation benefits accruing from the construction and operation of the Owl Creek unit upon payment by the tribes, under appropriate contract, of their pro rata share of the annual operation and maintenance costs of the Owl Creek unit. (70 Stat. 987)

EXPLANATORY NOTE

**Reference in the Text.** The Act of July 1, 1932 (47 Stat. 564), referred to in the text, is the so-called Leavitt Act, which provides, among other things, that the collection of all construction costs against any Indian-owned lands within any Government irrigation project be deferred, and no assessments

be made on behalf of such charges against such lands until the Indian title thereto shall have been extinguished, and it further provides for the cancellation of certain construction assessments previously levied. The Act appears herein in chronological order.

**Sec. 5. [Tribes' fishing rights.]**—The members of the Shoshone and Arapahoe Tribes shall have the right to fish on the lake created by Anchor Dam, without a State license, but the Indians shall be subject to all other provisions of applicable conservation laws and regulations. (70 Stat. 987)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

960 in the 84th Congress. S. Rept. No. 2231.  
H.R. Rept. No. 2706 (on H.R. 10183).

**Legislative History.** S. 3467, Public Law

H.R. Rept. No. 2956 (conference report).

August 3, 1956

1330

## **AMEND WATER SUPPLY CONTRACTS WITH RAPID CITY**

An act to authorize the Secretary of the Interior to amend certain contracts providing for the furnishing of water to the city of Rapid City, South Dakota, for municipal purposes. (Act of August 3, 1956, ch. 935, 70 Stat. 989)

[Amendment of water supply contracts authorized, Rapid City, South Dakota.]—Notwithstanding any other provision of law, the Secretary of the Interior is authorized to amend contracts numbered IIR-1413 and 14-06-W-51, dated respectively July 27, 1943, and October 20, 1952, and entered into with the city of Rapid City, South Dakota, for the furnishing of water by the Government for municipal purposes, to such extent as he may deem necessary to secure to the holders of revenue bonds, hereafter issued by said city to finance certain essential improvements to its water system, a first priority to revenues derived from the sale of water supplied to said city pursuant to such contracts. The priority authorized in this Act shall be limited to revenue bonds the face value of which does not exceed \$2,500,000. (70 Stat. 989)

## EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code. **Legislative History.** S. 3468, Public Law 964 in the 84th Congress.

## SMALL RECLAMATION PROJECTS ACT OF 1956

An act to supplement the Federal reclamation laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects. (Act of August 6, 1956, ch. 972, 70 Stat. 1044)

**[Sec. 1. Small Reclamation Projects Act of 1956.]**—The purpose of this Act is to encourage State and local participation in the development of projects under the Federal reclamation laws and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations. (70 Stat. 1044; 43 U.S.C. § 422a)

### EXPLANATORY NOTE

**Supplementary Provision: Extension to Hawaii.** Section 31 of the Act of July 12, 1960, the Hawaii Omnibus Act, 74 Stat. 421, 43 U.S.C. § 422l, provides that the Small Reclamation Projects Act shall apply

to Hawaii. For legislative history see H.R. 11602, Public Law 86-624 in the 86th Congress; S. Rept. No. 1681; H.R. Rept. No. 1564.

**Sec. 2. [Definitions.]**—As used in this Act—

- (a) The term "construction" shall include rehabilitation and betterment.
- (b) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388) and Acts amendatory thereof or supplementary thereto.
- (c) The term "organization" shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users' association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.
- (d) The term "project" shall mean (i) any complete irrigation undertaking, including incidental features thereof, or distinct unit of such an undertaking or a rehabilitation and betterment program for an existing irrigation project, authorized to be constructed pursuant to the Federal reclamation laws and (ii) any similar undertaking proposed to be constructed by an organization. The term "project" shall not include any such undertaking, unit, or program the cost of which exceeds \$10,000,000, and no loan, grant, or combination thereof for any project shall be in excess of \$6,500,000: *Provided*, That nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.
- (e) The term "Secretary" shall mean the Secretary of the Interior. (70 Stat. 1044; Act of September 2, 1966, 80 Stat. 376; 43 U.S.C. § 422b)

### EXPLANATORY NOTE

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 376, amended the second sentence of subsection 2(d) to read as it appears above, thereby increasing the cost limitation and the combined loan and grant

limitation for a project to qualify under the Act. Before amendment, the sentence read as follows: "The term 'project' shall not include any such undertaking, unit, or program the cost of which exceeds \$5,000,000:

August 6, 1956.

1332 SMALL RECLAMATION PROJECTS ACT—SEC. 3

*Provided*, That any project, the estimated cost of which is more than \$5,000,000 but less than \$10,000,000, may qualify under this Act if the applicant organization is ready, able, and willing to finance otherwise than by loan or grant under this Act all costs in excess of the amount of the loan or grant which would be made under this Act if the estimated construction cost were \$5,000,000: *Provided further*, That nothing contained in this definition shall preclude the making of a grant not in excess of \$5,000,000 in accordance with the provi-

sions of sections 4 and 5 of this Act, to organizations whose proposed projects qualify for the same but which are not applicants for a loan under this Act: *And provided further*, That nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan or grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined." The 1966 Act appears herein in chronological order.

NOTES OF OPINIONS

Organization, qualifications of 1  
Projects, eligibility of 2

1. Organization, qualifications of

The Secretary of the Interior has broad latitude to determine whether a particular water users' organization under State law is or will be adequate for contract repayment purposes under the Small Reclamation Projects Act. Possession of taxing authority by the organization is not required but may be desirable. Memorandum of Associate Solicitor Fisher to Commissioner, January 12, 1957.

The contracting entity need not have the power to tax but it should be able to provide adequate security for the repayment of the loan. Memorandum of Associate Solicitor Hogan, August 17, 1964, in re Louden Irrigating Canal and Reservoir Company.

The reasoning of the Solicitor's memorandum opinion, M-28771 (October 10, 1936), in re the Public Irrigation District for the Pine River Project, Colorado, that the term "irrigation district", as used in section 46 of the Omnibus Adjustment Act, means that an organization must have the power of taxation in order to enter into a repayment contract, is no longer valid, for section 2(g) of the Reclamation Project Act of 1939 defines "organization" in a broader sense; and a still broader definition is given in section 2(c) of the Small Reclamation Projects Act. Memorandum of Associate Solicitor Hogan, August 17, 1964, in re Louden Irrigating Canal and Reservoir Company.

2. Projects, eligibility of

(Ed. note: See also sec. 4(e))

The Small Reclamation Projects Act does not authorize loans for a project of which a principal purpose is the acquisition of already existing facilities. Memorandum of Associate Solicitor Hogan to Regional Solicitor, Sacramento, December 11, 1964; Memorandum of Associate Solicitor Hogan to Field Solicitor, Amarillo, April 1, 1965.

If an evaluation of relative estimates of costs and benefits shows that flood control, rather than irrigation, is the preponderant function of a proposed project for the rehabilitation and protection of an existing irrigation project, then the proposal would not be eligible for a loan under the Act. Memorandum of Associate Solicitor Fisher to Regional Solicitor, Los Angeles, November 25, 1959, in re proposal for Coachella Valley County Water District.

The Act does not bar a loan jointly to two districts for one project, assuming the two districts have adequate power under state law to acquire and hold water rights jointly, to undertake a joint and several obligation to repay the loan, and to exercise joint jurisdiction and control over the project to serve their several needs. Memorandum of Associate Solicitor Fisher to Regional Solicitor, Sacramento, September 11, 1957, in re application for Arroyo del Valle project.

**Sec. 3. [Proposals.]**—Any organization desiring to avail itself of the benefits provided in this Act shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of \$1,000 to defray, in part, the cost of examining the proposal. (70 Stat. 1044; 43 U.S.C. § 422c)

**Sec. 4. (a) [Proposals to include plan and estimated cost—Fish and wildlife protection costs.]**—Any proposal with respect to the construction of

a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in subsection (c), section 1 of the Act of December 22, 1944 (58 Stat. 887), except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

#### EXPLANATORY NOTES

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 376, amended subsection 4(a) by adding at the end of it the last sentence which appears above. The 1966 Act appears herein in chronological order.

**Reference in the Text.** Extracts from the Act of December 22, 1944 (58 Stat. 887), including subsection 1(c) referred to in the text, appear herein in chronological order. The Act is the Flood Control Act of 1944.

(b) [Organization submitting proposal shall hold lands necessary for the project or show that it can acquire such lands.]—Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant under this Act such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in subsection 5(b) (2) hereof, as the Secretary shall have advised is proper in the circumstances.

#### EXPLANATORY NOTE

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 376, amended subsection 4(b) by striking out the word "construction" from the phrase which read "and willing to finance otherwise than by loan and grant under this Act such portion of the cost of construction" and inserting in lieu thereof "the project"; by inserting at the end of the parenthetical phrase which follows thereafter ", except as provided in subsection 5(b) (2) hereof"; and by changing the colon (:) to a period (.) and strik-

ing out the remainder of said subsection. The material that was struck read as follows: "*Provided*, That the contribution of any applicant organization shall not be required to be in excess of 25 per centum of the costs of the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects." The 1966 Act appears herein in chronological order.

(c) [Project proposals found feasible to be transmitted to Congress.]—At such time as a project is found by the Secretary and the Governor of

August 6, 1956

1334      SMALL RECLAMATION PROJECTS ACT—SEC. 4

the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this Act, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 5 of this Act shall have been executed.

EXPLANATORY NOTES

**1957 Amendment.** The Act of June 5, 1957, which appears herein in chronological order, amended subsection 4(c) to read as it appears above. As enacted in 1956, subsection 4(c) read as follows:

"(c) If the project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible and upon determination by the Secretary that the requested project constitutes a reasonable risk under the provisions of this Act, the Secretary is hereby authorized to negotiate a contract with the applicant organization as provided in section 5; but no such contract shall be executed by the Secretary prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the project proposal has been submitted to both branches of the Congress for consideration by the appropriate committee thereof, and then only if neither such committee, by committee resolution and notification in writing to the Secretary, disapproves the project proposal within such period: *Provided*, That if both such committees, in the same manner and prior to the expiration of such period, approve the project proposal, then the Secretary may proceed to execute the contract: *Provided further*, That in the event either committee disapproves the project proposal, the Secretary shall not proceed further unless the Congress has approved the same. The Secretary at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States

which are within his administrative jurisdiction and subject to the disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the repayment contract provided for in section 5 of this Act shall have been executed."

**Presidential Message.** A statement issued by President Eisenhower at the time of approving the bill, which included section 4(c) in its original form, states in part:

"I have approved this bill only because the Congress is not in session to receive and act upon a veto message and because I have been assured that the committees which handled the bill in the Congress will take action to correct its deficiencies early in the next session. Specifically, a provision found in Section 4(c) is seriously faulty. The section provides that:

" . . . no such contract shall be executed by the Secretary prior to sixty calendar days . . . from the date on which the project proposal has been submitted to both branches of the Congress for consideration by the appropriate committees thereof, and then only if neither such committee, by committee resolution and notification in writing to the Secretary, disapproves the project proposal within such period: *Provided*, That if both such committees, in the same manner and prior to the expiration of such period, approve the project proposal, then the Secretary may proceed to execute the contract: *Provided further*, That in the event either committee disapproves the project proposal, the Secretary shall not proceed further unless the Congress has approved the same.' "

This language would thus require, before a project negotiated under the Act is allowed finality, a further act by the legislature. The action required can be viewed as either a legislative act or an executive act. However construed, constitutional defects

August 6, 1956

SMALL RECLAMATION PROJECTS ACT—SEC. 4

1335

are inherent. Viewed as requiring a further legislative act, the section is open to the objection that it involves an unlawful delegation by the Congress to its committees of a legislative function which the constitution contemplates the Congress itself, as an entity, should exercise.

If the further act is considered as not legislative in nature, then there is involved what appears to be an unconstitutional infringement of the separation of powers prescribed in Articles I and II of the Constitution. I do not believe that the Congress can validly delegate to one of its committees the power to prevent executive actions taken pursuant to law. To do so in this case would be to divide the responsibility for administering the program between the Secretary of the Interior and the designated committees. Such a procedure would be a clear violation of the separation of powers within the Government and would destroy the lines of responsibility which the Constitution provides.

Furthermore, the negotiation and execution of a contract is a purely executive function. Although the Congress may prescribe the standards and conditions under which executive officials may enter into contracts, it may not lodge in its committees or members the power to make such con-

tracts, either directly or by giving them the power to approve or disapprove a contract which an executive officer proposes to make.

I believe it to be my duty to uphold the Constitutional principle that only the Congress can make the laws and only the executive branch can administer them. I am certain there is little disagreement with this proposition and I have been assured that the purpose of the Congress in approving Section 4(c) was to facilitate legislative oversight of a new program. Fortunately, that objective can be attained through well tested procedures fully compatible with our system of Government; for example, the Congress may require the Secretary of the Interior to submit such reports as it may find of value in carrying on its legislative functions.

Because of the general merit of this measure, I am approving it. The Secretary of the Interior will review project proposals received by the Department and will prepare to take action as soon as appropriations are made to implement the bill and Section 4(c) has been removed or revised. If the Congress will act promptly after it convenes in January, there need be no delay in starting this program."

(d) [Waiting period for project appropriations.]—No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution. The provisions of this subsection (d) shall not be applicable to proposals made under section 6 of this Act.

(e) [Consideration of need, etc.]—The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project, whether the proposal involves furnishing supplemental irrigation water for an existing irrigation project, whether the proposal involves rehabilitation of existing irrigation project works, and whether the proposed project is primarily for irrigation. All project works and facilities constructed under this Act shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract. (70 Stat. 1044; Act of June 5, 1957, 71 Stat. 48; Act of September 2, 1966, 80 Stat. 376; 43 U.S.C. § 422d)

EXPLANATORY NOTE

1957 Amendment. The Act of June 5, 1957, amended section 4 by adding subsection (d) as it appears above, and relettering

the former subsection (d) as (e). The 1957 Act appears herein in chronological order.

August 6, 1956

1336      SMALL RECLAMATION PROJECTS ACT—SEC. 5

NOTE OF OPINION

**1. Projects, eligibility of**

In order to satisfy the restriction that loans can be made only for projects which are primarily for irrigation, although other incidental purposes may be included, a proposed unit serving an area that is almost entirely residential cannot be combined as

one project with a second proposed unit serving an agricultural area several miles distant, when there are no works essential to both units and no other factors justifying combined operation. Letters of Assistant Commissioner Golzé to Senator Moss and Senator Bennett, November 15, 1960.

**Sec. 5. [Contract requirements.]**—Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) \$6,500,000 or (2) the estimated total cost of the project minus the contribution of the local organization as provided in section 4(b) and the amount of the grant approved;

(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation; (2) one-half the costs of acquiring lands or interests therein for a reservoir or other area to be operated for fish and wildlife enhancement or public recreation purposes; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; and (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement, which are nonreimbursable under general provisions of law applicable to such projects;

(c) a plan of repayment by the organization of (1) the sums lent to it in not more than fifty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum, on that portion of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres; and (3) in the case of any project involving an allocation to domestic, industrial, or municipal water supply, or commercial power, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above;

August 6, 1956

SMALL RECLAMATION PROJECTS ACT—SEC. 5 1337

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of non-compliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this Act shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 9(c) of the Act of August 4, 1939 (53 Stat. 1193), if the project produces electric power for sale. (70 Stat. 1046; Act of June 5, 1957, 71 Stat. 49; Act of September 2, 1966, 80 Stat. 376; 43 U.S.C. § 422e)

EXPLANATORY NOTES

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 376, amended section 5, items (a), (b) and (c), to read as they appear above. The amendments provided new formulas for establishing the maximum amount of any loan or grant to be made to an organization under the Act, and a new repayment formula. Before they were amended by the 1966 Act, which appears herein in chronological order, items (a), (b) and (c) read as follows:

"(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed that portion of the estimated cost of constructing the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects;

"(b) the maximum amount of any grant to be accorded the organization and the time and method of paying the same to the organization. Said grant shall not exceed that portion of the estimated cost of constructing the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to nonreimbursable functions under general provisions of law applicable to such projects;

"(c) a plan of repayment by the organization of (1) the sums lent to it in not more than fifty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, by estimating the average annual yield to maturity, on the basis of daily closing market bid quota-

tions or prices during the month of May preceding the fiscal year in which the loan is made, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum at the beginning of the fiscal year preceding the date on which the contract is executed, on that pro rata share of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres; and (3) in the case of any project involving an allocation to domestic, industrial, or municipal water supply, or commercial power produced as an element of the project and incidental to its full development, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above."

**1957 Amendment.** The Act of June 5, 1957, amended the introductory clause of section 5 to read as it appears above. As originally enacted section 5's introductory clause read: "Sec. 5. Any contract authorized to be negotiated under the provisions of subsection (c) of section 4 of this Act shall set out, among other things . . ." The 1957 Act appears herein in chronological order.

**Reference in the Text.** The Act of August 4, 1939 (53 Stat. 1193), referred to in the text, is the Reclamation Project Act of 1939. The Act appears herein in chronological order.

August 6, 1956

1338      SMALL RECLAMATION PROJECTS ACT—SEC. 6

NOTES OF OPINIONS

Excess lands 1  
Expenses payable 2

1. Excess lands

In a case where, because of a short water supply, the project will be able to supply water to only about a third of the eligible lands in any one year, it is appropriate to compute interest chargeable to excess lands in two components as follows: (1) a constant factor based on the benefit to all excess lands in the district of the physical availability of a distribution system capable of serving all such lands ("service facility availability"); and (2) a variable factor based on the actual water service to excess lands during each 12-month period. Memorandum of Associate Solicitor Fisher, January 19, 1960, in re South Sutter Water District loan application.

When water is served from a project to an outside irrigation district containing excess lands, interest must be paid on an appropriate portion of project cost attributable to such service on the basis of the ratio of all excess irrigable acreage to total irrigable acreage in the outside district. Memorandum of Associate Solicitor Fisher, January 19, 1960, in re South Sutter Water District; letter of Solicitor Abbott to Rep. Aspinall, March 25, 1960, in re Donna

Irrigation District.

The limitation in section 4(c)(5) of the Water Conservation and Utilization Act, as amended, against delivery of water to more than one farm unit in single ownership would not be superseded by the granting of a loan under the Small Reclamation Projects Act of 1956 for improvement of a W.C.U. Act project. Memorandum of Associate Solicitor Fisher to Commissioner, February 24, 1958, in re application of Reeves County Water Improvement District, Balmorhea project.

2. Expenses payable

Under the Small Reclamation Projects Act and the "officials-not-to-benefit" clause used in the loan repayment contracts, loan funds may not be used to pay the compensation of persons in a district who participate in the making of policy decisions (such as members of the board of directors, managers, superintendents) or of other employees who have other interests which are found to be adverse to the interests of the district in the project when tested by the conflict-of-interest rules applicable generally to federal employees. Memorandum of Acting Solicitor Weinberg to Commissioner, September 28, 1964; Memorandum of Assistant Commissioner Kane, April 20, 1964.

**Sec. 6. [Projects previously authorized under the reclamation laws—Waiver of requirements.]**—Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 4 of this Act, but the Secretary may waive such requirements of subsections (a) and (b) of that section as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 5 of this Act. (70 Stat. 1046; 43 U.S.C. § 422f)

**Sec. 7. [Information from Federal agencies.]**—Upon request of an organization which has made or intends to make a proposal under this Act, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under this Act shall, to the extent that they would not be nonreimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract en-

tered into under section 5 of this Act unless they are otherwise paid for by the organization. (70 Stat. 1047; 43 U.S.C. § 422g)

**Sec. 8. [Fish and wildlife factors of projects.]**—The planning and construction of projects undertaken pursuant to this Act shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.). (70 Stat. 1047; Act of September 2, 1966, 80 Stat. 377; 43 U.S.C. § 422h)

#### EXPLANATORY NOTE

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 377, amended section 8 by striking out “Act of August 14, 1946 (60 Stat. 1080)” and inserting in lieu thereof “Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.).” The 1966 Act appears herein in chronological order.

**Sec. 9. [General authority.]**—The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this Act. (70 Stat. 1047; 43 U.S.C. § 422i)

**Sec. 10. [Appropriation.]**—There are hereby authorized to be appropriated, such sums as may be necessary, but not to exceed \$200,000,000 to carry out the provisions of this Act: *Provided*, That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 3, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this Act, be reimbursable in the manner hereinabove provided. (70 Stat. 1047; Act of September 2, 1966, 80 Stat. 376; 43 U.S.C. § 422j)

#### EXPLANATORY NOTE

**1966 Amendment.** The Act of September 2, 1966, 80 Stat. 376, amended section 10 by striking out “\$100,000,000” and inserting in lieu thereof “\$200,000,000”. The 1966 Act appears herein in chronological order.

**Sec. 11. [Short title.]**—This Act shall be a supplement to the Federal reclamation laws and may be cited as the “Small Reclamation Projects Act of 1956.” (70 Stat. 1047; 43 U.S.C. § 422k)

**Sec. 12. [Separability.]**—If any provision of this Act or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby. (70 Stat. 1047; 43 U.S.C. § 422a, note)

#### EXPLANATORY NOTES

**Supplementary Provision.** The Act of September 2, 1966, 80 Stat. 376, which amended this Act, provides that “Nothing contained in this Act shall be applicable to or affect in any way the terms on which any loan or grant has been made prior to the effective date of this Act.” The 1966 Act

appears herein in chronological order.

**Legislative History.** H.R. 5881, Public Law 984 in the 84th Congress. H.R. Rept. No. 481. S. Rept. No. 1073 (on S. 2442). H.R. Rept. No. 612 (on H. Res. 248). H.R. Rept. No. 2200 (conference report).

August 6, 1956

1340

## CROOKED RIVER PROJECT

An act to authorize construction by the Secretary of the Interior of the Crooked River Federal reclamation project, Oregon. (Act of August 6, 1956, ch. 980, 70 Stat. 1058)

[Sec. 1. Crooked River reclamation project, Oreg.—Authorization.]—For the purpose of furnishing water for the irrigation of arid and semiarid lands (including approximately twenty thousand acres of land in Crook County, Oregon) and for other beneficial purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Crooked River Federal reclamation project and the Crooked River project extension, together referred to hereafter as the project. The principal new works for the project extension shall include six pumping plants, canals and related distribution and drainage facilities. The principal new works of the said project shall include a dam and storage reservoir, at or near the Prineville site, a diversion dam and canal below said reservoir, and related pumping plants, canals, conduits, drains, and other facilities. The operation of said works shall be integrated with the operation of the existing Ochoco Dam and Reservoir and of the Government-owned generator in the Cove powerplant of the Pacific Power and Light Company, which works shall, for the purpose of this Act, be considered as works of the Crooked River project. The Secretary of the Interior is hereby authorized to construct extra capacity in the canal below said reservoir and pumping plants located on the canal for the future irrigation of approximately three thousand acres of land, in addition to the presently proposed development, and to recognize the cost of providing such extra capacity as a deferred obligation to be paid under arrangements to be made at such time as the additional area may be brought into the project. (70 Stat. 1058; § 1, Act of September 14, 1959, 73 Stat. 554; § 1, Act of September 18, 1964, 78 Stat. 954; 43 U.S.C. § 615f)

### EXPLANATORY NOTES

**1964 Amendment.** Section 1 of the Act of September 18, 1964, 78 Stat. 954, added the second sentence and the clause at the end of the first sentence relating to the Crooked River project extension. The Act appears herein in chronological order.

**1959 Amendment.** Section 1 of the Act of September 14, 1959, 73 Stat. 554, added the last sentence of the section authorizing construction of excess capacity in the canal and pumping plants. The Act appears herein in chronological order.

**Supplementary Provision: Supplemental Power for Irrigation Pumping.** Section 3 of the Act of September 18, 1964, 78 Stat. 954,

43 U.S.C. § 615f-1, provides that supplemental power and energy required for irrigation water pumping shall be made available by the Secretary of the Interior from the Federal Columbia River power system at charges determined by him. The Act appears herein in chronological order.

**Cross Reference, Ochoco Dam.** Appropriations for emergency reconstruction of Ochoco Dam are contained in the Act of June 29, 1948, 62 Stat. 1127, and the Act of October 12, 1949, 63 Stat. 780. The relevant extracts appear herein in chronological order.

**Sec. 2. [Conditions.]**—In constructing, operating, and maintaining the Crooked River project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or

supplementary thereto), except that (1) any contract entered into under section 9, subsection (d) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193; 43 U.S.C., sec. 485h) for payment of those portions of the costs of constructing, operating, and maintaining the project which are allocated to irrigation and assigned to be paid by the contracting organization shall provide for the repayment of the portion of the construction cost of the project assigned to any contract unit or, if the contract unit be divided into two or more blocks, to any such block over a period of not more than fifty years (exclusive of any permissible development period) or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the said period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay; (2) the construction charge obligation of the Ochoco Irrigation District set out in its contract with the United States dated April 24, 1950, may, if the district so elects, be merged with and paid under the same conditions as other obligations undertaken by it under this Act; (3) that portion of the cost of constructing the new works of the project which is allocated to irrigation but is beyond the ability of the water users to pay shall be charged to and returnable to the reclamation fund from net revenues derived by the Secretary of the Interior from his sale of power from the Dalles project, Oregon, which are over and beyond the amounts required to amortize the power investment therein, as provided in section 5 of the Act of December 22, 1944 (58 Stat. 887, 890; 16 U.S.C., sec 825s), and to return interest on the unamortized balance of said investment; and (4) construction of any of the new works herein authorized shall not be commenced until the Secretary shall have certified to the Congress, in accordance with the provisions of the Act of July 31, 1953 (67 Stat. 261, 266), that an adequate soil survey and land classification of not less than twenty thousand acres of land to be served by the project has been made and that those lands are susceptible to the production of agricultural crops by means of irrigation or that their susceptibility to the sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Those costs of constructing the project which are properly allocable to flood control and to the preservation and propagation of fish and wildlife as provided in existing law, and the like costs of operating and maintaining the same shall be nonreturnable and nonreimbursable under the reclamation laws. (70 Stat. 1058; 43 U.S.C. § 615g)

#### EXPLANATORY NOTE

**References in Text.** The Act of December 22, 1944, is the Flood Control Act of 1944. The Act of July 31, 1953, is the Interior Department Appropriation Act, 1954. The 1944 Act and the extract from the 1953 Act appear herein in chronological order.

**Sec. 3. [Recreation facilities.]**—The Secretary is authorized, in connection with the Crooked River project, to construct minimum basic public recreational facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. The cost of such facilities shall be nonreturnable and nonreimbursable under the Federal reclamation laws. (70 Stat. 1059; 43 U.S.C. § 615h)

August 6, 1956.

1342

## CROOKED RIVER PROJECT

**Sec. 4. [Screen and fish ladder.]**—In order to promote the preservation and propagation of fish and wildlife in accordance with section 2 of the Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C., sec. 661a), an appropriate screen and fish ladder shall be provided at the diversion canal headworks of the Crooked River project below Prineville Reservoir and a minimum release of ten cubic feet per second shall be maintained from said reservoir for the benefit of downstream fishlife during those months when there is no other discharge therefrom, but this release may be reduced for brief temporary periods by the Secretary whenever he may find that release of the full ten cubic feet per second is harmful to the primary purpose of the project. (70 Stat. 1059; 43 U.S.C. § 615i)

**Sec. 5. [Appropriation.]**—There are hereby authorized to be appropriated \$6,339,000 for construction of the new works of the Crooked River project, plus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering indices and, in addition thereto, such sums as may be required to operate and maintain said project. (70 Stat. 1059; 43 U.S.C. § 615j)

### EXPLANATORY NOTES

**Supplementary Provisions: Additional Appropriations.** Section 2 of the Act of September 14, 1959, 73 Stat. 555, 43 U.S.C. § 615j note, authorizes appropriation of additional sums necessary for the extra capacity in the canal and pumping plants therein authorized; and section 2 of the Act of September 18, 1964, 78 Stat. 954, 43 U.S.C.

§ 615j-1, authorizes additional appropriations of \$1,132,000 for the Crooked River project extension. The 1959 and 1964 Acts appear herein in chronological order.

**Legislative History.** S. 3101, Public Law 992 in the 84th Congress. S. Rept. No. 2007. H.R. Rept. No. 2305.

## LITTLE WOOD RIVER PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Little Wood River reclamation project, Idaho. (Act of August 6, 1956, ch. 981, 70 Stat. 1059)

[**Sec. 1. Little Wood River project authorized—Repayment.**]—For the principal purposes of improving the irrigation water supply of approximately ten thousand acres of land in Blaine County, Idaho, and assisting in the control of floods, the Secretary of the Interior is authorized to undertake an enlargement of the Little Wood River Reservoir and to operate and maintain the same in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 338, and Acts amendatory thereof or supplementary thereto). Any contract entered into under section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1193; 43 U.S.C. 485h) for payment of those portions of the costs of constructing, operating, and maintaining the Little Wood River project which are properly allocable to irrigation and which are assigned to be paid by the contracting organization shall provide for the repayment of the construction cost over a period of not more than forty years or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within the period stated under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay. (70 Stat. 1059; 43 U.S.C. § 615k)

**Sec. 2. [Recreational facilities.]**—The Secretary is authorized to construct minimum basic public recreational facilities in connection with the Little Wood River project and to enter into appropriate arrangements for the operation and maintenance of the same by a State or local agency or organization. The cost of such facilities shall be nonreimbursable and nonreturnable under the reclamation laws. (70 Stat. 1059; 43 U.S.C. § 615l)

**Sec. 3. (a) [Fish and wildlife preservation.]**—The Secretary may make such reasonable provision in the works of the Little Wood River project as, upon further study in accordance with section 2 of the Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. 661a), he finds to be required for the preservation and propagation of fish and wildlife. An appropriate portion of the construction cost of the project shall be allocated as provided in said Act and it, together with the portion of the construction cost allocated to flood control and the portions of the operation and maintenance costs allocated to these functions or the capitalized value of the equivalent thereof, shall be nonreimbursable and nonreturnable under the reclamation laws.

**(b) [Hunting and fishing.]**—So far as the Secretary finds the same to be consistent with safety and with efficient operation or the primary purpose of the Little Wood River project, the project waters in the project area shall be open to free public use for lawful hunting and fishing purposes, and free access to the waters for those purposes shall be assured.

August 6, 1956

1344

## LITTLE WOOD RIVER PROJECT

(c) [Water rights under State law.]—Little Wood River Reservoir shall be operated in accord with water rights, under decree or permit, which are valid under the laws of the State of Idaho, but the Congress, taking cognizance of the need for clarification of certain of these rights in some formal manner effective under Idaho law, particularly as between the Fish and Game Department of said State and the water users under the Little Wood River project or their organizations, does not by this declaration accept for or impose upon the United States, its officers or employees any responsibility for determining the correctness of such claims of right and does not, either by the enactment of this Act or by any action taken pursuant thereto, intend to aid or prejudice the claims of any party to a dispute with respect thereto or to impose upon any party to a contract entered into under this Act any obligation with respect to such rights that does not exist under the laws of the State of Idaho or to require that water, other than that which is available under established rights, shall be used primarily either for irrigation or for the preservation of fish and wildlife resources. (70 Stat. 1060; 43 U.S.C. § 615m)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. § 661a), referred to in the text, as amended, is the Fish and Wildlife Coordination Act. The Act appears herein in chronological order.

**Sec. 4. [Appropriation.]**—There are hereby authorized to be appropriated for construction of the Little Wood River project \$1,880,000 plus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved therein and, in addition, such amounts as may be required to operate and maintain said project. (70 Stat. 1060; 43 U.S.C. § 615n)

### EXPLANATORY NOTE

**Legislative History.** S. 3227, Public Law 993 in the 84th Congress. S. Rept. No. 2417. H.R. Rept. No. 1994 (on H.R. 7850). H.R. Rept. No. 2757 (on H. Res. 604).

## CONSENT TO NEGOTIATE ARIZONA AND CALIFORNIA BOUNDARY COMPACT

An act to authorize negotiations with respect to a compact to provide for a definition or relocation of the common boundary between Arizona and California, and for the appointment by the President of a Federal representative to the compact negotiations. (Act of August 8, 1956, ch. 1037, 70 Stat. 1124)

[**Sec. 1. Arizona-California boundary compact.**]—The consent of Congress is hereby given to the States of Arizona and California to negotiate and enter into a compact with respect to the definition or relocation of the common boundary of said States. (70 Stat. 1124)

**Sec. 2. [Consent of Congress.]**—Such consent is given upon the following conditions:

(1) A representative of the United States, not a resident of either Arizona or California, shall be appointed by the President of the United States; such representative shall participate in such negotiations and shall make a report to the President and to the Congress of the proceedings and of any compact entered into; and

(2) Such compact shall not be binding or obligatory upon either of such States unless and until it has been ratified by the legislature of each of such States and consented to by the Congress of the United States. (70 Stat. 1124)

**Sec. 3. [Reservations of powers.]**—The right to alter, amend, or repeal this Act is hereby expressly reserved. (70 Stat. 1124)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Supplementary Provision: Consent of Congress to Compact.** By the Act of August 11, 1966, 80 Stat. 340, the Congress granted its consent to the Compact which was nego-

tiated between Arizona and California pursuant to this Act. The 1966 Act appears herein in chronological order.

**Legislative History.** H.R. 11911, Public Law 1025 in the 84th Congress, H.R. Rept. No. 2761, S. Rept. No. 2812.

May 16, 1957

1346

## DELIVER WATER, HEART MOUNTAIN DIVISION, SHOSHONE PROJECT

Joint resolution permitting the Secretary of the Interior to continue to deliver water to lands in the Heart Mountain division, Shoshone Federal Reclamation project, Wyoming. (Act of May 16, 1957, Public Law 85-33, 71 Stat. 30)

[**Shoshone reclamation project, Wyoming—Water delivery.**]—Pending completion of a repayment contract the Secretary of the Interior is authorized to continue to deliver water to the lands in the Heart Mountain division, Shoshone Federal reclamation project, Wyoming, during the calendar years 1957 and 1958, as under the provisions of section 9, subsection (d) (1), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195, 43 U.S.C. 485h (d)) but without regard to the time limitation therein specified. (71 Stat. 30)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Repayment Contract.** The Act of September 2, 1958, 72 Stat. 1711, approved the execution of a repayment contract by the Secretary of the Interior with the Heart Mountain Irrigation

District, Wyoming. The Act appears herein in chronological order.

**Legislative History.** H.J. Res. 287, Public Law 85-33 in the 85th Congress. H.R. Rept. No. 375. S. Rept. No. 268 (on S.J. Res. 79).

## TRANSFER JURISDICTION, SAN DIEGO AQUEDUCT

An act to amend the Act entitled "An Act to authorize the Secretary of the Navy to enlarge existing water-supply facilities for the San Diego, California area in order to insure the existence of an adequate water supply for naval installations and defense production plants in such area", approved October 11, 1951. (Act of May 31, 1957, Public Law 85-38, 71 Stat. 41)

[San Diego aqueduct—Transfer of jurisdiction to Interior Department.]—The Act entitled "An Act to authorize the Secretary of the Navy to enlarge existing water-supply facilities for the San Diego, California area in order to insure the existence of an adequate water supply for naval installations and defense production plants in such area", approved October 11, 1951, is amended by adding the following new section:

"Sec. 9. As soon as practicable after completion of construction of the work authorized by the first section of this Act, the Secretary of the Navy and the Secretary of the Interior shall make such interdepartmental and other arrangements and enter into such contracts and amendments to existing contracts as they may find necessary or desirable for the purposes of effecting (1) the transfer to the Secretary of the Interior on behalf of the United States of jurisdiction over the aqueduct, and of the administration of the contract numbered NOy-13300 of October 17, 1945, and of all contracts amendatory thereof or supplementary or collateral thereto; and (2) the substitution and designation of an appropriate official of the Department of the Interior for the Secretary of the Navy and for the Contracting Officer therein." (71 Stat. 41)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under section

9 of the Act of October 11, 1951.

**Legislative History.** H.R. 2781, Public Law 85-38 in the 85th Congress. H.R. Rept. No. 138. S. Rept. No. 308.

June 5, 1957

## AMEND SMALL RECLAMATION PROJECTS ACT

An act to amend the Small Reclamation Projects Act of 1956. (Act of June 5, 1957, Public Law 85-47, 71 Stat. 48)

The Small Reclamation Projects Act of 1956 (70 Stat. 1044) is amended as follows:

(a) Amend subsection (c) of section 4 to read:

"(c) [Project proposals—Transmittal to Congress.]—At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this Act, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 5 of this Act shall have been executed." (71 Stat. 48; 43 U.S.C. § 422d)

(b) Add a new subsection (d) to section 4 (the present subsection (d) being relettered (e)) reading as follows:

"(d) [Appropriation—Nonapplicability.]—No appropriation shall be made for financial participation in any such project to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution. The provisions of this subsection (d) shall not be applicable to proposals made under section 6 of this Act." (71 Stat. 49; 43 U.S.C. § 422d)

(c) [Introductory clause amended.]—Amend the introductory clause of section 5 to read:

"Sec. 5. Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—." (71 Stat. 49; 43 U.S.C. § 422e)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under sections 4 and 5 of the Act of August 6, 1956.

**Legislative History.** H.R. 2146, Public

Law 85-47 in the 85th Congress. H.R. Rept. No. 25. S. Rept. No. 293. H.R. Rept. No. 191 (on H. Res. 193).

June 21, 1957

1349

### THIRD SUPPLEMENTAL APPROPRIATION ACT, 1957

[Extracts from] An act making supplemental appropriations for the fiscal year ending June 30, 1957, and for other purposes. (Act of June 21, 1957, Public Law 85-58, 71 Stat. 184)

[Third Supplemental Appropriation Act, 1957.]—The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Third Supplemental Appropriation Act, 1957") for the fiscal year ending June 30, 1957, and for other purposes, namely:

\* \* \* \* \*

#### Public Works

\* \* \* \* \*

#### RIVERS AND HARBORS AND FLOOD CONTROL

##### CONSTRUCTION, GENERAL

[Buford-Trenton Irrigation District.]—That portion of title III of the Act of July 2, 1956 (Public Law 641, Eighty-fourth Congress, 70 Stat. 474, 480), that pertains to the purchase of lands and improvements in the Buford-Trenton Irrigation District in lieu of protecting said Buford-Trenton Irrigation District in connection with development, construction, and operation of the Garrison Dam and Reservoir project on the Missouri River, is amended to read as follows:

That in lieu of protecting the East Bottom of Buford-Trenton Irrigation District, the sum of \$1,621,791 of the funds herein or hereafter appropriated for the Garrison Dam and Reservoir project on the Missouri River shall be available for the purchase of lands and improvements in and contiguous to the Buford-Trenton Irrigation District, exclusive of tracts numbered H. H. 3170 and H. H. 3168, and not to exceed \$2,000,000 shall be available to the Corps of Engineers for protection of the intake structure of the pumping plant in Zero Bottom and for the construction of bank protection to prevent erosion in the Missouri River adjacent to the Buford-Trenton irrigation project. The substitution of land acquisition for protection shall be made and the Secretary of the Army shall acquire such land and improvements if all of the landowners, except Lester G. Larson, the heirs of Louis Morin, Junior, and the heirs of A. Desjarlais, on or before September 15, 1957, have offered to sell their property on the terms agreeable to said landowners, and within the amount provided for such land acquisition: *Provided*, That the Chief of Engineers, United States Army, is authorized to acquire by condemnation proceedings, in the appropriate United States district court, tract 208 C of the Buford-Trenton project, Williams County, North Dakota, according to the recorded plat thereof which tract is owned by Lester G. Larson, the public domain allotment of A. Desjarlais, now deceased, described as Government lots 5 and 8 in section 19 and Government lot 1 in section 30, township 153 north of range 102 west of the fifth principal meridian, North Dakota, and the

June 21, 1957

1350 THIRD SUPPLEMENTAL APPROPRIATION ACT, 1957

public domain allotment of Louis Morin, Junior, now deceased, described as the west half southwest quarter, section 16, and the north half southeast quarter, section 17, township 153 north, range 102 west, fifth principal meridian, North Dakota, in connection with the construction and operation of the Garrison Dam and Reservoir: *Provided further*, That in the event land acquisition is undertaken in lieu of protection of the East Bottom, that in recognition of the increased per acre annual operation and maintenance cost of the remaining lands in the Buford-Trenton Irrigation District, the construction charge obligation assignable to the remaining lands of said district pursuant to the Act of October 14, 1940 (54 Stat. 119) [16 U.S.C. 509y], as amended, and the proposed contract between the United States and the Buford-Trenton Irrigation District, approved as to form February 23, 1955, shall be nonreimbursable, and the Secretary of the Interior is authorized and directed to enter into a contract with the Buford-Trenton Irrigation District to transfer operation and maintenance responsibility for project works constructed by the Bureau of Reclamation for the benefit of the Buford-Trenton Irrigation District to such district. (71 Stat. 184)

\* \* \* \* \*

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions are not included because none were found dealing primarily with the activities of the Bureau of Reclamation under

this statute.

**Legislative History.** H.R. 7221, Public Law 85-58 in the 85th Congress. H.R. Rept. No. 386. S. Rept. No. 310. H.R. Rept. No. 478 (conference report).

### EXCESS LANDS, EAST BENCH UNIT

An act to suspend and to modify the application of the excess land provisions of the Federal reclamation laws to lands in the East Bench unit of the Missouri River Basin project. (Act of July 24, 1957, Public Law 85-112, 71 Stat. 309)

[**Sec. 1. Missouri River Basin, East Bench unit.**]—Except as provided in section 2 of this Act, the excess land provisions of the Federal reclamation laws shall not apply to lands in the Beaverhead Valley, Montana, lying below the proposed Clark Canyon Dam of the East Bench unit of the Missouri River Basin project, authorized in section 9(a) of Public Law 534, Seventy-eighth Congress, approved December 22, 1944 (58 Stat. 887), that are irrigated under existing State water rights, whether the waters used for their irrigation are passed through, regulated by, or stored in the Clark Canyon Reservoir by the United States. (71 Stat. 309)

#### EXPLANATORY NOTE

**Reference in the Text.** Extracts from the text, appear herein in chronological order. The Act is the Flood Control Act of Public Law 534, Seventy-eighth Congress, approved December 22, 1944 (58 Stat. 1944. 887), including section 9(a) referred to in

**Sec. 2. [Conditions for delivery of water to private lands.]**—Any lands of the East Bench unit which are held in private ownership by a person whose holdings of bench lands alone or of bench and valley lands combined exceed the equivalent of one hundred and thirty acres of class 1 lands shall, to the extent they exceed that acreage, be deemed excess lands. No water shall be furnished to such excess lands from, through, or by means of East Bench unit works unless (1) the owner's total holdings do not exceed one hundred and sixty irrigable acres or (2) said owner shall have executed a valid recordable contract with respect to the excess in like manner as provided in the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 636, 649, 43 U.S.C., sec. 423e). In computing "the equivalent of one hundred and thirty acres of class 1 land" under the first sentence of this section, each acre of class 2 land shall be counted as thirteen-fourteenths of an acre if in the valley and as thirteen-sixteenths of an acre if on the bench, each acre of class 3 land shall be counted as thirteen-seventeenth of an acre if in the valley and as thirteen-twenty-seconds of an acre if on the bench, and each acre of class 4-P land shall be counted as thirteen-forty-fourths of an acre. (71 Stat. 309)

#### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636, 649, 43 U.S.C., sec. 423e), referred to in section 2, is the

Omnibus Adjustment Act. The Act appears herein in chronological order.

**Legislative History.** S. 977, Public Law 85-112 in the 85th Congress. S. Rept. No. 574. H.R. Rept. No. 783 (on H.R. 4410).

August 13, 1957

1352

## AMENDED CONTRACT WITH NORTHPORT IRRIGATION DISTRICT

An act to authorize the Secretary of the Interior to enter into and to execute amendatory contract with the Northport Irrigation District, Nebraska. (Act of August 13, 1957, Public Law 85-123, 71 Stat. 342)

[**Sec. 1. Northport Irrigation District, Nebr.—Contracts.**]—The Secretary of the Interior is authorized to enter into a contract with the Northport Irrigation District, Nebraska, amendatory of the contract between said district and the United States dated August 19, 1948, which amendatory contract shall provide, among other things, for (i) the relinquishment by the district of any interest that it may have in all present and potential power revenues from or related to the North Platte Federal reclamation project, (ii) application by the United States of the consideration for said relinquishment, namely \$479,602, in amounts of not more than \$8,000 per annum toward payment of the annual cost of carrying the district's water through the Farmers' Irrigation District canal, and (iii) retention by the United States of that portion of miscellaneous project revenues which the Secretary determines are properly creditable to the district, which revenues shall be covered into the special deposit account established by section 4 of the Act of July 17, 1952 (66 Stat. 754, 755), and expended for the purposes and in the manner therein provided. (71 Stat. 342)

**Sec. 2. [North Platte project.]**—Nothing contained in this Act shall be construed to diminish or enlarge the adjusted construction charge obligations of the Gering and Fort Laramie, the Goshen, and the Pathfinder Irrigation Districts, or any other party as set forth in the contracts between the United States and said districts and parties which were approved by the Act of July 17, 1952, or which have been or shall be entered into pursuant to the authority contained in said Act or to alter the basis upon which said adjusted construction charge obligations have been or shall be computed. The share of each participant in the cost of operating and maintaining the reserved works of the North Platte project shall be computed by the Secretary on the basis of the project acreages in the Fort Laramie and Interstate divisions as set forth in the aforementioned district contracts and sixteen thousand one hundred and seventy acres in the Northport division, but said basis of computation shall not entitle the Northport Irrigation District to any larger amount of credit from miscellaneous project revenues than is consistent with the amounts apportioned to the other districts and parties in accordance with the aforesaid contracts. (71 Stat. 342)

**Sec. 3. [Repeal.]**—The heading "Northport Division" in section 26 of the Act of May 25, 1926 (44 Stat. 636, 642) and paragraph (a) thereunder are hereby repealed, but this repeal shall not affect the obligation of the Northport Irrigation District as expressed in its contract with the United States dated August 19, 1948. (71 Stat. 342)

**Sec. 4. [Payment to Farmers' Irrigation District.]**—The paragraph under the heading "Appropriation of Certain Payments" in that portion of chapter VII,

August 13, 1957

NORTHPORT IRRIGATION DISTRICT

1353

title I, of the Act of September 6, 1950, which pertains to the Bureau of Reclamation (64 Stat. 595, 689) is hereby amended to read as follows:

"The Secretary may, without further appropriation, pay from the reclamation fund to the Farmers' Irrigation District, Nebraska, such sums, but not more than \$8,000 per annum, as are required for water carriage in accordance with contracts between the United States and the Northport Irrigation District authorized by and entered into pursuant to law. The authority contained in this paragraph shall expire when the total of such payments shall be \$479,602." (71 Stat. 342)

**Sec. 5. [Reduction of amount.]**—The amount of \$479,602 stated in section 1 of this Act and in the paragraph of the Act of September 6, 1950, which is amended by section 4 of this Act shall be reduced by whatever amount of net power revenues may have accrued to the benefit of the Northport Irrigation District after June 30, 1956. (71 Stat. 343)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross References, Northport Irrigation District.** Water to the Northport Irrigation District is transported through an extension of the Farmers' Irrigation District canal. The Northport District has annually reimbursed the Farmers' District for this carriage of water. Earlier statutory provisions authorized the use of power revenues from the North Platte project for this purpose. These provisions are found herein in chronological order under the Act of June 19, 1934, 48 Stat. 1034; the Act of May 25, 1948, 62 Stat. 273; and the Act of September 6, 1950, 64 Stat. 689.

**Reference in the Text.** The Act of July 17, 1952 (66 Stat. 754, 755), referred to in

sections 1 and 2, approves contracts negotiated with the Gering and Fort Laramie Irrigation District, the Goshen Irrigation District, and the Pathfinder Irrigation District, and also authorizes the Secretary of the Interior to execute contracts with individual water right contractors on the North Platte Federal reclamation project. The Act appears herein in chronological order.

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636, 642), referred to in section 3, is the Omnibus Adjustment Act. The Act appears herein in chronological order.

**Legislative History.** H.R. 3071, Public Law 85-123 in the 85th Congress. H.R. Rept. No. 645. S. Rept. No. 606.

August 16, 1957

1354

## SAN ANGELO PROJECT

An act to provide for the construction by the Secretary of the Interior of the San Angelo Federal reclamation project, Texas, and for other purposes. (Act of August 16, 1957, Public Law 85-152, 71 Stat. 372)

[**Sec. 1. San Angelo Federal Reclamation project, Tex.**]—The Secretary of the Interior is authorized to construct, operate, and maintain the San Angelo Federal reclamation project, Texas, for the principal purposes of furnishing water for the irrigation of approximately ten thousand acres of land in Tom Green County and municipal domestic, and industrial use, controlling floods, providing recreation and fish and wildlife benefits, and controlling silt. The principal engineering features of said project shall be a dam and reservoir at or near the Twin Buttes site, outlet works at the existing Nasworthy Dam, and necessary canals, drains, and related works. (71 Stat. 372; 43 U.S.C. § 615o)

**Sec. 2. (a) [Authority.]**—In constructing, operating, and maintaining the San Angelo project, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 [43 USC 391], and Acts amendatory thereof or supplementary thereto), except as is otherwise provided in this Act.

**(b) [Contract.]**—Actual construction of the project shall not be commenced, and no construction contract therefor shall be awarded, until a contract or contracts complying with the provisions of this Act have been entered into for payment of those portions of the construction cost of the project which are allocated to irrigation and to municipal, domestic, and industrial water.

**(c) [Water rates—Interest—Storage space.]**—In furnishing water for irrigation and for municipal, domestic, and industrial uses from the project, the Secretary shall charge rates with the object of returning to the United States over a period of not more than forty years, exclusive of any development period for irrigation, all of the costs incurred by it in constructing, operating, and maintaining the project which the Secretary finds to be properly allocable to the purposes aforesaid and of interest on the unamortized balance of the portion of the construction cost which is allocated to municipal, domestic, and industrial water. Said interest shall be at the average rate, which rate shall be certified by the Secretary of the Treasury, paid by the United States on its marketable long-term securities outstanding on the date of this Act. When all of the said costs allocable to said purpose incurred by the United States in constructing, operating, and maintaining the project, together with said interest on the said unamortized balance, have been returned to the United States, the contracting organization or organizations which have thus reimbursed the United States shall have a permanent right to use that portion of the storage space in the project thus allocable to said uses.

**(d) [Repayment contract prerequisites.]**—Any contract entered into under section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1197, 1193, 43 U.S.C., sec. 485h (d)) for payment of those portions of the costs of constructing, operating, and maintaining the project which are allocated

to irrigation and assigned to be paid by the contracting organization may provide for repayment of the portion of the construction cost of the project assigned to any project contract unit or, if the contract unit be divided into two or more irrigation blocks, to any such block over the period specified in said section 9, subsection (d), or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within said period under normal conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the irrigators to pay: *Provided*, That for a period of ten years from the date of enactment of this Act, no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

(e) [Relative priorities.]—Contracts relating to municipal, domestic, and industrial water supply may be entered into without regard to the last sentence of section 9, subsection (c), of the Reclamation Project Act of 1939, and such contracts may recognize the relative priorities of domestic, municipal, industrial, and irrigational uses.

(f) [Project works—Maintenance, etc.]—Upon request of a contracting organization, the Secretary may at any time and shall, after payment of the reimbursable costs of the project has been completed, transfer to the requesting organization, or to another organization designated by it and satisfactory to him, the care, operation, and maintenance of any project works which serve the requesting organization and do not serve any other contracting organization. The care, operation, and maintenance of project works which serve two or more contracting organizations may or shall, as the case may be, be transferred in like circumstances to an organization satisfactory to all of said organizations and to the Secretary. Any transfer made pursuant to the authority of this section shall be upon terms and conditions satisfactory to the Secretary, and the works transferred shall be operated and maintained without further expense to the United States. If the transferred works serve a flood control or fish and wildlife function, they shall be operated and maintained in accordance with regulations with respect thereto prescribed by the Secretary of the Army and the Secretary of the Interior, respectively, and upon failure so to operate or maintain them they shall, upon demand, be returned immediately to the Secretary of the Interior. (71 Stat. 372; 43 U.S.C. § 615p)

#### EXPLANATORY NOTE

**References in the Text.** The definition of "agricultural commodity" in the Agricultural Act of 1949, as amended, referred to in sub-section 2(d) of the text, is found at 63 Stat. 1026, 7 U.S.C. § 1428(c). The definition of "normal supply" in section 301

(b)(10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. § 1301 (b) (10). Neither Act appears herein.

August 16, 1957

**Sec. 3. [Recreational facilities.]**—The Secretary is authorized to construct minimum basic recreational facilities at the Twin Buttes Reservoir and to operate and maintain or arrange for the operation and maintenance of the same. The costs of constructing, operating, and maintaining such facilities, and like costs of the San Angelo project allocated to flood control and to the preservation and propagation of fish and wildlife shall, except as is otherwise provided in this Act, be nonreimbursable and nonreturnable under the reclamation laws. The Secretary shall, upon conclusion of a suitable agreement with a qualified agency and subject to such conditions as may be set forth in the repayment contracts, permit said agency to construct, operate, and maintain additional public recreational facilities and parks in connection with the project to the extent determined by the Secretary to be consistent with its primary purposes and subject to terms and conditions satisfactory to him. (71 Stat. 373; 43 U.S.C. § 615q)

**Sec. 4. [Appropriations.]**—There are hereby authorized to be appropriated for construction of the works authorized by this Act \$32,220,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (71 Stat. 374; 43 U.S.C. § 615r)

EXPLANATORY NOTE

**Legislative History.** S. 42, Public Law 193, H.R. Rept. No. 664 (on H.R. 2147). 85-152 in the 85th Congress. S. Rept. No. H.R. Rept. No. 829 (on H. Res. 359).

### RELIEF OF PHILIP J. DENTON

An act for the relief of Philip J. Denton. (Act of August 16, 1957, Private Law 85-169, 71 Stat. A64)

[Sections of Federal Employees Compensation Act waived.]—Sections 15 to 20, inclusive, of the Federal Employees Compensation Act are hereby waived in favor of Philip J. Denton, Loveland, Colorado, and his claim for compensation for disability sustained by him as a result of disease alleged to have been incurred during the period beginning June 1, 1940, and ending November 30, 1945, while he was employed by the Department of the Interior, Bureau of Reclamation, at Estes Park, Colorado, shall be acted upon under the remaining provisions of such Act if he files such claim with the Bureau of Employees' Compensation, Department of Labor, within sixty days after the date of the enactment of this Act: *Provided*, That no benefits shall accrue by reason of the enactment of this Act for any period prior to its enactment, except in the case of medical or hospitalization expenditures which may be deemed reimbursable. (71 Stat. A64)

#### EXPLANATORY NOTE

Legislative History. H.R. 1446, Private Rept. No. 527. S. Rept. No. 655.  
Law 85-169 in the 85th Congress. H.R.

August 21, 1957

1358

## EXTEND AUTHORITY FOR AMENDATORY CONTRACTS

An act to amend the Act of August 31, 1954 (68 Stat. 1044) to extend the time during which the Secretary of the Interior may enter into amendatory repayment contracts under the Federal reclamation laws, and for other purposes. (Act of August 21, 1957, Public Law 85-156, 71 Stat. 390)

[**Time extended to amend contracts.**]—The Act of August 31, 1954 (68 Stat. 1044), is hereby amended by striking out the year “1957”, and inserting in lieu thereof the year “1960”. (71 Stat. 390; 43 U.S.C. § 485b, note)

### EXPLANATORY NOTES

**Cross Reference, Effect of Statute.** For an explanation of this amendment, see explanatory notes following the Act of March 6, 1952.

**Legislative History.** H.R. 5492, Public Law 85-156 in the 85th Congress. H.R. Rept. No. 955. S. Rept. No. 839 (on S. 1426).

## AMENDED CONTRACT WITH MIRAGE FLATS IRRIGATION DISTRICT

An act to authorize amendment of the irrigation repayment contract of December 28, 1950, between the United States and the Mirage Flats Irrigation District, Nebraska. (Act of August 21, 1957, Public Law 85-160, 71 Stat. 402)

[**Mirage Flats Irrigation District, Nebr.**]—The Secretary of the Interior is authorized to enter into an agreement with the Mirage Flats Irrigation District, Nebraska, amending the contract between the United States and said district dated December 28, 1950 (a) to provide for the application of \$12,642 of accumulated development period credits to reduction of presently delinquent construction charge payments and accumulated penalties thereon, (b) to reduce the thirty-eighth annual construction charge installment under said contract to \$24,890, (c) to schedule for payment in the thirty-ninth year any balance of the construction charge obligation, and (d) to include a provision whereby the scheduled annual payments will be increased or decreased in accordance with a formula reflecting economic factors pertinent to the ability of the organization to pay and the number of years allowed for full repayment will vary accordingly. (71 Stat. 402)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization of Project.** The Mirage Flats project was authorized by the President on April 26, 1940, under the Water Conservation and Utilization program authorized by the Act of May 10, 1939, 53 Stat. 719. Completion of the project was ap-

proved by the President on July 13, 1944, under the W.C.U. Act of August 11, 1939, as amended. Both 1939 Acts appear herein in chronological order.

**Legislative History.** H.R. 5679, Public Law 85-160 in the 85th Congress. H.R. Rept. No. 954. S. Rept. No. 840.

August 26, 1957.

1360

## PUBLIC WORKS APPROPRIATION ACT, 1958

[Extracts from] An act making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes. (Act of August 26, 1957, Public Law 85-167, 71 Stat. 416)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, . . .

[Southern San Joaquin Municipal Utility District distribution system—  
Land classification waived.] . . . *Provided further*, That any portion of this or prior appropriations available for the construction of extensions to the distribution system of the Southern San Joaquin Municipal Utility District may be expended without regard to the land certification requirement under this heading in the Interior Department Appropriation Act, 1953 (60<sup>1</sup> Stat. 445), after the execution and approval of a contract which obligates the entire district to repay the cost of such facilities: . . . (71 Stat. 419)

### EXPLANATORY NOTES

<sup>1</sup> Textual Error. Sic. Should be 66 Stat. Provision Repeated. The same proviso is contained in the Public Works Appropriation Act, 1959, 72 Stat. 1575.

Cross Reference. A land certification re-

quirement similar to that of the appropriation act for 1953 is contained in the following year's appropriation act, Act of July 31, 1953, 67 Stat. 266, and appears herein in chronological order.

[Arnold project.]—. . . *Provided further*, That not to exceed \$69,000 shall be available toward emergency rehabilitation of the works of the Arnold Irrigation District as under the Act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full under conditions satisfactory to the Secretary of the Interior. . . . (71 Stat. 419)

### EXPLANATORY NOTES

Popular Name. The Arnold project is known as a Cordon amendment project after Senator Guy Cordon of Oregon. The appropriations for the project constitute the authorization.

Reference in Text. The Act of October 7, 1949, referred to in the proviso, relates to repayment of expenditures for rehabilitation and betterment work. The Act appears

herein in chronological order.

Cross Reference. Other appropriations for the Arnold project are contained in the Act of July 25, 1947, 61 Stat. 474; the Act of December 23, 1947, 61 Stat. 944; and the Act of October 12, 1949, 63 Stat. 780. Extracts from the first and last of these acts appear herein in chronological order.

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Public Works Appropriation Act, 1958". (71 Stat. 423)

August 26, 1957

PUBLIC WORKS APPROPRIATION ACT, 1958

1361

EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here are not codified in the U.S. Code.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are repeated in two or more appropriation acts appear herein only in the act in which first

used.

**Legislative History.** H.R. 8090, Public Law 85-167 in the 85th Congress. H.R. Rept. No. 552. S. Rept. No. 609. H.R. Rept. No. 1049 (conference report).

August 28, 1957

1362

## CONSENT TO NEGOTIATE LITTLE MISSOURI RIVER COMPACT

An act granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to their interest in, and the apportionment of, the waters of the Little Missouri River and its tributaries as they affect such States, and for related purposes. (Act of August 28, 1957, Public Law 85-184, 71 Stat. 466)

[Sec. 1. Little Missouri River—Interstate compact; consent of Congress to negotiate.]—The consent of the Congress is hereby given to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to the interests of such States in the development, protection from pollution, and the use of the water resources of the Little Missouri River and its tributaries, and providing for an equitable apportionment among them of the waters of the Little Missouri River and its tributaries, and for matters incidental thereto *upon the condition that* one qualified person appointed by the President of the United States shall participate in such negotiations as chairman, representing the United States, and shall make a report to the President of the United States and the Congress of the proceedings and of any compact entered into. Such compact shall not be binding or obligatory upon any of the parties thereto unless or until the same shall have been ratified by the legislature of each of the respective States, and consented to by the Congress of the United States. (71 Stat. 466)

Sec. 2. [Federal representative.]—(a) The Federal representative shall be appointed by the President, and shall report to the President either directly or through such agency or official of the Government as the President may specify.

(b) The Federal representative shall receive compensation and shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as provided for experts and consultants under sections 5 and 15 of the Administrative Expenses Act of 1946 and the Travel Expense Act of 1949, except (1) that his term of service shall be governed by the terms of this Act and shall not be affected by the time limitations of said section 15, and (2) his per diem rate of compensation shall be in such amount, not in excess of \$100, as the President shall specify, but the total amount of compensation payable in any one calendar year shall not exceed \$15,000: *Provided*, That if the Federal representative be an employee of the United States he shall serve without additional compensation: *Provided further*, That a retired military officer, or a retired Federal civilian officer or employee, may be appointed as such representative without prejudice to his retired status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity, but the sum of his retired pay or annuity and such compensation as may be payable hereunder shall not exceed \$15,000 in any one calendar year.

(c) The Federal representative shall be provided with office space, consulting, engineering, and stenographic service, and other necessary administrative services.

(d) The compensation of the Federal representative shall be paid from the

August 28, 1957

NEGOTIATE LITTLE MISSOURI RIVER COMPACT 1363

current appropriation for salaries in the White House Office. Travel and other expenses provided for in subsection (b) and (c) of this section shall be paid from any current appropriation or appropriations selected by the head of such agency or agencies as may be designated by the President to provide for such expenses. (71 Stat. 466)

**Sec. 3. [Expiration date.]**—The authority granted in this Act shall expire eight years from the date of enactment. (71 Stat. 467; Act of May 15, 1962; 76 Stat. 71)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1962 Amendment.** The Act of May 15, 1962, extended the expiration date of the authority granted in the 1957 Act from four to eight years from the date of enactment.

For legislative history of the 1962 Act see Public Law 87-452 in the 87th Congress; S. Rept. No. 975; H.R. Rept. No. 1613.

**Legislative History.** S. 1556, Public Law 85-184 in the 85th Congress. S. Rept. No. 292. H.R. Rept. No. 948.

August 28, 1957

1364

## RELIEF OF THE VILLAGE OF WAUNETA

An act for the relief of the village of Wauneta, Nebraska. (Act of August 28, 1957, Public Law 85-214, 71 Stat. 489)

[**Sec. 1. Wauneta, Nebr.**]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the trustees of the village of Wauneta, Nebraska, the sum of \$76,750 or so much thereof as a board of three competent engineers (one of whom shall be named by the Secretary of the Interior, one by said trustees, and one by the other two jointly or, if they fail to agree, by the chief judge of the United States Court of Appeals for the Eighth Circuit) shall determine is necessary to rectify the adverse effects of the demolition by the United States of the Wauneta Light and Power Company dam on Frenchman Creek on the serviceability of the water supply and storm and sanitary sewer facilities of the village, to compensate said village for any abnormal costs which were occasioned by said demolition and reasonably incurred to maintain such facilities in service from the time of said demolition to the present, and to compensate said village for such like costs as the board finds it may reasonably be expected to incur hereafter during the useful life of the facilities as they existed prior to said demolition or fifty years, whichever is shorter. Said payment shall be made only upon execution by the trustees of a release of the United States from any claim for damages arising from said demolition or from the construction, operation, and maintenance of Enders Dam and Reservoir, which release shall be satisfactory in form and content to the Secretaray of the Interior. Each party shall pay the salary and expenses of its member of the board of engineers and one-half the salary and expenses of the third member of said board. Appropriations made to the Bureau of Reclamation, Department of the Interior, shall be available for the Government's portion of these salaries and expenses. Nothing contained in this Act shall be construed as an admission by the United States of any liability on its part to the village of Wauneta or to any inhabitant or landowner therein. (71 Stat. 489)

**Sec. 2. [Attorney's fee limited.]**—No amount in excess of 10 per centum of the amount paid to the village of Wauneta pursuant to this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with its claim, and any such excess payment shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (71 Stat. 489)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Background.** The Wauneta Light and Power Company dam was acquired by the United States in 1949 as a part of the Department of the Interior's program for constructing Enders Dam and Reservoir at a site upstream from the power company's

dam. The Wauneta Dam was then demolished by the Bureau of Reclamation. The relief provided by this Act was for claims arising from such demolition.

**Legislative History.** S. 364, Public Law 85-214 in the 85th Congress. S. Rept. No. 711. H.R. Rept. No. 1137.

## KLAMATH RIVER BASIN COMPACT

An act granting the consent of Congress to the Klamath River Basin Compact between the States of California and Oregon, and for related purposes. (Act of August 30, 1957, Public Law 85-222, 71 Stat. 497)

[**Sec. 1. Klamath River Basin Compact—Congressional consent.**]—The consent of Congress is hereby given to the Klamath River Basin Compact between the States of California and Oregon, which compact is as follows:

### KLAMATH RIVER BASIN COMPACT

#### INDEX

Article I	Purposes
Article II	Definition of Terms
Article III	Distribution and Use of Water
Article IV	Hydroelectric Power
Article V	Interstate Diversion and Storage Rights; Measuring Devices
Article VI	Acquisition of Property for Storage and Diversion; in Lieu of Taxes
Article VII	Pollution Control
Article VIII	Miscellaneous
Article IX	Administration
Article X	Status of Indian Rights
Article XI	Federal Rights
Article XII	General Provisions
Article XIII	Ratification
Article XIV	Termination

#### ARTICLE I. PURPOSES

The major purposes of this compact are, with respect to the water resources of the Klamath River Basin:

A. To facilitate and promote the orderly, integrated, and comprehensive development, use, conservation, and control thereof for various purposes, including among others: the use of water for domestic purposes; the development of lands by irrigation and other means; the protection and enhancement of fish, wildlife, and recreational resources; the use of water for industrial purposes and hydroelectric power production; and the use and control of water for navigation and flood prevention.

B. To further intergovernmental cooperation and comity with respect to these resources and programs for their use and development and to remove causes of present and future controversies by providing (1) for equitable distribution and use of water among the two States and the Federal Government, (2) for preferential rights to the use of water after the effective date of this compact for the anticipated ultimate requirements for domestic and irrigation purposes in the Upper Klamath River Basin in Oregon and California, and (3) for prescribed relationships between beneficial uses of water as a practicable means of accomplishing such distribution and use.

August 30, 1957

ARTICLE II. DEFINITION OF TERMS

As used in this compact:

A. "Klamath River Basin" shall mean the drainage area of the Klamath River and all its tributaries within the States of California and Oregon and all closed basins included in the Upper Klamath River Basin.

B. "Upper Klamath River Basin" shall mean the drainage area of the Klamath River and all its tributaries upstream from the boundary between the States of California and Oregon and the closed basins of Butte Valley, Red Rock Valley, Lost River Valley, Swan Lake Valley and Crater Lake, as delineated on the official map of the Upper Klamath River Basin approved on September 6, 1956, by the commissions negotiating this compact and filed with the Secretaries of State of the two states and the General Services Administration of the United States, which map is incorporated by reference and made a part hereof.

C. "Commission" shall mean the Klamath River Compact Commission as created by Article IX of this compact.

D. "Klamath Project" of the Bureau of Reclamation of the Department of the Interior of the United States shall mean that area as delineated by appropriate legend on the official map incorporated by reference under subdivision B of this article.

E. "Person" shall mean any individual or any other entity, public or private, including either state, but excluding the United States.

F. "Keno" shall mean a point on the Klamath River at the present needle dam, or any substitute control dam constructed in Section 36, Township 39 South, Range 7 East, Willamette Base and Meridian.

G. "Water or waters" shall mean waters appearing on the surface of the ground in streams, lakes or otherwise, regardless of whether such waters at any time were or will become ground water, but shall not include water extracted from underground sources until after such water is used and becomes surface return flow or waste water.

H. "Domestic use" shall mean the use of water for human sustenance, sanitation and comfort; for municipal purposes; for livestock watering; for irrigation of family gardens; and for other like purposes.

I. "Industrial use" shall mean the use of water in manufacturing operations.

J. "Irrigation use" shall mean the use of water for production of agricultural crops, including grain grown for feeding wildfowl.

ARTICLE III. DISTRIBUTION AND USE OF WATER

A. There are hereby recognized vested rights to the use of waters originating in the Upper Klamath River Basin validly established and subsisting as of the effective date of this compact under the laws of the state in which the use or diversion is made, including rights to the use of waters for domestic and irrigation uses within the Klamath Project. There are also hereby recognized rights to the use of all waters reasonably required for domestic and irrigation uses which may hereafter be made within the Klamath Project.

B. Subject to the rights described in subdivision A of this article and ex-

cepting the uses of water set forth in subdivision E of Article XI, rights to the use of unappropriated waters originating within the Upper Klamath River Basin for any beneficial use in the Upper Klamath River Basin, by direct diversion or by storage for later use, may be acquired by any person after the effective date of this compact by appropriation under the laws of the state where the use is to be made, as modified by the following provisions of this subdivision B and subdivision C of this article, and may not be acquired in any other way:

1. In granting permits to appropriate waters under this subdivision B, as among conflicting applications to appropriate when there is insufficient water to satisfy all such applications, each state shall give preference to applications for a higher use over applications for a lower use in accordance with the following order of uses:

- (a) Domestic use,
- (b) Irrigation use,
- (c) Recreational use, including use for fish and wildlife,
- (d) Industrial use,
- (e) Generation of hydroelectric power,
- (f) Such other uses as are recognized under the laws of the state involved.

These uses are referred to in this compact as uses (a), (b), (c), (d), (e) and (f), respectively. Except as to the superiority of rights to the use of water for use (a) or (b) over the rights to the use of water for use (c), (d), (e) or (f), as governed by subdivision C of this article, upon a permit being granted and a right becoming vested and perfected by use, priority in right to the use of water shall be governed by priority in time within the entire Upper Klamath River Basin regardless of State boundaries. The date of priority of any right to the use of water appropriated for the purposes above enumerated shall be the date of the filing of the application therefor, but such priority shall be dependent on commencement and completion of construction of the necessary works and application of the water to beneficial use with due diligence and within the times specified under the laws of the State where the use is to be made. Each State shall promptly provide the commission and the appropriate official of the other State with complete information as to such applications and as to all actions taken thereon.

2. Conditions on the use of water under this subdivision B in Oregon shall be:

(a) That there shall be no diversion of waters from the Upper Klamath River Basin, but this limitation shall not apply to out-of-basin diversions of waters originating within the drainage area of Fourmile Lake.

(b) That water diverted from Upper Klamath Lake and the Klamath River and its tributaries upstream from Keno, Oregon, for use in Oregon and not consumed therein and appearing as surface return flow and waste water within the Upper Klamath River Basin shall be returned to the Klamath River or its tributaries above Keno, Oregon.

3. Conditions on the use of water under this subdivision B in California shall be:

(a) That the waters diverted from the Klamath River within the Upper Klamath River Basin for use in California shall not be taken outside the Upper Klamath River Basin.

August 30, 1957

1368

## KLAMATH RIVER BASIN COMPACT

(b) That substantially all of the return flows and waste water finally resulting from such diversions and use appearing as surface waters in the Upper Klamath River Basin shall be made to drain so as to be eventually returned to the Klamath River upstream from Keno, Oregon.

C. 1. All rights, acquired by appropriation after the effective date of this compact, to use waters originating within the Upper Klamath River Basin for use (a) or (b) in the Upper Klamath River Basin in either state shall be superior to any rights, acquired after the effective date of this compact, to use such waters (i) for any purpose outside the Klamath River Basin by diversion in California or (ii) for use (c), (d), (e) or (f) anywhere in the Klamath River Basin. Such superior rights shall exist regardless of their priority in time and may be exercised with respect to inferior rights without the payment of compensation. But such superior rights to use water for use (b) in California shall be limited to the quantity of water necessary to irrigate 100,000 acres of land, and in Oregon shall be limited to the quantity of water necessary to irrigate 200,000 acres of land.

2. The provisions of paragraph 1 of this subdivision C shall not prohibit the acquisition and exercise after the effective date of this compact of rights to store waters originating within the Upper Klamath River Basin and to make later use of such stored water for any purpose, as long as the storing of waters for such later use, while being effected, does not interfere with the direct diversion or storage of such waters for use (a) or (b) in the Upper Klamath River Basin.

### ARTICLE IV. HYDROELECTRIC POWER

It shall be the objective of each state, in the formulation and execution and the granting of authority for the formulation and execution of plans for the distribution and use of the waters of the Klamath River Basin, to provide for the most efficient use of available power head and its economic integration with the distribution of water for other beneficial uses in order to secure the most economical distribution and use of water and lowest power rates which may be reasonable for irrigation and drainage pumping, including pumping from wells.

### ARTICLE V. INTERSTATE DIVERSION AND STORAGE RIGHTS; MEASURING DEVICES

A. Each state hereby grants for the benefit of the other and its designees the right to construct and operate facilities for the measurement, diversion, storage and conveyance of water from the Upper Klamath River Basin in one state for use in the other insofar as the exercise of such right may be necessary to effectuate and comply with the terms of this compact. The location of such facilities shall be subject to approval by the commission.

B. Each state or its designee, exercising within the jurisdiction of the other a right granted under subdivision A of this article, shall make provision for the establishment, operation and maintenance of permanent gaging stations at such points on streams or reservoir or conveyance facilities as may be required by the commission for the purpose of ascertaining and recording the volume of diversions by the streams or facilities involved. Said stations shall be equipped

August 30, 1957

**KLAMATH RIVER BASIN COMPACT**

1369

with suitable devices for determining the flow of water at all times. All information obtained from such stations shall be compiled in accordance with the standards of the United States Geological Survey, shall be filed with the commission, and shall be available to the public.

**ARTICLE VI. ACQUISITION OF PROPERTY FOR STORAGE AND DIVERSION; IN LIEU OF TAXES**

A. Subject to approval of the commission, either state shall have the right (1) to acquire such property rights in the other state as are necessary for the diversion, storage, conveyance, measurement and use of water in conformity with this compact, by donation or purchase, or (2) to elect to have the other state acquire such property rights for it by purchase or through the exercise of the power of eminent domain. A state making the latter election shall make a written request therefor and the other state shall expeditiously acquire said property rights either by purchase at a price satisfactory to the requesting state, or, if such purchase cannot be made, then through the exercise of its power of eminent domain, and shall convey said property rights to the requesting state or its designee. All costs of such acquisition shall be paid by the requesting state. Neither state shall have any greater power to acquire property rights for the other state through the exercise of the power of eminent domain than it would have under its laws to acquire the same property rights for itself.

B. Should any diversion, storage or conveyance facilities be constructed or acquired in either state for the benefit of the other state, as herein provided, the construction, repair, replacement, maintenance and operation of such facilities shall be subject to the laws of the state in which the facilities are located, except that the proper officials of that state shall permit the storage, release and conveyance of any water to which the other state is entitled under this compact.

C. Either state having property rights other than water rights in the other state acquired as provided in this article shall pay to each political subdivision of the state in which such property rights are located, each and every year during which such rights are held, a sum of money equivalent to the average annual amount of taxes assessed against those rights during the 10 years preceding the acquisition of such rights in reimbursement for the loss of taxes to such political subdivisions of the state. Payments so made to a political subdivision shall be in lieu of any and all taxes by that subdivision on the property rights for which the payments are made.

**ARTICLE VII. POLLUTION CONTROL**

A. The states recognize that the growth of population and the economy of the Upper Klamath River Basin can result in pollution of the waters of the Upper Klamath River Basin constituting a menace to the health and welfare of, and occasioning economic loss to, people living or having interests in the Klamath River Basin. The states recognize further that protection of the beneficial uses of the waters of the Klamath River Basin requires cooperative action of the two states in pollution abatement and control.

August 30, 1957

1370

KLAMATH RIVER BASIN COMPACT

B. To aid in such pollution abatement and control, the commission shall have the duty and power:

1. To cooperate with the states or agencies thereof or other entities and with the United States for the purpose of promoting effective laws and the adoption of effective regulations for abatement and control of pollution of the waters of the Klamath River Basin, and from time to time to recommend to the governments reasonable minimum standards for the quality of such waters.

2. To disseminate to the public by any and all appropriate means information respecting pollution abatement and control in the waters of the Klamath River Basin and on the harmful and uneconomic results of such pollution.

C. Each state shall have the primary obligation to take appropriate action under its own laws to abate and control interstate pollution, which is defined as the deterioration of the quality of the waters of the Upper Klamath River Basin within the boundaries of such state which materially and adversely affects beneficial uses of waters of the Klamath River Basin in the other state. Upon complaint to the commission by the state water pollution control agency of one state that interstate pollution originating in the other state is not being prevented or abated, the procedure shall be as follows:

1. The commission shall make an investigation and hold a conference on the alleged interstate pollution with the water pollution control agencies of the two states, after what the commission shall recommend appropriate corrective action.

2. If appropriate corrective action is not taken within a reasonable time, the commission shall call a hearing, giving reasonable notice in writing thereof to the water pollution control agencies of the two states and to the person or persons which it is believed are causing the alleged interstate pollution. Such hearing shall be held in accordance with rules and regulations of the commission, which shall conform as nearly as practicable with the laws of the two states governing administrative hearings. At the conclusion of such hearing, the commission shall make a finding as to whether interstate pollution exists, and if so, shall issue to any person or persons which the commission finds are causing such interstate pollution an order or orders for correction thereof.

3. It shall be the duty of the person against whom any such order is issued to comply therewith. Any court of general jurisdiction of the state where such discharge is occurring or the United States District Court for the district where the discharge is occurring shall have jurisdiction, on petition of the commission for enforcement of such order, to compel action by mandamus, injunction, specific performance, or any other appropriate remedy, or on petition of the person against whom the order is issued to review any order. At the conclusion of such enforcement or review proceedings, the court may enter such decree or judgment affirming, reversing, modifying, or remanding such order as in its judgment is proper in the circumstances on the basis of the rules customarily applicable in proceedings for court enforcement or review of administrative actions.

D. The water pollution control agencies of the two states shall, from time to time, make available to the commission all data relating to the quality of the

August 30, 1957

KLAMATH RIVER BASIN COMPACT

1371

waters of the Upper Klamath River Basin which they possess as the result of studies, surveys and investigations thereof which they may have made.

ARTICLE VIII. MISCELLANEOUS

A. Subject to vested rights as of the effective date of this compact, there shall be no diversion of waters from the basin of Jenny Creek to the extent that such waters are required, as determined by the commission, for use on land within the basin of Jenny Creek.

B. Each state shall exercise whatever administrative, judicial, legislative or police powers it has that are required to provide any necessary re-regulation or other control over the flow of the Klamath River downstream from any hydro-electric power plant for protection of fish, human life or property from damage caused by fluctuations resulting from the operation of such plant.

ARTICLE IX. ADMINISTRATION

A. 1. There is hereby created a commission to administer this compact. The commission shall consist of three members. The representative of the State of California shall be the Department of Water Resources. The representative of the State of Oregon shall be the State Engineer of Oregon who shall serve as ex officio representative of the State Water Resources Board of Oregon. The President is requested to appoint a federal representative who shall be designated and shall serve as provided by the laws of the United States.

2. The representative of each state shall be entitled to one vote in the commission. The representative of the United States shall serve as chairman of the commission without vote. The compensation and expenses of each representative shall be fixed and paid by the government which he represents. Any action by the commission shall be effective only if it be agreed to by both voting members.

3. The commission shall meet to establish its formal organization within 60 days after the effective date of this compact, such meeting to be at the call of the governors of the two states. The commission shall then adopt its initial set of rules and regulations governing the management of its internal affairs providing for, among other things, the calling and holding of meetings, the adoption of a seal, and the authority and duties of the chairman and executive director. The commission shall establish its office within the Upper Klamath River Basin.

4. The commission shall appoint an executive director, who shall also act as secretary, to serve at the pleasure of the commission and at such compensation, under such terms and conditions and performing such duties as it may fix. The executive director shall be the custodian of the records of the commission with authority to affix the commission's official seal, and to attest to and certify such records or copies thereof. The commission, without regard to the provisions of the civil service laws of either state, may appoint and discharge such consulting, clerical and other personnel as may be necessary for the performance of the commission's functions, may define their duties, and may fix and pay their compensation. The commission may require the executive director and any of its employes to post official bonds, and the cost thereof shall be paid by the commission.

August 30, 1957

1372

KLAMATH RIVER BASIN COMPACT

5. All records, files and documents of the commission shall be open for public inspection at its office during established office hours.

6. No member, officer or employe of the commission shall be liable for injury or damage resulting from (a) action taken by such member, officer or employe in good faith and without malice under the apparent authority of this compact, even though such action is later judicially determined to be unauthorized, or (b) the negligent or wrongful act or omission of any other person, employed by the commission and serving under such officer, member or employe, unless such member, officer, or employe either failed to exercise due care in the selection, appointment or supervision of such other person, or failed to take all available action to suspend or discharge such other person after knowledge or notice that such other person was inefficient or incompetent to perform the work for which he was employed. No suit may be instituted against a member, officer or employe of the commission for damages alleged to have resulted from the negligent or wrongful act or omission of such member, officer or employe or a subordinate thereof occurring during the performance of his official duties unless, within 90 days after occurrence of the incident, a verified claim for damages is presented in writing and filed with such member, officer or employe and with the commission. In the event of a suit for damages against any member, officer or employe of the commission on account of any act or omission in the performance of his or his subordinates' official duties, the commission shall arrange for the defense of such suit and may pay all expenses therefor on behalf of such member, officer or employe. The commission may at its expense insure its members, officers and employes against liability resulting from their acts or omissions in the performance of their official duties. Nothing in this paragraph shall be construed as imposing any liability upon any member, officer or employe of the commission that he would otherwise not have.

7. The commission may incur obligations and pay expenses which are necessary for the performance of its functions. But it shall not pledge the credit of any government except by and with the authority of the legislative body thereof given pursuant to and in keeping with the constitution of such government, nor shall the commission incur any obligations prior to the availability of funds adequate to meet them.

8. The commission may:

(a) Borrow, accept or contract for the services of personnel from any government, or agency thereof, from any intergovernmental agency, or from any other entity.

(b) Accept for any of its purposes and functions under this compact any and all donations, gifts, grants of money, equipment, supplies, materials and services from any government or agency thereof or intergovernmental agency or from any other entity.

(c) Acquire, hold and dispose of real and personal property as may be necessary in the performance of its functions.

(d) Make such studies, surveys and investigations as are necessary in carrying out the provisions of this compact.

August 30, 1957

KLAMATH RIVER BASIN COMPACT

1373

9. All meetings of the commission for the consideration of and action on any matters coming before the commission, except matters involving the management of internal affairs of the commission and its staff, shall be open to the public. Matters coming within the exception of this paragraph may be considered and acted upon by the commission in executive sessions under such rules and regulations as may be established therefor.

10. In the case of the failure of the two voting members of the commission to agree on any matter relating to the administration of this compact as provided in paragraph 2 of this subdivision A, the representative from each state shall appoint one person and the two appointed persons shall appoint a third person. The three appointees shall sit as an arbitration forum. The terms of appointment and the compensation of the members of the arbitration forum shall be fixed by the commission. Matters on which the two voting members of the commission have failed to agree shall be decided by a majority vote of the members of the arbitration forum. Each state obligates itself to abide by the decision of the arbitration forum, subject, however, to the right of each state to have the decision reviewed by a court of competent jurisdiction.

11. The commission shall have the right of access, through its authorized representatives, to all properties in the Klamath River Basin whenever necessary for the purpose of administration of this compact. The commission may obtain a court order to enforce its right of access.

B. 1. The commission shall submit to the governor or designated officer of each state a budget of its estimated expenditures for such period and at such times as may be required by the laws of that state for presentation to the legislature thereof. Each state pledges itself to appropriate and pay over to the commission one-half of the amount required to finance the commission's estimated expenditures as set forth in each of its budgets, and pledges further that concurrently with approval of this compact by its legislature the sum of not less than \$12,000 will be appropriated by it to be paid over to the commission at its first meeting for use in financing the commission's functions until the commission can prepare its first budget and receive its first appropriation thereunder from the states.

2. The commission shall keep accurate accounts of all receipts and disbursements, which shall be audited yearly by a certified public accountant, and the report of the audit shall be made a part of its annual report. The accounts of the commission shall be open for public inspection during established office hours.

3. The commission shall make and transmit to the legislature and governor of each state and to the President of the United States an annual report covering the finances and activities of the commission and embodying such plans, recommendations and findings as may have been adopted by the commission.

C. 1. The commission shall have the power to adopt, and to amend or repeal, such rules and regulations to effectuate the purposes of this compact as in its judgment may be appropriate.

2. Except as to matters involving exclusively the management of the internal affairs of the commission and its staff or involving emergency matters, prior

August 30, 1957

to the adoption amendment or repeal of any rule or regulation the commission shall hold a hearing at which any interested person shall have the opportunity to present his views on the proposed action in writing, with or without the opportunity to present the same orally. The commission shall give adequate advance notice in a reasonable manner of the time, place and subject of such hearings.

3. Emergency rules and regulations may be adopted without a prior hearing, but in such case they may be effective for not longer than 90 days.

4. The commission shall publish its rules and regulations in convenient form.

#### ARTICLE X. STATUS OF INDIAN RIGHTS

A. Nothing in this compact shall be deemed:

1. To affect adversely the present rights of any individual Indian, tribe, band or community of Indians to the use of the water of the Klamath River Basin for irrigation.

2. To deprive any individual Indian, tribe, band or community of Indians of any rights, privileges, or immunities afforded under Federal treaty, agreement or statute.

3. To affect the obligations of the United States of America to the Indians, tribes, bands or communities of Indians, and their reservations.

4. To alter, amend or repeal any of the provisions of the Act of August 13, 1954 (68 Stat. 718), as it may be amended.

B. Lands within the Klamath Indian Reservation which are brought under irrigation after the effective date of this compact, whether before or after Section 14 of said Act of August 13, 1954, becomes fully operative, shall be taken into account in determining whether the 200,000 acre limitation provided in paragraph 1 of subdivision C of Article III has been reached.

#### EXPLANATORY NOTE

**Reference in the Text.** The Act of August 13, 1954 (68 Stat. 718), referred to in the text, is an act to terminate Federal supervision over the property of the Klam-

ath Tribe of Indians. Section 14 of the Act, specifically referred to, deals with Indian water and fishing rights.

#### ARTICLE XI. FEDERAL RIGHTS

Nothing in this compact shall be deemed:

A. To impair or affect any rights, powers or jurisdiction in the United States, its agencies or those acting by or under its authority, in, over and to the waters of the Klamath River Basin, nor to impair or affect the capacity of the United States, its agencies or those acting by or under its authority in any manner whatsoever, except as otherwise provided by the federal legislation enacted for the implementation of this compact as specified in Article XIII.

B. To subject any property of the United States, its agencies or instrumentalities, to taxation by either state or any subdivision thereof, unless otherwise provided by Act of Congress.

C. To subject any works or property of the United States, its agencies, in-

strumentalities or those acting by or under its authority, used in connection with the control or use of waters which are the subject of this compact, to the laws of any state to an extent other than the extent to which those laws would apply without regard to this compact, except as otherwise provided by the federal legislation enacted for the implementation of this compact as specified in Article XIII.

D. To affect adversely the existing areas of Crater Lake National Park or Lava Beds National Monument, or to limit the operation of laws relating to the preservation thereof.

E. To apply to the use of water for the maintenance on the scale at which such land and water areas are maintained as of the effective date of this compact, of officially designated waterfowl management areas, including water consumed by evaporation and transpiration on water surface areas and water used for irrigation or otherwise in the Upper Klamath River Basin; nor to affect the rights and obligations of the United States under any migratory bird treaty or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, to the effective date of this compact.

#### ARTICLE XII. GENERAL PROVISIONS

A. Each state and all persons using, claiming or in any manner asserting any right to the use of the waters of the Klamath River Basin under the authority of either state shall be subject to the terms of this compact.

B. Nothing in this compact shall be construed to limit or prevent either state from instituting or maintaining any action or proceeding, legal or equitable, in any court of competent jurisdiction for the protection of any right under this compact or the enforcement of any of its provisions.

C. Should a court of competent jurisdiction hold any part of this compact to be contrary to the Constitution of either state or the United States, all other provisions shall continue in full force and effect, unless it is authoritatively and finally determined judicially that the remaining provisions cannot operate for the purposes, or substantially in the manner, intended by the states independently of the portions declared unconstitutional or invalid.

D. Except as to matters requiring the exercise of discretion by the commission, the provisions of this compact shall be self-executing and shall by operation of law be conditions of the various state permits, licenses or other authorizations relating to the waters of the Klamath River Basin issued after the effective date of this compact.

E. The physical and other conditions peculiar to the Klamath River Basin constitute the basis for this compact, and neither of the states hereby, nor the Congress of the United States by its consent, considers that this compact establishes any general principle or precedent with respect to any other interstate stream.

#### ARTICLE XIII. RATIFICATION

A. This compact shall become effective when ratified by the legislature of each signatory state, and when consented to by an act of Congress of the

August 30, 1957

United States which will, in substance, meet the provisions hereinafter set forth in this article.

B. The act of Congress referred to in subdivision A of this article shall provide that the United States or any agency thereof, and any entity acting under any license or other authority granted under the laws of the United States (referred to in this article as "the United States"), in connection with developments undertaken after the effective date of this compact pursuant to laws of the United States, shall comply with the following requirements:

1. The United States shall recognize and be bound by the provisions of subdivision A of Article III.

2. The United States shall not, without payment of just compensation, impair any rights to the use of water for use (a) or (b) within the Upper Klamath River Basin by the exercise of any powers or rights to use or control water (i) for any purpose whatsoever outside the Klamath River Basin by diversions in California or (ii) for any purpose whatsoever within the Klamath River Basin other than use (a) or (b). But the exercise of powers and rights by the United States shall be limited under this paragraph 2 only as against rights to the use of water for use (a) or (b) within the Upper Klamath River Basin which are acquired as provided in subdivision B of Article III after the effective date of this compact, but only to the extent that annual depletions in the flow of the Klamath River at Keno resulting from the exercise of such rights to use water for uses (a) and (b) do not exceed 340,000 acre-feet in any one calendar year.

3. The United States shall be subject to the limitation on diversions of waters from the basin of Jenny Creek as provided in subdivision A of Article VIII.

4. The United States shall be governed by all the limitations and provisions of paragraph 2 and subparagraph (a) of paragraph 3 of subdivision B of Article III.

5. The United States, with respect to any irrigation or reclamation development undertaken by the United States in the Upper Klamath River Basin in California, shall provide that substantially all of the return flows and waste water finally resulting from such diversions and use appearing as surface waters in the Upper Klamath River Basin shall be made to drain so as to be eventually returned to the Klamath River upstream from Keno, unless the Secretary of the Interior shall determine that compliance with this requirement would render it less feasible than under an alternate plan of development, in which event such return flows and waste waters shall be returned to the Klamath River at a point above Copco Lake.

C. Upon enactment of the act of Congress referred to in subdivision A of this article and so long as such act shall be in effect, the United States, when exercising rights to use water pursuant to state law, shall be entitled to all of the same privileges and benefits of this compact as any person exercising similar rights.

D. Such act of Congress shall not be construed as relieving the United States of any requirement of compliance with state law which may be provided by other federal statutes.

August 30, 1957

KLAMATH RIVER BASIN COMPACT

1377

ARTICLE XIV. TERMINATION

This compact may be terminated at any time by legislative consent of both states, but despite such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the states. (71 Stat. 497)

EXPLANATORY NOTE

**Quotation Marks Omitted.** As enacted at 71 Stat. 497-507 the foregoing text of the compact has been enclosed in quotation marks. These have been omitted in this reproduction.

**Sec. 2. [Definitions.]**—As used in this Act—

- (a) The term "United States" shall mean collectively or separately, as the case may be, the United States, any agency thereof, and any entity acting under any license or other authority granted under the laws of the United States.
- (b) The terms appearing herein which are defined in article II or III of the compact shall have the meaning there stated.
- (c) "The compact" refers to the Klamath River Basin Compact, set forth in section 1 of this Act. (71 Stat. 507)

**Sec. 3. [Obligations of the United States under the Compact.]**—(a) Reserving the constitutional powers of the United States and subject to the provisions of section 4 of this Act, the United States, in connection with developments undertaken after the effective date of this Act, pursuant to the laws of the United States, shall comply with the requirements set forth in paragraphs numbered 1, 2, 3, 4 and 5 of subdivision B in article XIII of the compact.

(b) The United States, when exercising rights to use water pursuant to State law, shall be entitled to all of the same privileges and benefits of the compact as any person exercising similar rights.

(c) This Act shall not be construed as relieving the United States of any requirement of compliance with State law which may be provided by other Federal statutes. (71 Stat. 508)

**Sec. 4. [United States obligations to the Indians—Federal courts' jurisdiction unchanged—Rights of the United States to waters of the Klamath River Basin.]**—Nothing in this Act or in the compact shall be construed as: (a) Affecting the obligations of the United States to the Indians or Indian tribes, bands, or communities of Indians, or any right owned or held by or for the Indians or Indian tribes, bands or communities of Indians, which is subject to control by the United States.

(b) Enlarging, diminishing or otherwise affecting the jurisdiction of the courts of the United States.

(c) Impairing or affecting any existing rights of the United States to waters of the Klamath River Basin now beneficially used by the United States; nor any power or capacity of the United States to acquire rights in and to the use of the said waters of said basin by purchase, donation, or eminent domain. (71 Stat. 508)

**Sec. 5. [Federal representative—Administrative support.]**—(a) The Federal representative to the Commission shall be appointed by the President, and shall

August 30, 1957

1378

## KLAMATH RIVER BASIN COMPACT

report to the President either directly or through such agency or official of the Government as the President may specify. Such representative shall have no vote.

(b) The Federal representative shall receive compensation and shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as provided for experts and consultants under sections 5 and 15 of the Administrative Expenses Act of 1946 and the Travel Expense Act of 1949; except (1) that his term of service shall be governed by the terms of this Act and shall not be affected by the time limitations of said section 15, and (2) his per diem rate of compensation shall be in such amount, not in excess of \$50, as the President shall specify, but the total amount of compensation payable in any one calendar year shall not exceed \$15,000: *Provided*, That if the Federal representative be an employee of the United States he shall serve without additional compensation: *Provided further*, That a retired military officer or a retired Federal civilian officer or employee may be appointed as such representative, without prejudice to his retired status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity but the sum of his retired pay or annuity and such additional compensation as may be payable hereunder shall not exceed \$15,000 in any one calendar year.

(c) The Federal representative shall be provided with office space, consulting, engineering, and stenographic service, and other necessary administrative services.

(d) The compensation of the Federal representative shall be paid from the current appropriation for salaries in the White House Office. Travel and other expenses provided for in subsections (b) and (c) of this section shall be paid from any current appropriation or appropriations selected by the head of such agency or agencies as may be designated by the President to provide for such expenses. (71 Stat. 508)

**Sec. 6. [Reservation.]**—The right to alter, amend, or repeal this Act is expressly reserved. (71 Stat. 508)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Consent of Congress to Negotiate the Klamath River Compact.** The Act of August 9, 1955, 69 Stat. 613, authorized the states of Oregon and California to negotiate and enter into a compact

with respect to the waters of the Klamath River and its tributaries. The Act appears herein in chronological order.

**Legislative History.** S. 2431, Public Law 85-222 in the 85th Congress. S. Rept. No. 834. H.R. Rept. No. 1130 (on H.R. 8465).

## COULEE DAM COMMUNITY ACT OF 1957

An act to provide for the disposal of certain Federal property in the Coulee Dam and Grand Coulee areas, to provide assistance in the establishment of a municipality incorporated under the laws of Washington, and for other purposes. (Act of August 30, 1957, Public Law 85-240, 71 Stat. 524)

[**Sec. 1. Coulee Dam Community Act of 1957.**]—It is the purpose of this Act, in connection with the Columbia Basin project, to authorize the disposal of certain Federal property in the unincorporated area in the State of Washington commonly known as the town of Coulee Dam in order that the United States may withdraw from the ownership and operation of the town and that the people of that area may enjoy self-government, to facilitate the establishment by them of a municipal corporation under the laws of the State of Washington, and to authorize the disposal of certain Federal property in and in the immediate vicinity of the city of Grand Coulee, Washington, in order to reduce restrictions on the growth thereof. The area herein referred to as the town area is situated in Douglas, Grant, and Okanogan counties and comprises the following lands:

Douglas County: Township 29 north, range 30 east, Willamette meridian, section 36, lots 2, 3, 4, east half southwest quarter and southwest quarter southwest quarter.

Grant County: Township 28 north, range 30 east, Willamette meridian, section 1, lots 1 and 2.

Okanogan County: Township 28 north, range 31 east, Willamette meridian, section 6, lot 3.

Township 29 north, range 30 east, Willamette meridian, section 36, lots 5, 6, and 7.

Township 29 north, range 31 east, Willamette meridian, section 30, all those portions of the south 300 feet of lot 4 included within the area conveyed to the United States of America by warranty deed executed by Charles E. Hopkins, and others on September 11, 1946, and recorded in book 107 of deeds at pages 175 and 176 under Okanogan County auditor's file numbered 346972 and by warranty deed executed by Charles E. Hopkins, and others on November 7, 1945, recorded in book 102 of deeds at pages 441 and 442 under Okanogan County auditor's file numbered 339487.

Section 31, west half northeast quarter southeast quarter northwest quarter, east half southwest quarter, northwest quarter northwest quarter southeast quarter, and lots 1, 2, 3, and 4.

The area herein referred to as the Grand Coulee area is situated in Grant County and comprises the following lands:

Township 28 north, range 30 east, Willamette meridian, section 11, south one-half north one-half, north one-half southwest one-quarter, northeast one-quarter southeast one-quarter.

The term "the municipality", as used in this Act, refers to any municipal

August 30, 1957

corporation organized hereafter embracing any part of the town area described. (71 Stat. 524; 16 U.S.C. § 835c, note)

**Sec. 2. [Sale of lands.]**—Except for property, disposal of which is authorized under section 6 of this Act, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to sell all lands and improvements situated in the town and Grand Coulee areas which were acquired or built by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works and which is not needed for Federal purposes. Such disposals shall be made in accordance with the terms and conditions set forth in section 3 of this Act, but lands to be sold in the Grand Coulee area shall be sold at public sale to the highest responsible bidder. (71 Stat. 525; 16 U.S.C. § 835c, note)

**Sec. 3. [Terms and conditions.]**—(a) All land authorized to be sold under section 2 of this Act which, when offered for sale, is occupied by improvements owned by the United States shall be sold with the improvements in place.

(b) Of the property authorized to be sold under section 2 of this Act, lands in the town area occupied by dwelling units shall be sold in accordance with the following terms and conditions:

(1) First priority to purchase shall be given to the tenant of the United States in the town area who occupies the land and dwelling unit to be sold. The land and dwelling unit shall be offered at the appraised value as established under section 5 less any applicable discounts under this Act. This right of priority shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by him before the expiration of sixty days after the date on which the property has been offered for sale, and the right of priority shall be deemed abandoned unless within an additional one hundred and eighty days the prospective purchaser shall have signed a contract to purchase the property.

Any tenant having a priority under (1) who desires to continue to rent the property occupied by him rather than to purchase it may assign his priority to a person who has entered into a valid contract to lease the property back to him. The Secretary may permit such other assignments of priorities under (1) as he finds to be fair and equitable. Assignments under this paragraph shall be subject to such general rules and regulations as the Secretary may prescribe, including denial, in any instance where the Secretary in his judgment finds it proper, to the assignee concerned, or his successors, assigns, or legal representatives, of any discount in or rebate of the purchase price to which such person or persons would otherwise be entitled under this Act.

(2) Second priority to purchase shall apply to property in the town area not purchased under (1) and shall be given to persons who are tenants of the United States in Federal housing in the town area or who would meet the requirements for eligibility to become such tenants under the most recent regulations of the Bureau of Reclamation for the assignment of persons to Federal housing in the town area. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be at the appraised value as established under section 5, less applicable discounts under this Act. Selection of dwelling units by successful applicants, to be accompanied by a deposit of earnest money fixed as under

(1), shall be concluded within limits of time established by the Secretary, and thereafter the purchase shall be concluded in the same manner as provided under (1). A purchase under (1) or (2) shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under either (1) or (2).

(3) Property not sold under (1) or (2) shall be opened to bids from the general public and shall be sold to the highest responsible bidder.

(c) (1) Of the property authorized to be sold under section 2 of this Act, land in the town area occupied by privately owned improvements shall be offered for sale to the owner of such improvements at the appraised value as established under section 5 less applicable discounts under this Act. This preference right shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and thereafter the purchase shall be concluded in the same manner as provided under subsection (b) (1) of this section.

(2) Land not purchased by the owner of the improvements (except church or hospital improvements) thereon under (1) shall be made available for sale for a period of thirty days to those eligible for purchase under subsection (f) of this section, and thereafter shall be opened to bids from the general public and sold to the highest responsible bidder.

(3) Land with church or hospital improvements thereon which has not been purchased by the owners of the improvements under (1) may be disposed of by advertising and competitive bids, or by negotiated sale or other transfer at such prices and on such other terms and conditions as the Secretary shall determine to be fair and equitable.

(d) (1) Of the property authorized to be sold under section 2 of this Act, land in the town area occupied by improvements owned by the United States other than dwelling units shall be offered to the lessee of the United States in such improvements at the appraised value as established under section 5 less applicable discounts under this Act: *Provided*, That where there is more than one lessee in a given improvement and the Secretary finds it impractical to offer each lessee an interest in the property, the Secretary, pursuant to such standards as he deems appropriate, shall designate an order of priority among such lessees for acceptance of the offer of sale of such property, which shall be sold at the appraised value as established under section 5 less applicable discounts under this Act and pursuant to such other terms and conditions as the Secretary deems proper. Any preference or priority right under this paragraph shall expire unless a deposit of earnest money in an amount to be fixed by the Secretary is received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and thereafter the purchase shall be concluded in the same manner as provided under subsection (b) (1) of this section.

(2) Property referred to in (1) which is not under lease granted by the United States or which has not been purchased under (1) shall be made available for sale for a period of thirty days to those eligible for purchase under subsection (f) of this section and thereafter may be opened to bids from the general public and sold to the highest responsible bidder.

August 30, 1957

(e) Of the property authorized to be sold under section 2 of this Act, land in the town area which has not been improved or land from which the improvements have been removed shall be sold in accordance with the following terms and conditions.

(1) Residential property in the town area shall be offered for sale to persons who are tenants of the United States in Federal housing in the town area or who would meet the requirements for eligibility to become such tenants under the most recent regulations of the Bureau of Reclamation for the assignment of persons to Federal housing in the town area. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing. No application shall be accepted from the spouse of any applicant or from a person, or the spouse of such person, who owns, has owned, or has contracted to buy other residential property in the town area. Sales shall be at the appraised value as established under section 5 less applicable discounts under this Act, and selection and purchase under this priority by successful applicants shall be concluded within limits of time to be established by the Secretary. Residential property which is not sold under the preceding provisions of this subsection shall be open to bids from the general public and shall be sold to the highest responsible bidder.

(2) Property which at the time of sale is zoned for other than residential use, except such as is disposed of under subsection (f) of this section and land with church or hospital improvements thereon, shall be open to bids from the general public and shall be sold to the highest responsible bidder.

(f) Of the property in the town area authorized to be sold under section 2 of this Act, except that which is covered by subsections (b), (c) (3), and (e) (1) of this section, land not purchased by the holders of a priority or preference under this section shall, for thirty days following the period during which holders of a priority or preference could purchase the same, be offered for sale at the appraised value as established under section 5 less applicable discounts under this Act to persons leasing property in the town area from the United States for business or commercial uses. The Secretary may, in his discretion, permit more than one lot to be included in a single purchase, but only if the property to be purchased is compact and contiguous. If two or more applicants to purchase under this subsection desire the same property, their order of opportunity to purchase shall be determined pursuant to a public drawing. A purchase under this subsection shall render the purchaser and any spouse of such purchaser ineligible either to make an additional purchase under this subsection or to purchase the business or commercial property he is renting from the United States.

(g) Any improvement owned by the United States located on lands in the town area subject to being purchased by the holder of a priority or preference right hereunder and not purchased, after being offered for sale, within one year following the expiration of the period within which the priority or preference right can be exercised, may be opened to bids from the general public and may be sold to the highest responsible bidder.

(h) In all public sales of property under this Act to the highest responsible bidder, which shall include all sales of property to be sold in the Grand Coulee area, the Secretary shall reserve the right to reject all bids; and, in the event

August 30, 1957

COULEE DAM COMMUNITY ACT OF 1957

1383

all bids are less than the appraised value of the property as established under section 5 or in the event no bids are received, the property shall be available for sale to the first taker from the general public at not less than aforesaid appraised value until all such property has been sold.

(i) (1) Whenever the Secretary, on presentation of adequate evidence by a prospective purchaser or purchasers under subsections (b) (1) or (b) (2) of this section, shall determine that financing of purchases on reasonable terms cannot be arranged from other sources, he is authorized to enter into contracts with such purchasers under which the purchaser would not be required to make a down-payment of more than 10 per centum of the appraised value of the property as established under section 5 less applicable discounts under this Act and the remainder of the repayment obligation shall be paid on terms as to amount, repayment period, installments, and interest rate not more favorable to the purchasers than those which would be available were the purchases to be financed under mortgages eligible for insurance under subsection 223(a) of the National Housing Act, as herein amended: *Provided*, That the Secretary may increase the interest rate by additional components equal to the premium being charged (and any periodic service charge being authorized by the Federal Housing Commissioner for property of a similar character) under subsection 223(a) of the National Housing Act, as herein amended, at the effective date of the aforesaid contracts.

(2) Whenever the Secretary, on presentation of adequate evidence by a prospective purchaser or purchasers under subsections (c) (1), (d) (1), or (f) of this section, shall determine that financing of purchases on reasonable terms cannot be arranged from other sources, he is authorized to enter into contracts with such purchasers under which the purchaser would not be required to make a down payment of more than 10 per centum of the appraised value of the property as established under section 5, less applicable discounts under this Act. The remainder of the repayment obligation shall be paid with such terms as to amount, repayment period, installments, and interest rate as the Secretary shall determine to be fair and equitable.

(3) The Secretary may assign any installment contract under this section at such times and on such terms and conditions as he deems appropriate. Any such assignment made at a discount shall be defeasible if within sixty days after receipt of notification of such assignment the original obligor of the assigned contract, or his successors, assigns, or legal representative, shall cause to be received by the Secretary a tender of the amount for which such assignment was made, in which event such tender shall be accepted as full payment of the contract.

(j) Except in the case of property sold to the highest responsible bidder under this section or property sold to the first taker from the general public under subsection (h) of this section or by negotiated sale under subsection (c) (3) of this section, persons purchasing property under this section or their successors, assigns, or legal representatives, shall be entitled to a discount in the purchase price at the time they enter into a purchase contract equal to 5 per centum of its appraised value as established under section 5 and, in the event of incorporation of the municipality within four years from the date of this Act, they shall be

August 30, 1957

entitled to an additional discount in the purchase price (or rebate as appropriate) equal to 10 per centum of the aforesaid appraised value.

(k) In establishing rules and regulations governing sales of property in the town area under this section, and in determining the terms and conditions of such sales other than those prescribed in this Act, the Secretary shall consult with the representatives of the Coulee Dam Community as determined by him. (71 Stat. 525-528; 16 U.S.C. § 835c, note)

**Sec. 4. [Selling price.]**—Paragraph (3) of subsection 223(a) of the National Housing Act, as amended, is hereby amended by inserting after the words “Tennessee Valley Authority” the words “, or of any housing under the jurisdiction of the Department of the Interior located within the town area of Coulee Dam, Washington, acquired by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works: *Provided*, That for the purpose of the application of this title to sales by the Secretary of the Interior pursuant to subsections 3(b) (1) and 3(b) (2) of the Coulee Dam Community Act of 1957, the selling price of the property involved shall be deemed to be the appraised value”. (71 Stat. 528; 12 U.S.C. § 1715n)

**Sec. 5. [Appraised values.]**—The appraised values referred to in section 3 of this Act shall be determined from time to time for a period of five years after the date of this Act by the Administrator of Housing and Home Finance Agency or his designee at the request of the Secretary. Thereafter, the Secretary may make such reappraisals as he deems necessary. Appraisals or reappraisals in the town area shall be made only after representatives of the Coulee Dam community, as determined by the Secretary, and of the Columbia Basin Commission, or such corresponding organization as may succeed it, have been granted an opportunity to offer advice. All appraisals and reappraisals shall be made on the basis of the properties’ fair market value in the locality. In the sale of property to a tenant under subsections 3(b) (1) and 3(d) (1) of this Act, the value of structural improvements made at such tenant’s own expense shall, to the extent the appraiser or appraisers hereunder determine that such improvements actually enhance the value of the property, be deducted from what would otherwise be the appraised value of the property to be sold; and the difference shall be deemed the appraised value for the purposes of this Act. (71 Stat. 529; 16 U.S.C. § 835c, note)

**Sec. 6. [Transfer of Federal property, etc.]**—The Secretary is authorized to transfer without cost out of the properties in his custody within the town and Grand Coulee areas ownership of—

(a) any Federally owned municipal-type property and facilities together with rights-of-way therefor, equipment, materials, and supplies, in or serving said areas, including but not limited to the sewer, water, fire-alarm, street-lighting, electric feeder lines, and power-distribution systems, and the highways, streets, alleys, sidewalks, parks, and parking areas to the municipality or Grand Coulee if their respective areas are substantially served by such properties. Any such transfer to the municipality, however, will not be made unless the town area or a part thereof is incorporated within four years from the date of this Act;

- (b) the school buildings and grounds, athletic fields, tennis courts, and other properties currently used for educational purposes to the appropriate school district; and
- (c) highway improvements in and connecting the town and Grand Coulee areas and the bridge across the Columbia River, together with the necessary rights-of-way therefor to the State of Washington. (71 Stat. 529; 16 U.S.C. § 835c, note)

**Sec. 7. [Availability of funds.]**—(a) There is hereby made available out of the proceeds of sales made pursuant to section 3 of this Act an amount not to exceed \$130,000 for expenditure, directly or through the local units of government involved, for work in connection with the disposal of sewage in the immediate vicinity of the town of Coulee Dam and the city of Grand Coulee, including betterment work on the existing open drain along the north side of the highway through the city of Grand Coulee. Of this amount the Secretary shall pay not more than \$100,000 to Grand Coulee and not more than \$30,000 to the municipality. Except to the extent that any expenditures have been made directly as provided in the preceding sentence, the Secretary shall, upon application, pay to Grand Coulee the amount of \$10,000 and to the municipality the amount of \$3,000 for engineering surveys and drafting of specifications for proposed construction and/or improvements of sewage disposal and drainage facilities. After final drawings and specifications have been approved by the Secretary and the construction contracts have been entered into, the Secretary shall pay monthly to Grand Coulee and to the municipality additional amounts equivalent to earnings under their contracts as evidenced by construction progress reports certified by their contractors and by Grand Coulee and the municipality, but not to exceed a total of \$90,000 for the former and \$27,000 for the latter.

(b) Subject to the provisions of subsection 9(a) of this Act, the following amounts shall be made available, out of the proceeds of sales made pursuant to section 3 of this Act, to the municipality if incorporated within four years from the date of this Act: (1) On incorporation, \$44,000; (2) at the end of one year after incorporation, \$21,000; and (3) at the end of two years after incorporation, \$15,000.

(c) The Secretary is hereby authorized to make available as herein provided, as power and energy reserved for the operation and maintenance of the Columbia Basin project, for users in the town area and to other communities within three and one-half miles of Grand Coulee Dam which are served by municipally owned distribution systems, such amount of power and energy as, in his judgment, is needed to meet load requirements for space-heating purposes existing at the time of incorporation of the municipality. Such power and energy may be made available directly to the users or indirectly through distributing agencies, for a period of ten years from the date of this Act, and may be at such special rates as the Secretary finds to be proper but at not less than cost. (71 Stat. 529; 16 U.S.C. § 835c, note)

**Sec. 8. [Property taxes.]**—Property sold under any contract deferring transfer of title pending payment of the purchase price upon recordation of such contract in the country records shall be subject to the provisions of the laws of the State of

Washington relating to the assessment and collection of property taxes, and to liens for such taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned property. The United States does not assume any obligation for the amounts so assessed or taxed; and any proceedings to enforce them shall be subject to any title then remaining in the United States and to any prior lien reserved to the United States for unpaid installments under sale contracts made hereunder. (71 Stat. 530; 16 U.S.C. § 835c, note)

**Sec. 9. [Proceeds from sales.]**—(a) All proceeds from sales of property (including the assignment of contracts) authorized under section 2 of this Act are hereby appropriated for expenditure by the Secretary for (1) expenses of disposal of Federal property under this Act, including rebates, where appropriate, to vendees of the United States entitled to the discount provided under section 3 of this Act for attainment of early incorporation of the municipality, and (2) for purposes authorized in subsection 7(a) and (1) of subsection 7(b) of this Act: *Provided*, That amounts referred to in (2) and (3) of subsection 7 (b) of this Act shall be expended only after specific appropriation has been made by Congress therefor. So much of the aforesaid proceeds as is in excess of amounts which may be necessary for expenditures referred to in this subsection shall be covered into the reclamation fund.

(b) Transfers under this Act of Federal property to non-Federal ownership shall not result in any diminution of the reimbursable costs of the Columbia Basin project except to the extent that any net proceeds from sales of property under this Act are credited to said project. (71 Stat. 530; 16 U.S.C. § 835c, note)

**Sec. 10. [Rights under leases.]**—Transfers of Federal property under this Act shall not impair rights under leases granted by the United States. (71 Stat. 530; 16 U.S.C. § 835c, note)

**Sec. 11. (a) [Rules and regulations—Appropriation.]**—The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in any contracts and conveyances such provisions as he deems proper for the purpose of carrying out the provisions of this Act, including provisions for payment for furnishing of municipal facilities and services while such facilities and services are provided by the United States and for the establishment of liens in connection therewith. There are hereby authorized to be appropriated such sums, not otherwise appropriated, as may be required to carry out the purposes of this Act. Wherever in this Act functions, powers, and other duties are conferred upon the Secretary, such functions, powers, and duties may be performed, exercised, or discharged by his duly authorized representatives.

(b) **[Contracts.]**—The Secretary is authorized to enter into contracts with the municipality whereby either party might undertake to render to the other such services in aid of the performance of activities and functions of the municipality and of the Department of the Interior within or near Coulee Dam as will, in the Secretary's judgment, contribute substantially to the efficiency or economy of the operations of the Department of the Interior.

August 30, 1957

COULEE DAM COMMUNITY ACT OF 1957

1387

(c) The authority conferred by this Act is in addition to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith. (71 Stat. 530; 16 U.S.C. § 835c, note)

**Sec. 12. [Short title.]**—This Act may be cited as the “Coulee Dam Community Act of 1957”. (71 Stat. 531; 16 U.S.C. §835c, note)

EXPLANATORY NOTE

**Legislative History.** S. 1574, Public Law 267. H.R. Rept. No. 809. 85-240 in the 85th Congress. S. Rept. No.

September 2, 1957

1388

## AMEND COLUMBIA BASIN PROJECT ACT

An act to amend certain provisions of the Columbia Basin Project Act, and for other purposes. (Act of September 2, 1957, Public Law 85-264, 71 Stat. 590)

[**Sec. 1. Columbia Basin Project Act amendments.**]—*Repealed in part and amended.*

### EXPLANATORY NOTE

**Provisions Repealed or Amended.** The Act of October 1, 1962, 76 Stat. 677, which appears herein in chronological order, repealed section 2 and amended section 4 of the Columbia Basin Project Act of March 10, 1943, thereby effecting a repeal

of the amendments of the 1943 Act contained in this section. For the full text of the amendments contained in this section, see the notes following sections 2 and 4 of the 1943 Act.

**Sec. 2. [Contracts or deeds—Amendments.]**—The Secretary of the Interior is authorized to amend any contract which has been entered into prior to the date of enactment of this Act, or any existing deed or other document to conform with the provisions of the first section of this Act. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amendment. (71 Stat. 591; 16 U.S.C. § 835c, note)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Columbia Basin Project Act of March 10, 1943.

**Legislative History.** S. 1482, Public Law 85-264 in the 85th Congress. S. Rept. No. 140. H.R. Rept. No. 810. H.R. Rept. No. 1238 (conference report).

## AMENDED CONTRACT AND EXCESS LANDS, KENDRICK PROJECT

An act to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, and for other purposes. (Act of September 4, 1957, Public Law 85-283, 71 Stat. 608)

[**Sec. 1. Casper-Alcova Irrigation District amendatory contract approved.**]—Subject to the provisions of section 2 of this Act, the contract with the Casper-Alcova Irrigation District, Kendrick project, Wyoming, approved by the District Board of Commissioners on February 26, 1957, which has been negotiated by the Secretary of the Interior pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1192; 43 U.S.C. 485f) is hereby approved, and the Secretary is hereby authorized to execute said contract on behalf of the United States. (71 Stat. 608)

**Sec. 2. [Excess lands exception, Kendrick project.]**—The limitations on acreage and restrictions on delivery of water to excess lands under the Federal reclamation laws shall apply to the lands of the Kendrick project, Wyoming, except that four hundred and eighty irrigable acres shall, in this instance, be substituted for one hundred and sixty irrigable acres. The provisions of this section 2 are intended to meet the special conditions existing on the Kendrick project, Wyoming, and shall not be considered as altering the general policy of the United States with respect to the excess-land provisions of the Federal reclamation laws. (71 Stat. 608)

**Sec. 3. [Certain 1958 operation and maintenance costs to be paid from power revenues.]**—The part of the cost of operation and maintenance of Seminoe Dam and Reservoir and Alcova Dam and Reservoir of the Kendrick project, Wyoming, incurred by the United States for the calendar year 1958, which is properly allocable for payment by project irrigation water users, is hereby assigned to be repaid from Kendrick project power revenues. (71 Stat. 608)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 85-283 in the 85th Congress. S. Rept. No. the U.S. Code. 838. H.R. Rept. No. 1214.

**Legislative History.** S. 1996, Public Law

September 4, 1957

1390

## RELIEF OF MARTIN WUNDERLICH COMPANY

An act for the relief of Martin Wunderlich Company. (Act of September 4, 1957, Private Law 85-306, 71 Stat. A121)

[**Payment in settlement of claims authorized.**]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Martin Wunderlich Company, a partnership, of Omaha, Nebraska, the sum of \$111,539.59. The payment of such sum shall be in full settlement of all claims of such company against the United States arising out of such company's contract with the Bureau of Reclamation, dated March 14, 1938, for the construction of the Vallecito Dam on the Pine River, Colorado: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (71 Stat. A121)

### EXPLANATORY NOTES

**Background.** The claims of the Wunderlich Company arose out of its contract with the Bureau of Reclamation for the construction of the Vallecito Dam on the Pine River in Colorado. Its principal claim was for an equitable adjustment due on account of a change under the contract made during construction. The amount allowed by the contracting officer because of the change, which was upheld by the Secretary of the Interior on appeal, was unacceptable to the Wunderlich Company and suit was filed in the Court of Claims. The Court of Claims found for Wunderlich, but this decision was reversed by the Supreme Court. Thereupon, the Company sought legislative relief. In its report on the bill H.R. 2654, 85th Congress, the Committee on the Judiciary stated: "The issue, therefore, is whether the Wunderlich claimant should be denied its extra costs because, although the Court of Claims held that the action of

the Department was 'arbitrary, capricious and grossly erroneous' it was not asserted to be fraudulent, or in bad faith. The Committee is of the opinion that in these circumstances, since Congress promptly amended the law so as to eliminate fraud, or bad faith as a necessary element in a claim for an award, the effect upon the claimant is unduly harsh." S. Rept. No. 1153 on H.R. 2654, 85th Cong., 1st Sess. See *Wunderlich v. United States*, 117 Ct. Cls. 92 (1950), and the decision of the Supreme Court reversing the Court of Claims, *United States v. Wunderlich*, 342 U.S. 98 (1951).

The Act of Congress referred to in the Committee's report is the Act of May 11, 1954, 68 Stat. 81; 41 U.S.C. §§ 321-22. These sections appear herein in the Appendix.

**Legislative History.** H.R. 2654, Private Law 85-306 in the 85th Congress. H.R. Rept. No. 111. S. Rept. No. 1153.

### McMILLAN DELTA PROJECT, PECOS RIVER BASIN

Joint resolution to authorize the construction of certain water conservation projects to provide for a more adequate supply of water for irrigation purposes in the Pecos River Basin, New Mexico and Texas (Act of February 20, 1958, Public Law 85-333, 72 Stat. 17)

Whereas there has been an inadequate supply of water for beneficial consumptive uses in the Pecos River Basin, New Mexico and Texas, for a number of years; and

Whereas in recent years the shortage of water for beneficial consumptive uses in such basin has been aggravated by reason of the non-beneficial consumptive use of water by salt cedars in such basin and by reason of the infiltration of brine into such river; and

Whereas the States of New Mexico and Texas, with the consent of Congress, entered into a compact in 1948 with respect to the Pecos River and one of the principal purposes of such compact was to provide for cooperation between the Federal Government and the States of New Mexico and Texas in studies and projects designed to make available a greater supply of water for beneficial consumptive uses in such basin; and

Whereas the Bureau of Reclamation and the Geological Survey, after investigation of certain conditions causing the shortage of water in the Pecos River Basin, have made reports in which they have respectively considered, for the purpose of alleviating such shortage, engineering and other aspects of the construction of a water salvage channel in such basin and the construction of works for the alleviation of salinity in such basin; and

Whereas the construction of such channel and works are estimated to cost \$2,600,000 and \$150,000, respectively, and the annual operation and maintenance costs for such channel and such works are estimated to be \$55,300 and \$4,300 a year, respectively; and

Whereas the States of New Mexico and Texas are ready and willing to make substantial contributions to the cost of construction of such channel and works if the United States will join with them in bearing such costs; and

Whereas State and local agencies in New Mexico and Texas are ready and willing to undertake equitably the financial burden of operating and maintaining such channel and works, and State and local agencies of Texas are ready and willing to undertake the financial burden of operating and maintaining the works for the alleviation of salinity in the Pecos River; and

Whereas the Legislature of the State of New Mexico has authorized the appropriation of \$290,000 to meet that State's share of the construction costs of the works; and

Whereas the value of benefits which will accrue to the United States from the construction of such channel and works, including restoration of the ability of water users in such basin to pay their contractual obligation of approximately \$3,500,000 to the United States, are substantially in excess of the share of the

February 20, 1958

1392 McMILLAN DELTA PROJECT, PECOS RIVER BASIN

costs of construction of such channel and works to be borne by the United States: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

[Sec. 1. Pecos River Basin, New Mexico and Texas.]—That the Secretary of the Interior is authorized to construct a one thousand five hundred cubic foot per second water salvage channel, levee, cleared floodway, and spur drains sufficient to drain McMillan Delta in the Pecos Basin in New Mexico substantially in accordance with the plans described in the report of the Secretary of the Interior entitled "McMillan Delta Project, Pecos River Basin, New Mexico", House Document 429, Eighty-fourth Congress, but with such modifications of, additions to, and deletions from said plans as the Secretary may find appropriate to accomplish the purposes of this joint resolution: *Provided, however,* That no money shall be appropriated for, and no work commenced on the clearing of the floodway called for in said report unless provisions shall have been made to replace any Carlsbad irrigation district terminal storage which might be lost by the clearing of the floodway: *Provided further,* That prior to construction of the water salvage channel the Secretary shall, unless clearance of the floodway is then assured, analyze the adequacy of the designed floodway levee and make such new designs therefor as will assure substantially the same standards of flood protection as would be achieved by the presently contemplated levee with a cleared floodway. The Secretary shall not proceed with the construction of such channel until (1) he has adequate assurance from the State of New Mexico that it will, as its share of the costs of construction of such channel, acquire such rights-of-way, complete such highway changes, and construct such bridges as may be necessitated by the construction of such channel and that it will build an access road to such channel, (2) he has adequate assurance from the Pecos River Commission or other State and local agencies in New Mexico and Texas that such commission or agencies in New Mexico and Texas will operate and maintain such channel and other works authorized in this section, and (3) he has adequate assurance in the form of contracts with the Carlsbad Irrigation District, New Mexico, and the Red Bluff Water Power Control District, Texas, that they will return to the United States each year during a fifty-year period from the date of completion of the works authorized by this section, under terms and conditions satisfactory to the Secretary, such portion of the cost of constructing those works as is within their repayment ability, said repayment ability to be determined by the Secretary from time to time, but not more often than every five years, after consultation with said districts. (72 Stat. 18)

EXPLANATORY NOTE

**Cross Reference, Phreatophyte Control.** The Joint Resolution of September 12, 1964, 78 Stat. 942, which appears herein in chronological order, authorizes a program of phreatophyte control in the Pecos River Basin. The proviso in section 1 of the 1964 Joint Resolution repeats in essence the first proviso which appears in section 1 of this Joint Resolution.

**Sec. 2. [Alleviation of salinity.]**—The Secretary of the Interior is authorized to construct upon a nonreimbursable basis, works for the alleviation of salinity

February 20, 1958

McMILLAN DELTA PROJECT, PECOS RIVER BASIN 1393

in the Pecos River Basin, New Mexico, substantially in accordance with the report entitled "Possible Improvement of Quality of Water of the Pecos River by Diversion of Brine, Malaga Bend, Eddy County, New Mexico," prepared by the Water Resources Division, Geological Survey, and dated December 1954, but with such modifications of, additions to, and deletions from said plans as the Secretary may find appropriate to accomplish the purposes of this joint resolution. The Secretary shall not proceed with the construction of such works until (1) he has adequate assurance from the State of New Mexico that it will, as its share of the costs of construction of such works, acquire such rights-of-way for wells, pipelines, and disposal areas as may be necessitated by the construction of such works, and (2) he has adequate assurance from the Pecos River Commission or other State and local agencies in Texas that Texas or local agencies therein will operate and maintain such works. (72 Stat. 19)

**Sec. 3. [Law governing projects construction.]**—The projects constructed under the authority of this joint resolution shall, except as otherwise provided herein, be governed by the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), to which laws this Act shall be a supplement. (72 Stat. 19)

**Sec. 4. [Savings clause.]**—Nothing contained in this joint resolution shall be construed to abrogate, amend, modify, or be in conflict with any provisions of the Pecos River Compact. (72 Stat. 19)

**Sec. 5. [Appropriation.]**—There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purpose of this joint resolution. (72 Stat. 19)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in Law 85-333 in the 85th Congress. S. Rept. the U.S. Code. No. 192. H.R. Rept. No. 609.

**Legislative History.** S.J. Res. 39. Public

March 6, 1958

## CONVEYANCE OF CERTAIN PUBLIC LANDS TO NEVADA

An act to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the Colorado River Commission of Nevada acting for the State of Nevada. (Act of March 6, 1958, Public Law 85-339, 72 Stat. 31)

[**Sec. 1. Definitions.**]—As used in this Act—

- (a) The term “Secretary” shall mean the Secretary of the Interior.
- (b) The term “Commission” shall mean the Colorado River Commission of the State of Nevada.
- (c) The term “State” shall mean the State of Nevada.
- (d) The term “transfer area” shall mean all lands or interests in lands owned by the United States and located within the exterior boundaries of the area described in section 2 of this Act. (72 Stat. 31)

**Sec. 2. [Lands to be segregated from all forms of entry.]**—The Secretary is hereby authorized and directed to segregate from all forms of entry under the public land laws of the United States, during a period of ten years from and after the effective date of this Act, the following described lands, situated in the State of Nevada and comprising approximately 126,775 acres:

- (1) All of south half, township 23 south, range 63 east, with the exception of the following areas: east half section 22; four five-acre tracts located in section 26 and described as follows: south half southeast quarter northwest quarter northwest quarter, north half northeast quarter southwest quarter northwest quarter, north half southwest quarter northeast quarter northwest quarter and south half southwest quarter northwest quarter northwest quarter; and those portions of the northeast quarter section 23, and north half section 24, within the Lake Mead national recreation area.
- (2) Fractional sections 25 and 36, township 23 south, range 63½ east.
- (3) All of sections 27, 28, 29, 30, 31, 32, 33, and 34, township 23 south, range 64 east.
- (4) Fractional sections 31, 32, 33, 34, and 35, township 23½ south, range 64 east.
- (5) All of southeast quarter of township 24 south, range 62 east.
- (6) All of township 24 south, range 63 east.
- (7) All of township 24 south, range 64 east, except sections 1, 12, 13, 24, 25, and 36.
- (8) All of township 25 south, range 62 east.
- (9) All of township 25 south, range 63 east.
- (10) All of sections 1, 2, 3, 4, 5, and 6, township 25 south, range 64 east.
- (11) All of sections 1, 2, 11, 12, 13, and 14, township 26 south, range 62 east.
- (12) All of northwest quarter, township 26 south, range 63 east.

All range references contained in the foregoing refer to the Mount Diablo base and meridian. (72 Stat. 31; Act of October 10, 1962, 76 Stat. 804)

**Sec. 3. [Option.]**—The Commission, acting on behalf of the State, is hereby given the option, after compliance with all of the provisions of this Act and any

March 6, 1958

CONVEYANCE OF CERTAIN LANDS TO NEVADA 1395

regulations promulgated hereunder, of having patented to the State by the Secretary all or portions of the lands within the transfer area. Such option may be exercised at any time during the ten year period of segregation established in section 2, but the filing of any application for the conveyance of title to any lands within the transfer area, if received by the Secretary from the Commission prior to the expiration of such period, shall have the effect of extending the period of segregation of such lands from all forms of entry under the public land laws until such application is finally disposed of by the Secretary. (72 Stat. 32; Act of October 10, 1962, 76 Stat. 804)

**Sec. 4. [Requirements.]**—Prior to conveying any lands or interests in lands of the United States to the State, the Commission and the Secretary shall comply with the requirements set out following:

(a) **[Plan of development.]**—The Commission, within three years after the effective date of this Act, shall submit to the Secretary a proposed plan of development for the entire transfer area, which plan shall include but need not be limited to the general terms and conditions under which individuals, governmental agencies or subdivisions, corporations, associations or other legal entities may acquire rights, title, or interests in and to lands within the transfer area.

(b) **[Selections; applications for transfer.]**—At any time after submission of a proposed plan for the entire transfer area, as required by the preceding subsection, the Commission may select for transfer from Federal to State ownership such land units within the transfer area as contain not less than eighteen sections of land in reasonably compact tracts, taking into account the situation and potential uses of the land involved. All applications for transfer of title to any such land unit shall be made to the Secretary and shall be accompanied by a development and acquisition planning report containing such information relative to any proposed development and acquisition payment plan as may by regulation be required by the Secretary. No acquisition payment plan shall be considered by the Secretary unless such plan provides for payment by the State into the Treasury of the United States, within five years of the delivery of patent to the Commission, of an amount equal to the appraised fair market value of the lands conveyed.

(c) **[Appraisal.]**—At the earliest practicable date following the effective date of this Act, the Secretary shall cause an appraisal to be made of the fair market value of the lands within the entire transfer area, including mineral and material values, if any; such appraisal when completed shall constitute the only basis for determining the compensation to be paid to the United States by the Commission for the transfer of any or all of the lands to which this Act is applicable. The appraisal shall be of the fair market value of the lands as of the effective date of this Act.

(d) **[Contract of sale.]**—As soon as a proposed unit development and acquisition planning report is found by the Secretary to comply with the provisions of this Act and with such regulations as the Secretary may prescribe as to the contents thereof, the Secretary is hereby authorized and directed to negotiate a contract of sale with the Commission and to prepare appropriate conveyancing instruments for the lands involved.

March 6, 1958

1396 CONVEYANCE OF CERTAIN LANDS TO NEVADA

[Report to Congress.]—Thereafter, the Secretary shall submit to the Congress, for reference to the appropriate committees of the House of Representatives and the Senate, copies of the Commission application, proposed unit development and acquisition planning report, and proposed contract of sale and conveyancing instruments, together with his comments and recommendations, if any.

(e) No contract of sale or instrument of conveyance shall be executed by the Secretary with respect to any lands applied for by the Commission prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the day on which the Secretary makes the submissions required by the preceding subsection, unless the Congress, prior to the expiration of said sixty days, approves the execution of such contract of sale and instrument of conveyance. (72 Stat. 32; Act of October 10, 1962, 76 Stat. 804)

**Sec. 5. [Rights.]**—The conveyance or conveyances authorized by this Act shall be made subject to any existing valid rights pertaining to the lands included within the transfer area. (72 Stat. 33)

**Sec. 6. [Leases, permits, etc.]**—If the State selects and purchases under this Act any lands which are subject on the date the purchase by the State becomes effective to a lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended (39 U.S.C. 181 and the following), the State shall be required to purchase all the lands subject to that lease, permit, license, or contract which are included within the boundaries of the transfer area. The purchase of lands subject to a lease, permit, license, or contract shall neither affect the validity nor modify the terms of the lease, permit, license, or contract in any way, or affect any rights thereunder, except that the State shall assume the position of the United States thereunder, including any right to rental, royalties, and other payments accruing on or after the date on which the purchase by the State becomes effective, and any right to modify the terms or conditions of such leases, permits, licenses, or contracts. (72 Stat. 33)

**Sec. 7. [Rules and regulations, etc.]**—The Secretary is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this Act. He shall give particular attention in so doing to including in any conveyancing instruments executed under the authority of this Act such provisions as will in his judgment protect existing or future uses by the United States of lands within the transfer area, including, but not limited to, provision for reversion of title therein to the United States upon failure of the State or its successors in interest to strictly comply with the terms and conditions of any such conveyancing instrument: *Provided*, That the Secretary, after consultation with the Commission, shall determine the amount and location of all lands within the transfer area which may be required for future use by the United States, and he shall have until the filing by the Commission of the proposed plan of development provided by section 4 (a), to define and describe all such lands. (72 Stat. 33)

March 6, 1958

CONVEYANCE OF CERTAIN LANDS TO NEVADA 1397

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**1962 Amendments.** The Act of October 10, 1962, extended from five to ten years the time within which the Secretary might act pursuant to the authority granted in section 2, and the Commission might act pursuant to the authority granted in section 3, of the Act of March 6, 1958. Section 4(c) of the 1958 Act was amended to provide that lands in the transfer area shall be appraised at the fair market value as of the effective date of the 1958 Act. For legislative history of the 1962 Act see S. 3089, Public Law 87-784 of the 87th Congress; S. Rept. No. 1622; H.R. Rept. No. 2087.

**Cross Reference, Other Lands Transferred to Nevada.** The Act of April 22, 1960, 74 Stat. 74, segregated approximately 15,000 acres from all forms of entry under the public land laws for transfer to the Colorado River Commission of the State of Nevada. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** S. 1568, Public Law 85-339 in the 85th Congress. S. Rept. No. 276. H.R. Rept. No. 1162. H.R. Rept. No. 1351 (conference report).

March 17, 1958

1398

## BEAR RIVER COMPACT

An act granting the consent of Congress to a Bear River Compact, and for related purposes.  
(Act of March 17, 1958, Public Law 85-348, 72 Stat. 38)

[**Sec. 1. Bear River Compact.**]—The consent of Congress is hereby given to the Bear River Compact entered into by the States of Idaho, Utah, and Wyoming. The compact reads as follows (72 Stat. 38) :

### “BEAR RIVER COMPACT

“The State of Idaho, the State of Utah, and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to a Bear River Compact as follows:

#### “ARTICLE I

“A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; and to promote interstate comity.

“B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

#### “ARTICLE II

“As used in this Compact the term

“1. ‘Bear River’ means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

“2. ‘Bear Lake’ means Bear Lake and Mud Lake;

“3. ‘Upper Division’ means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southwest Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

“4. ‘Central Division’ means the portion of the Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

“5. ‘Lower Division’ means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

“6. ‘Upper Utah Section Diversions’ means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard

East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

“7. ‘Upper Wyoming Section Diversions’ means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

“8. ‘Lower Utah Section Diversion’ means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

“9. ‘Lower Wyoming Section Diversions’ means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

“10. ‘Commission’ means the Bear River Commission, organized pursuant to Article III of this Compact;

“11. ‘Water user’ means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

“12. ‘Second-foot’ means a flow of one cubic foot of water per second of time passing a given point;

“13. ‘Acre-foot’ means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

“14. ‘Biennium’ means the 2-year period commencing on July 1 of the first odd numbered year after the effective date of this Compact and each 2-year period thereafter;

“15. ‘Water year’ means the period beginning October 1 and ending September 30 of the following year;

“16. ‘Direct flow’ means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

“17. ‘Border Gaging Station’ means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

“18. ‘Smiths Fork’ means a Bear River tributary which rises in Lincoln County, Wyoming and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

“19. ‘Grade Creek’ means a Smiths Fork tributary which rises in Lincoln County, Wyoming and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

“20. ‘Pine Creek’ means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural

March 17, 1958

1400

BEAR RIVER COMPACT

channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the

March 17, 1958

BEAR RIVER COMPACT

1401

South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divide into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

"B. The compensation and expense of each Commissioner and each adviser shall be paid by the Government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

"C. The Commission shall have power to:

- "1. Adopt by-laws, rules, and regulations not inconsistent with this Compact;
- "2. Acquire, hold, convey or otherwise dispose of property;
- "3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;
- "4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;
- "5. Cooperate with State and Federal agencies in matters relating to water pollution of interstate significance;
- "6. Perform all functions required of it by this Compact and do all things neces-

March 17, 1958

1402

## BEAR RIVER COMPACT

sary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its orders made hereunder by suit or other appropriate action;

"2. Annually compile a report covering the work of the Commission for the water year ending the previous September 30 and transmit it to the President of the United States and to the Governors of the signatory States on or before April 1 of each year;

"3. Prepare and transmit to the Governors of the signatory States, and to the President of the United States on or before a date to be determined by the Commission, a report of expenditures during the current biennium, and an estimate of requirements for the following biennium.

### "ARTICLE IV

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. *Upper Division.* a. When the divertible flow as defined below for the Upper Division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Utah Section Diversions—40.5 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the

Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) In the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. *Central Division.* a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. *Lower Division.* a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water

March 17, 1958

1404

## BEAR RIVER COMPACT

under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"b. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

"c. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

"d. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

"e. Water emergencies provided for herein shall terminate on October 15 of each year unless terminated sooner or extended by the Commission.

### "ARTICLE V

"A. Existing storage rights in reservoirs heretofore constructed above Stewart Dam are as follows:

"Idaho-----	324 acre-feet
"Utah-----	11,850 acre-feet
"Wyoming-----	2,150 acre-feet

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas

March 17, 1958

BEAR RIVER COMPACT

1405

Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming, but in order to attain the most beneficial use of such additional storage consistent with the requirements of future water development projects, the three Commissioners for Utah and the three Commissioners for Wyoming are hereby authorized, subject to ratification by the legislature of Utah and the legislature of Wyoming, to modify by written agreement the allocations of such additional storage.

"B. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power & Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used solely for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

Additional storage, acre-feet	Lake surface elevation, Utah Power & Light Co. Bear Lake datum
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

"C. Subject to existing rights, each State shall have the use of water for farm and ranch domestic, and stock watering purposes, and subject to State law shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraph A of this Article.

"D. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VI

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum

March 17, 1958

1406

BEAR RIVER COMPACT

beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article V, paragraph A thereof, be subject to rights theretofore initiated and in good standing.

**"ARTICLE VII**

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

March 17, 1958

BEAR RIVER COMPACT

1407

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE VIII

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid.

"ARTICLE IX

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

Name of canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork.....	1914	28.00	2,644	Wyoming.
Chapman.....	8-13-86	16.46	1,155	Wyoming.
	8-13-86	98.46	6,892	Utah.
	4-12-12	.57	40	Wyoming.
	5- 3-12	4.07	285	Utah.
	5-21-12	10.17	712	Utah.
	2- 6-13	.79	55	Wyoming.
	8-28-05	<sup>1</sup> 134.00	.....	.....
Francis Lee.....	1879	2.20	154	Wyoming.
	1879	7.41	519	Utah.

<sup>1</sup> Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall

March 17, 1958

1408

## BEAR RIVER COMPACT

be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

### "ARTICLE X

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled. The official of each State in charge of water administration shall, upon the filing of an application affecting Bear River water, transmit a copy thereof to the Commission.

### "ARTICLE XI

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

### "ARTICLE XII

"Nothing contained in this Compact shall be deemed

"1. to affect the obligations of the United States of America to the Indian tribes;

"2. to impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. to subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. to subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

### "ARTICLE XIII

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

### "ARTICLE XIV

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

March 17, 1958

BEAR RIVER COMPACT

1409

"ARTICLE XV

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVI

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, The Commissioners and their advisers have executed this compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 4th day of February 1955.

"For the State of Idaho:

Fred M. Cooper  
Melvin Lauridsen

Mark R. Kulp

"For the State of Utah:

George D. Clyde  
J. Lorenzo Weidmann  
A. V. Smoot  
Lawrence B. Johnson

Alonzo F. Hopkin  
E. M. Van Orden  
Orson A. Christensen

"For the State of Wyoming:

L. C. Bishop  
H. T. Person  
Howard B. Black

Emil C. Gradert  
S. Reed Dayton

"Approved:

E. O. Larson

"Attest:

Representative of the United  
States of America

E. J. Skeen  
Secretary of the Bear River  
Compact Commission"

**Sec. 2. [Federal cooperation.]**—All officers, agencies, departments, and persons of and in the United States Government shall cooperate with the Bear River Commission, established pursuant to the compact consented to hereby, in any manner authorized by law other than this Act, it being the purpose of Congress that the United States Government shall assist in the furtherance of the objectives of a Bear River Compact and in the work of the commission created thereby. (72 Stat. 48)

March 17, 1958

1410

BEAR RIVER COMPACT

**Sec. 3. [Storage rights subject to Congressional approval.]**—Any modification of the allocation of storage rights contained in Article V shall become effective only when consented to by the Congress. (72 Stat. 48)

**Sec. 4. [Reservation clause.]**—The right to alter, amend, or repeal this Act is expressly reserved. (72 Stat. 48).

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Consent of Congress to Negotiate Bear River Compact.** The Act of July 24, 1946, 60 Stat. 658, granted the consent of Congress to the States of Utah, Idaho, and Wyoming to negotiate a compact with respect to the Bear River. The Act

appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** S. 1086, Public Law 85-348 in the 85th Congress. S. Rept. No. 843. H.R. Rept. No. 1375.

## RELIEF OF THE C-L ELECTRIC COMPANY

An act for the relief of the C-L Electric Company. (Act of March 28, 1958, Private Law 85-380, 72 Stat. A21)

[Reimbursement authorized for contract losses.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the C-L Electric Company, of 410 South Main Street, Pocatello, Idaho, the sum of \$45,852.06, in full satisfaction of its claim against the United States for reimbursement of losses sustained by it under contract numbered 14-06-D-152 entered into on June 27, 1952, with the Bureau of Reclamation for the construction of the Lovell-Yellowtail one hundred and fifty-five kilovolt transmission line, Missouri Basin project, such contract having been terminated on August 26, 1953, because of the failure of the Congress to appropriate funds for the carrying out of such contract subsequent to June 30, 1953: *Provided*, That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (72 Stat. A21)

### EXPLANATORY NOTE

**Legislative History.** S. 1600, Private Law 1122. H.R. Rept. No. 1440. 85-380 in the 85th Congress. S. Rept. No.

April 7, 1958

1412

## MERCEDES DIVISION, LOWER RIO GRANDE PROJECT

An act to authorize the Secretary of the Interior to construct, rehabilitate, operate, and maintain the Lower Rio Grande reclamation project, Texas, Mercedes division. (Act of April 7, 1958, Public Law 85-370, 72 Stat. 82)

[**Sec. 1. Lower Rio Grande rehabilitation project—Mercedes division.**]—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto, including particularly the Act of July 4, 1955 (69 Stat. 244), but subject to exceptions herein contained) is authorized to undertake the rehabilitation and betterment of the works of the Hidalgo and Cameron Counties Water Control and Improvement District Numbered 9, Texas, and to operate and maintain the same. Such undertaking which shall be known as the Mercedes division of the lower Rio Grande reclamation project, shall not be commenced until a repayment contract has been entered into by said district under the Federal reclamation laws, subject to exceptions herein contained, which contract shall provide for payment, in accordance with the district's repayment ability, of the capital cost of the Mercedes division over a period of not more than forty years or as near thereto as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within said period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay, and shall, in addition, require the payment of interest on that pro rata share of the capital cost, which is attributable to furnishing benefits in each particular year to land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres, said interest to be at a rate determined by the Secretary of the Treasury by estimating the average annual yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May preceding the fiscal year in which the repayment contract is entered into, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. (72 Stat. 82)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of July 4, 1955 (69 Stat. 244), referred to in the text, authorizes loans to irrigation districts for the construction of distribution systems. The Act appears herein in chronological order.

**Sec. 2. [Title to works of the division.]**—Title to all lands and works of the division, to the extent an interest has been vested in the United States, shall pass to the Hidalgo-Cameron Counties Water Control and Improvement District Numbered 9 or its designee or designees upon payment to the United States of all obligations arising under this Act or incurred in connection with this division of the project. (72 Stat. 82)

April 7, 1958

MERCEDES DIVISION, LOWER RIO GRANDE PROJECT 1413

**Sec. 3. [Excess land provisions of law waived.]**—The excess-land provisions of the Federal reclamation laws shall not be applicable to lands in this project which now have an irrigation water supply from sources other than a Federal reclamation project, and for which no new waters are being developed. (72 Stat. 82)

**Sec. 4. [Appropriation.]**—There is hereby authorized to be appropriated for the work to be undertaken pursuant to the first section of this Act the sum of \$10,100,000 (January 1957 costs), plus such amount, if any, as may be required by reason of changes in costs of work of the types involved as shown by engineering indices. (72 Stat. 82)

**EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in 85-370 in the 85th Congress. S. Rept. No. the U.S. Code. 603. H.R. Rept. No. 1002 (on H.R. 5309).

**Legislative History.** S. 2120, Public Law H.R. Rept. No. 1455 (on H. Res. 494).

May 1, 1958

1414

## **AMEND COLORADO RIVER FRONT WORK AND LEVEE SYSTEM ACT**

An act to amend the Act of June 28, 1946, authorizing the performance of necessary protection work between the Yuma project and Boulder Dam by the Bureau of Reclamation. (Act of May 1, 1958, Public Law 85-389, 72 Stat. 101)

[Yuma project and Boulder Dam protection work.]—That portion of the Act of June 28, 1946 (60 Stat. 338), which reads “(b) constructing, improving, extending, operating, and maintaining protection and drainage works and systems along the Colorado River” is amended by adding at the end thereof the following: “including such protection and drainage works and systems within a non-Federal reclamation project when need for such systems results from irrigation operations on Federal reclamation projects”. (72 Stat. 101)

### **EXPLANATORY NOTES**

**Not Codified.** This Act is not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the

Act of June 28, 1946.

**Legislative History.** S. 2037, Public Law 85-389 in the 85th Congress. S. Rept. No. 866. H.R. Rept. No. 1485.

## GREATER WENATCHEE DIVISION, CHIEF JOSEPH DAM PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain four units of the Greater Wenatchee division, Chief Joseph project, Washington, and for other purposes. (Act of May 5, 1958, Public Law 85-393, 72 Stat. 104)

[**Sec. 1. Chief Joseph Dam project, Wash.**]—For the purpose of furnishing water for the irrigation of approximately eight thousand seven hundred acres of land in Chelan and Douglas Counties, Washington, the Secretary of the Interior is authorized to construct, operate, and maintain the East, Moses Coulee, Brays Landing, and Howard Flat units of the Greater Wenatchee division, Chief Joseph Dam project, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). (72 Stat. 104)

### EXPLANATORY NOTE

**Cross References, Chief Joseph Dam Project.** The project was made possible by the construction of the Chief Joseph Dam in the State of Washington by the Corps of Engineers. Initial authorization for construction of the Dam was included in section 1 of the Flood Control Act of 1946 (enacted July 24, 1946), 60 Stat. 637. The Secretary of the Interior was authorized to make a study and report of irrigation works in connection with the Chief Joseph Dam by the Act of July 17, 1952, 66 Stat. 753. The 1952 Act appears herein in chronological order.

[**Sec. 2. [Organization of irrigation or reclamation districts—Crop restrictions.]**]—Prior to initiating construction of any of the works authorized by section 1 of this Act, there shall have been organized under the laws of the State of Washington an irrigation or reclamation district, satisfactory in form and powers to the Secretary, which embraces all of the lands within the East, Moses Coulee, Brays Landing, and Howard Flat units to which it is then proposed to furnish water, and the authority to construct works contained in section 1 shall not be exercised save with respect to lands which are then in, or thereafter come into, such district: *Provided*, That for a period of ten years from the date of enactment of this Act, no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b) (10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (72 Stat. 104)

### EXPLANATORY NOTE

**References in the Text.** The definition of “agricultural commodity” in the Agricultural Act of 1949, as amended, referred to in the text, is found at 63 Stat. 1056, 7 U.S.C. § 1428(c). The definition of “normal supply” in section 301(b) (10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. § 1301 (b) (10). Neither Act appears herein.

May 5, 1958

1416 GREATER WENATCHEE DIVISION, CHIEF JOSEPH

**Sec. 3. [Repayment formula.]**—The provisions of section 2 of the Act of July 27, 1954 (68 Stat. 568, 569), shall be applicable to the Greater Wenatchee division of the Chief Joseph Dam project. The term “construction costs” used therein shall include any irrigation, operation, and maintenance costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the water users to pay during that period. (72 Stat. 104)

EXPLANATORY NOTE

**Reference in the Text.** The Act of July 27, 1954 (68 Stat. 568, 569), referred to in the text, authorized the Foster Creek Division, Chief Joseph Dam Project. Section 2

**Sec. 4. [Appropriation.]**—There is hereby authorized to be appropriated for construction of the works provided for in section 1 of this Act the sum of \$10,-280,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as are necessary for operation and maintenance of said works. (72 Stat. 105)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** S. 1031, Public Law

85-393 in the 85th Congress. S. Rept. No. 835. H.R. Rept. No. 1504. H.R. Rept. No. 1615 (on H. Res. 530).

### AMEND HUNGRY HORSE DAM ACT

An act to amend the Act of June 5, 1944, relating to the construction, operation, and maintenance of Hungry Horse Dam, Montana. (Act of May 29, 1958, Public Law 85-428, 72 Stat. 147)

[**Hungry Horse Dam Act Amendment.**]—In order to clarify the status of the Hungry Horse project, Montana, section 1 of the Act of June 5, 1944 (58 Stat. 270, 43 U.S.C. 593a), is hereby amended by adding to it a new sentence reading as follows:

“The Hungry Horse project shall be subject to the Federal Reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto).” (72 Stat. 147; 43 U.S.C. § 593a)

#### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of June 5, 1944. **Legislative History.** S. 847, Public Law 85-428 in the 85th Congress. S. Rept. No. 1384. H.R. Rept. No. 1703.

May 29, 1958

1418

## REIMBURSE LANDOWNERS FOR MOVING EXPENSES

An act to authorize the Secretary of the Interior to reimburse owners of lands acquired for developments under his jurisdiction for their moving expenses, and for other purposes. (Act of May 29, 1958, Public Law 85-433, 72 Stat. 152)

[**Sec. 1. Reimbursement of owners and tenants.**]—The Secretary of the Interior is authorized, to the extent administratively determined by him to be fair and reasonable, to reimburse the owners and tenants of lands acquired for the construction, operation, or maintenance of developments under his jurisdiction for expenses and other losses and damages incurred by them in the process and as a direct result of such moving of themselves, their families, and their possessions as is occasioned by said acquisition, which reimbursement shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of its fair value, as determined by the Secretary. No payment under this Act shall be made unless application therefor, supported by an itemized statement of the expenses, losses, and damages incurred, is submitted to the Secretary within one year from the date upon which the premises involved are vacated or, in the case of lands acquired and vacated prior to the date of this Act but after July 14, 1952, within one year from the date of this Act. (72 Stat. 152; 43 U.S.C. § 1231)

**Sec. 2. [Administration.]**—The Secretary may perform any and all acts and make such rules and regulations as he finds necessary and proper for the purpose of carrying out the provisions of this Act. All functions performed under this Act shall be exempt from the operation of the Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C., secs. 1001-1011), except as to the requirements of section 3 of said Act. (72 Stat. 152; 43 U.S.C. § 1232)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C., secs. 1001-1011), is the Administrative Procedure Act. Section 3 of the Act requires Federal agencies to publish infor-

mation, rules, opinions, orders and public records, except in cases requiring secrecy or involving matters of a purely internal management nature. Extracts from the Act as re-codified appear herein in the appendix.

**Sec. 3. [Definitions.]**—As used in this Act, the term “lands” shall include interests in land; the term “acquisition” and its cognates shall include the exercise of a right-of-way upon lands subject thereto under the Act of August 30, 1890 (26 Stat. 371, 391, 43 U.S.C., sec. 945); and the term “fair value” shall, in the case of interests in land and of rights-of-way under the Act of August 30, 1890, mean a fair value of the interest acquired or of the right-of-way occupied. (72 Stat. 152; 43 U.S.C. § 1233)

### EXPLANATORY NOTES

**Reference in the Text.** The Act of August 30, 1890 (26 Stat. 371, 391, 43 U.S.C., sec. 945), referred to in the text, re-

served in all patents for lands taken up after August 30, 1890, a right-of-way for ditches or canals constructed by the authority of

May 29, 1958

## REIMBURSE LANDOWNERS FOR MOVING EXPENSES 1419

the United States. Extracts from the Act appear herein in chronological order.

**Cross Reference, Compensation to Landowners for Rights-of-way.** The Act of September 2, 1964, 78 Stat. 808, substantially modified the 1890 Act insofar as the Department of the Interior is concerned. That

Act directs the Secretary of the Interior to pay just compensation for private land utilized for canals or ditches in connection with any canals or ditches whose construction began after January 1, 1961. The 1964 Act appears herein in chronological order.

**Sec. 4. [Appropriations.]**—Funds appropriated for the construction, operation, or maintenance of developments under the jurisdiction of the Secretary shall also be available for carrying out the provisions of this Act. (72 Stat. 152; 43 U.S.C. § 1234)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions are not included because none were found dealing primarily with the activities of the Bureau of Reclamation under

this statute.

**Legislative History.** H.R. 6940, Public Law 85-433 in the 85th Congress. H.R. Rept. No. 662. S. Rept. No. 1520.

May 29, 1958

1420

## CREDITS FOR FEDERAL BUILDING SITE IN PHOENIX

An act to provide for certain credits to the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District in consideration of the transfer to the Government of property in Phoenix, Ariz. (Act of May 29, 1958, Public Law 85-437, 72 Stat. 154)

[**Phoenix, Ariz.—Credits for property transfer.**]—Upon certification by the Administrator of the General Services Administration to the Secretary of the Interior that the Salt River Project Agricultural Improvement and Power District has tendered to the United States marketable title to certain properties in the city of Phoenix, Arizona, as evidenced by an acceptable abstract of title, certificate of title, or title guaranty policy now owned by it which are necessary for, or reasonably useful in connection with, a new Federal courthouse and office building, that the Attorney General of the United States has rendered a written opinion in favor of the validity of the title and that the Administrator, acting on behalf of the United States, has accepted a warranty deed, in form approved by the Attorney General and with documentary stamps thereto attached in amounts required by law, conveying the unencumbered fee simple title to the properties therein described to the United States of America, the Secretary shall credit toward repayment of such of the obligations assumed by the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) as he finds proper an amount equal to the value of the properties transferred, as determined by an appraisal satisfactory to the Administrator, the Secretary, and the Salt River Project Agricultural Improvement and Power District: *Provided*, That if said amount is in excess of said obligations, the difference may be paid in cash or other valuable considerations. (72 Stat. 154)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 85-437 in the 85th Congress. S. Rept. No. the U.S. Code. 1386. H.R. Rept. No. 1705.

**Legislative History.** S. 2813, Public Law

July 2, 1958

1421

## LAKE SOLANO

An act to designate the lake above the diversion dam of the Solano project in California as Lake Solano. (Act of July 2, 1958, Public Law 85-481, 72 Stat. 279)

[**Lake Solano, Calif.—Designation.**]—The lake above the diversion dam of the Solano project in California, which lake is below the main dam (Monticello Dam) of the project, shall hereafter be known as Lake Solano, and any law, regulations, document, or record of the United States in which such lake is designated or referred to shall be held to refer to such lake under and by the name of Lake Solano. (72 Stat. 279)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Solano project was found feasible and authorized by the Secretary of the Interior on November 11, 1948,

under the provisions of section 9 of the Reclamation Project Act of 1939.

**Legislative History.** H.R. 9381, Public Law 85-481 in the 85th Congress. H.R. Rept. No. 1546. S. Rept. No. 1707.

July 2, 1958

1422

## MONTICELLO DAM

An act to designate the main dam of the Solano project in California as Monticello Dam.  
(Act of July 2, 1958, Public Law 85-485, 72 Stat. 287)

[Monticello Dam, Calif.—Designation.]—The main dam of the Solano project in California, which is a reclamation project, shall hereafter be known as Monticello Dam, and any law, regulation, document, or record of the United States in which such dam is designated or referred to shall be held to refer to such dam under and by the name of Monticello Dam. (72 Stat. 287)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Solano project was found feasible and authorized by the Secretary of the Interior on November 11, 1948, under the provisions of section 9 of the Reclamation Project Act of 1939.

**Cross Reference, Lake Berryessa.** The

Act of April 27, 1956, 70 Stat. 118, designated the lake behind Monticello Dam as Lake Berryessa. The Act appears herein in chronological order.

**Legislative History.** H.R. 9382, Public Law 85-485 in the 85th Congress. H.R. Rept. No. 1547. S. Rept. No. 1706.

## RIVER AND HARBOR, FLOOD CONTROL, AND WATER SUPPLY ACTS OF 1958

[Extracts from] An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. (Act of July 3, 1958, Public Law 85-500, 72 Stat. 297)

### TITLE I—RIVERS AND HARBORS

\* \* \* \* \*

**Sec. 104. [Aquatic plant control.]**—(a) There is hereby authorized a comprehensive program to provide for control and progressive eradication of water-hyacinth, alligatorweed, Eurasian water milfoil, and other obnoxious aquatic plant growths, from the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health, and related purposes, including continued research for development of the most effective and economic control measures, to be administered by the Chief of Engineers, under the direction of the Secretary of the Army, in cooperation with other Federal and State agencies. Local interests shall agree to hold and save the United States free from claims that may occur from control operations and to participate to the extent of 30 per centum of the cost of such operations. Costs for research and planning undertaken pursuant to the authorities of this section shall be borne fully by the Federal Government.

(b) There are authorized to be appropriated such amounts, not in excess of \$5,000,000 annually, as may be necessary to carry out the provisions of this section. Any such funds employed for control operations shall be allocated by the Chief of Engineers on a priority basis, based upon the urgency and need of each area, and the availability of local funds. (72 Stat. 297, 300; § 104, Act of October 23, 1962, 76 Stat. 1171, 1179; Act of October 27, 1965, 79 Stat. 1073, 1092; 33 U.S.C. § 610)

#### EXPLANATORY NOTE

**1962 and 1965 Amendments.** The Act of October 23, 1962, modified the 1958 Act to provide that research costs and planning costs prior to construction shall be borne fully by the United States. The 1965 Act applies to the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, thus expanding section 104 of the 1958 Act which was limited to the States of North Carolina, South Carolina, Georgia, Florida, Alabama,

Mississippi, Louisiana and Texas. Additionally, the 1965 Act increased the annual appropriation authorization for section 104 programs from \$1,350,000 to \$5,000,000. For legislative history of the 1962 and 1965 Acts see (1). H.R. 13273, Public Law 87-874 in the 87th Congress; and (2). S. 2300, Public Law 89-298 in the 89th Congress; S. Rept. No. 464; H.R. Rept. No. 973; H.R. Rept. No. 1170 (conference report).

\* \* \* \* \*

**Sec. 111. [State and local government structures—Alteration or replacement.]**—Whenever, during the construction or reconstruction of any navigation, flood control, or related water development project under the direction of the Secretary of the Army, the Chief of Engineers determines that any structure or

July 3, 1958

1424

## FLOOD CONTROL ACT OF 1958

facility owned by an agency of government and utilized in the performance of a governmental function should be protected, altered, reconstructed, relocated, or replaced to meet the requirements of navigation or flood control, or both; or to preserve the safety or integrity of such facility when its safety or usefulness is determined by the Chief of Engineers to be adversely affected or threatened by the project, the Chief of Engineers may, if he deems such action to be in the public interest, enter into a contract providing for (1) the payment from appropriations made for the construction or maintenance of such project, of the reasonable cost of replacing, relocating, or reconstructing such facility to such standard as he deems reasonable but not to exceed the minimum standard of the State or political subdivision for the same type of facility involved, except that if the existing facility exceeds the minimum standard of the State or political subdivision, the Chief of Engineers may provide a facility of comparable standard, or (2) the payment of a lump sum representing the estimated reasonable cost thereof. This section shall not be construed as modifying any existing or future requirement of local cooperation, or as indicating a policy that local interests shall not hereafter be required to assume costs of modifying such facilities. The provisions of this section may be applied to projects hereafter authorized and to those heretofore authorized but not completed as of July 3, 1958, and notwithstanding the navigation servitude vested in the United States, they may be applied to such structures or facilities occupying the beds of navigable waters of the United States. (72 Stat. 303; Act of October 27, 1965, 79 Stat. 1073, 1094, 33 U.S.C. § 633)

### EXPLANATORY NOTE

**1965 Amendment.** The Act of October 27, 1965, amended section 111 of the 1958 Act to more specifically define the authority of the Chief of Engineers to protect, alter, or replace, reconstruct, or relocate existing structures or facilities of an agency of a State or local government to "such standards as he deems reasonable but not to exceed the minimum standard of the State

or political subdivision for the same type of facility involved, except that if the existing facility exceeds the minimum standard . . . [he] may provide a facility of comparable standard . . ." For legislative history of the 1965 Act see S. 2300, Public Law 89-298 in the 89th Congress; S. Rept. No. 464; H.R. Rept. No. 793; H. R. Rept. No. 1170 (conference report).

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**Sec. 113. [Short title.]**—Title I may be cited as the "River and Harbor Act of 1958." (72 Stat. 305)

## TITLE II—FLOOD CONTROL

\* \* \* \* \*

**Sec. 203. [Projects authorized.]**—

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### ARKANSAS RIVER BASIN

The project for the Trinidad Dam on Purgatoire River, Colorado, is hereby authorized substantially in accordance with the recommendations of the Chief

July 3, 1958

FLOOD CONTROL ACT OF 1958

1425

of Engineers in House Document Numbered 325, Eighty-fourth Congress, at an estimated cost of \$16,628,000. (72 Stat. 309)

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MISSOURI RIVER BASIN

In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$200,000,000 for the prosecution of the comprehensive plan for the Missouri River Basin, approved in the Act of June 28, 1938, as amended and supplemented by subsequent Acts of Congress: *Provided*, That, with respect to any power attributable to any dam in such plan to be constructed by the Corps of Engineers, the construction of which has not been started, a reasonable amount of such power as may be determined by the Secretary of Interior, or such portions thereof as may be required from time to time to meet loads under contract made within this reservation, shall be made available for use in the State where such dam is constructed: *Provided*, That the distribution and sale of such reserved power within the State shall be made first to preference users in keeping with the provisions of section 5 of the Flood Control Act of 1944; and provided further that the power so reserved for use within the State shall be not to exceed 50 per centum of the output of such dam. (72 Stat. 311)

NOTES OF OPINION

1. Case amendment.

The upper 50 percent limit on the reservation of power for use in South Dakota under the Case Amendment to the 1958 Flood Control Act applies to the entire installed power capacity of the Big Bend project and not just to that portion of Big Bend's output which can be directly attributed to those features physically located in South Dakota. Memorandum of Associate Solicitor Hogan to Field Solicitor,

Billings, January 27, 1964.

The fact that a portion of the power output from the Big Bend project is reserved by the Case Amendment for use in South Dakota does not as a matter of law affect the application of normal power marketing statutes and procedures to the unreserved portion of the output. Memorandum of Associate Solicitor Hogan to Field Solicitor, Billings, January 27, 1964.

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GILA RIVER BASIN

The comprehensive plan of improvement for the Gila River between Camelsback Reservoir site and the mouth of the Salt River, as set forth in paragraph 41 of the Report of the District Engineer, Los Angeles District, dated December 31, 1957, is approved as a basis for the future development of the Gila River, subject to further detailed study and specific authorization; and the channel improvement work recommended by the District Engineer in paragraph 58 of that report, is hereby authorized at an estimated Federal cost of \$1,570,000, subject to the condition that local interests furnish assurances satisfactory to the Secretary of the Army that they will (a) provide necessary lands, easements, and rights-of-way; (b) maintain and operate the channel improvements in accordance with regulations to be prescribed by the Secretary of the Army at an average annual cost estimated at \$50,000; (c) keep the flood channel of the Gila River from the upper end of Safford Valley to San Carlos Reservoir and

July 3, 1958

from the mouth of the San Pedro River to Buttes Reservoir site free from encroachment; (d) hold and save the United States free from all damages arising from construction and operation of the work; and (e) adjust all water-rights claims resulting from construction, operation, and maintenance of the improvements: *Provided*, That in the consideration of benefits in connection with the study of any upstream reservoir, the channel improvements herein authorized and the upstream reservoir shall be considered as a single operating unit in the economic evaluation: *Provided further*, That in the event it is possible as determined by the Secretary of the Interior (a) to identify the organizations directly benefiting from the water conserved by these works and (b) to feasibly determine the extent of such benefit to each organization, the Secretary of the Interior shall enter into contracts with such organizations for the repayment of the portion of the cost of the work properly allocable to such organizations: *And provided further*, That such repayment shall be under terms and conditions satisfactory to the Secretary of the Interior and shall be in installments fixed in accordance with the ability of those organizations to pay as determined by the Secretary of the Interior in the light of their outstanding repayments and other obligations. (72 Stat. 313)

\* \* \* \* \*

**Sec. 207. [Appropriation—Missouri River Basin.]**—In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$200,000,000 for the prosecution of the comprehensive plan adopted by section 9 (a) of the Act approved December 22, 1944 (Public Numbered 534, Seventy-eighth Congress), as amended and supplemented by subsequent Acts of Congress, for continuing the works in the Missouri River Basin to be undertaken under said plans by the Secretary of the Interior. (72 Stat. 319)

**Sec. 208. [Survey reports.]**—That for preliminary examinations and surveys authorized in previous river and harbor and flood control Acts, the Secretary of the Army is hereby directed to cause investigations and reports for flood control and allied purposes, to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared. (72 Stat. 319; 33 U.S.C. §§ 701b-8a)

**Sec. 209. [Short title.]**—Title II may be cited as the “Flood Control Act of 1958.” (72 Stat. 319)

### TITLE III—WATER SUPPLY

**Sec. 301. (a) [Congressional policy.]**—It is hereby declared to be the policy of the Congress to recognize the primary responsibilities of the States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes and that the Federal Government should participate and cooperate with States and local interests in developing such water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation, or multiple purpose projects.

**(b) [Storage.]**—In carrying out the policy set forth in this section, it is hereby

provided that storage may be included in any reservoir project surveyed, planned, constructed or to be planned, surveyed and/or constructed by the Corps of Engineers or the Bureau of Reclamation to impound water for present or anticipated future demand or need for municipal or industrial water, and the reasonable value thereof may be taken into account in estimating the economic value of the entire project: *Provided*, That the cost of any construction or modification authorized under the provisions of this section shall be determined on the basis that all authorized purposes served by the project shall share equitably in the benefits of multiple purpose construction, as determined by the Secretary of the Army or the Secretary of the Interior, as the case may be: *Provided further*, That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And provided further*, That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project: *And provided further*, That the entire amount of the construction costs, including interest during construction, allocated to water supply shall be repaid within the life of the project but in no event to exceed fifty years after the project is first used for the storage of water for water supply purposes, except that (1) no payment need be made with respect to storage for future water supply until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue. The provisions of this subsection insofar as they relate to the Bureau of Reclamation and the Secretary of the Interior shall be alternative to and not a substitute for the provisions of the Reclamation Project Act of 1939 (53 Stat. 1187) relating to the same subject.

(c) [Sections of other acts not modified.]—The provisions of this section shall not be construed to modify the provisions of section 1 and section 8 of the Flood Control Act of 1944 (58 Stat. 887), as amended and extended, or the provisions of section 8 of the Reclamation Act of 1902 (32 Stat. 390).

(d) [Approval of Congress.]—Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include storage as provided in subsection (b), which would seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed, or which would involve major structural or operational changes shall be made only upon the approval of Congress as now provided by law. (72 Stat. 319; Act of July 20, 1961, 75 Stat. 210; 43 U.S.C. § 390b)

July 3, 1958

EXPLANATORY NOTE

**1961 Amendment.** Section 10 of the Act of July 20, 1961, 75 Stat. 210, substituted three provisos for the first two provisos originally included in subsection 301(b). The purpose of the amendment was to require only reasonable assurances and reasonable evidence that supply allocated to future demands will be used and the costs repaid, rather than requiring a contractual commitment for repayment. The first two provisos of subsection 301(b) as originally enacted read as follows:

"*Provided*, That before construction or modification of any project including water supply provisions is initiated, State or local interests shall agree to pay for the cost of such provisions on the basis that all authorized purposes served by the project shall

share equitably in the benefits of multiple purpose construction as determined by the Secretary of the Army or the Secretary of the Interior as the case may be: *Provided further*, That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where States or local interests give reasonable assurances that they will contract for the use of storage for anticipated future demands within a period of time which will permit paying out the costs allocated to water supply within the life of the project."

For legislative history of the 1961 Act see H.R. 6441, Public Law 87-88 in the 87th Congress. S. Rept. No. 353 on S. 120, H.R. Rept. No. 306. Conference Report H.R. Rept. No. 675.

NOTE OF OPINION

**1. Future capacity**

The 1961 amendment authorizes the constructing agency to include capacity in a reservoir for anticipated future demand for municipal and industrial water supply on the basis of reasonable assurances and reasonable evidence, but without first having to obtain a definite contractual commitment

from state or local interests. Repayment for costs associated with the anticipated future demand would be within a period of 50 years from the date water is first used as such anticipated future demand; and total repayment must be within the life of the project. Memorandum of Associate Solicitor Hogan to Commissioner, March 29, 1965.

**Sec. 302. [Short title.]**—Title III of this Act may be cited as the "Water Supply Act of 1958." (72 Stat. 320; 43 U.S.C. § 390b, note)

EXPLANATORY NOTES

**Not Codified.** Sections 113, 203, 207, and 209 are not codified in the U.S. Code.

**Editor's Note, Annotations.** Annotations of opinions are included only to the extent deemed relevant to activities of the Bureau of Reclamation under this statute.

**Legislative History.** S. 3910, Public Law 85-500 in the 85th Congress. S. Rept. No. 1710. H.R. Rept. No. 1894 (on H.R. 12955). H.R. Rept. No. 1982 (conference report).

## COMPENSATE CROW TRIBE FOR LANDS, YELLOWTAIL DAM

Joint resolution to provide for transfer of right-of-way for Yellowtail Dam and Reservoir, Hardin unit, Missouri River Basin project and payment to Crow Indian Tribe in connection therewith, and for other purposes. (Act of July 15, 1958, Public Law 85-523, 72 Stat. 361)

[**Sec. 1. Yellowtail Dam and Reservoir—Right-of-way payment—Tax exemption.**]—From funds appropriated to the Department of the Interior, Bureau of Reclamation, for the Missouri River Basin project, there shall be transferred in the Treasury of the United States to the credit of the Crow Tribe of Indians, Montana, the sum of \$2,500,000. Said sum is intended to include both just compensation for the transfer to the United States as herein provided of all right, title, and interest of the Crow Tribe in and to the tribal lands described in section 2 of this resolution, except such as is reserved or excluded in said section 2, and a share of the special value to the United States of said lands for utilization in connection with its authorized Missouri River Basin project, in addition to other justifiable considerations. Nothing contained in this joint resolution shall be taken as an admission by the United States that it is under any legal obligation to pay more than just compensation to said Crow Tribe and, in any suit brought as provided in section 3 of this resolution, no amount in excess of the sum above stated shall be awarded unless the court finds that the whole of said sum is less than just compensation for all of the tribal right, title, and interest taken. No attorney fees shall be allowed out of the amount paid under authority of this section. Neither the initial transfer of such funds to the Tribe, as provided herein, nor any subsequent per capita distribution thereof shall be subject to Federal income tax. (72 Stat. 361)

**Sec. 2. (a) [Crow Tribe—Land transfer.]**—Subject to the provisions of this section, there is hereby transferred to the United States the right, title, and interest of the Crow Tribe in and to lands situated in the Big Horn County, Montana, hereinafter described under the headings "PARCEL A" and "PARCEL B."

\* \* \* \* \*

(Legal description omitted; 72 Stat. 361)

\* \* \* \* \*

(b) [**Canal and appurtenant facilities reserved from transfer until replaced.**]—There is reserved from the right, title, and interest transferred as to parcel B, the Indian Irrigation Service canal and appurtenant facilities, Big Horn unit, Crow Indian Irrigation Department, as now constructed or as they may be hereafter modified, until such time as said canal and appurtenant facilities may be replaced.

(c) [**Rights transferred are exclusive of mineral rights—Restrictions on mineral leasing.**]—Except as to such area as the Secretary determines to be required for the dam site and the construction and operating camp site, the right, title and interest transferred shall be exclusive of the rights to minerals,

July 15, 1958

1430

## CROW TRIBE LANDS, YELLOWTAIL DAM

including gas and oil, beneath the surface: *Provided*, That no permit, license, lease or other document covering the exploration for or the extraction of such minerals shall be granted by or under the authority of the Secretary except under such conditions and with such stipulations as the Secretary deems adequate to protect the interests of the United States in the construction, operation, maintenance and use of the Yellowtail unit.

(d) [Hunting and fishing rights.]—The members of the Crow Tribe of Indians of Montana shall be permitted to hunt and fish in and on the Yellowtail Reservoir and taking area without a license. (72 Stat. 361)

Sec. 3. [Final settlement.]—Unless suit is brought by the Crow Tribe in the United States District Court for the District of Montana or the Court of Claims within three years after the effective date of this joint resolution to determine whether an amount additional to that specified in section 1 hereof is due as just compensation, the sum provided by section 1 hereof shall be deemed to constitute full, complete, and final settlement of any and all claims by the tribe on account of the transfer to the United States as therein provided of the tribe's right, title, and interest in and to the lands referred to in section 2 hereof, including claims based on their power site and dam site values. In the event a suit to determine just compensation is so brought, either of said courts shall have jurisdiction as under section 1505, title 28, United States Code, and in determining just compensation shall take into account the rights reserved to the tribe by subsections (b), (c), and (d) of section 2 hereof and shall, if judgment be for the tribe, deduct from the amount thereof the sum specified in and paid under section 1 of this joint resolution. Review of the judgment shall be in the same manner, and subject to the same limitations, as govern in the case of other claims cognizable under the aforementioned section 1505. Nothing contained in this joint resolution shall be taken as an admission on the part of the United States that just compensation is required for any particular element of value, including power site and dam site value, now or hereafter claimed by the Crow Tribe, but the same shall be determined in accordance with the Constitution and laws of the United States. (72 Stat. 363)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Earlier Act Vetoed.** On June 7, 1956, President Eisenhower vetoed S.J. Res. 135 of the 84th Congress on the grounds that the payment of \$5,000,000 therein provided could not be substantiated as "just compensation" for the property acquired.

**Court Award.** Litigation subsequent to the passage of this act resulted in an award of \$4,500,000 to the Crow Tribe. *The Crow Tribe of Indians v. United States*, Civil No. 214, D.C. Mont., October 1, 1963.

**Reference in the Text.** Section 1505,

title 28, United States Code, referred to in the text, provides that the "Court of Claims shall have jurisdiction of any claim against the United States accruing after August 13, 1946, in favor of any tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States . . .".

**Legislative History.** S.J. Res. 12, Public Law 85-523 in the 85th Congress. S. Rept. No. 216. H.R. Rept. No. 784 (on H.J. Res. 2). H.R. Rept. No. 1317 (on H. Res. 463). H.R. Rept. No. 2010 (conference report).

## LAKE TSCHIDA

An act designating the reservoir located above Heart Butte Dam in Grant County, North Dakota, as Lake Tschida, and for other purposes. (Act of July 28, 1958, Public Law 85-562, 72 Stat. 424)

[**Lake Tschida, North Dakota.**]—The reservoir located above the Heart Butte Dam in Grant County, North Dakota, shall hereafter be known as Lake Tschida, and any law, regulation, document, or record of the United States in which such reservoir is designated or referred to shall be held to refer to such reservoir under and by the name of Lake Tschida. (72 Stat. 424)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in 85-562 in the 85th Congress. S. Rept. No. 729. H.R. Rept. No. 2110.

### Legislative History. S. 1785, Public Law

August 8, 1958

1432

## VARIABLE REPAYMENT PLAN

An act to amend section 9, subsection (d), of the Reclamation Project Act of 1939, and for other related purposes. (Act of August 8, 1958, Public Law 85-611, 72 Stat. 542)

[**Sec. 1. Reclamation repayment contracts—Variable plan.**]—Paragraph (3) of section 9, subsection (d), of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195) is hereby amended to read as follows:

“That the general repayment obligation of the organization shall be spread in annual installments, of the number and amounts fixed by the Secretary, over a period of not more than 40 years, exclusive of any development period fixed under paragraph (1) of this subsection, for any project contract unit or, if the project contract unit be divided into two or more irrigation blocks, for any such block, or as near to said period of not more than forty years as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within such period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay.” (72 Stat. 542; 43 U.S.C. § 485h)

**Sec. 2. [Water storage contracts.]**—The benefits of a variable payment plan as provided in the amendment to paragraph (3) of section 9, subsection (d), of the Reclamation Project Act of 1939 contained in section 1 of this Act may be extended by the Secretary to any organization with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts under the Act of August 11, 1939 (53 Stat. 1418), as amended, and contracts for the storage of water or for the use of stored water under section 8 of the Act of December 22, 1944 (58 Stat. 887, 891). In the case of any project for which a maximum repayment period longer than that prescribed in said paragraph (3) has been or is allowed by Act of Congress, the period so allowed may be used by the Secretary in lieu of the forty-year period provided in said amendment to paragraph (3). (72 Stat. 542; 43 U.S.C. § 485h, note)

**Sec. 3. [Repeals.]**—Section 2, subsection (h), of the Reclamation Project Act of 1939 is hereby repealed and the subsections following it are re-lettered accordingly. Section 4, as amended, of the same Act is hereby repealed. Paragraph (5) of section 9, subsection (d), of the same Act is hereby repealed. Section 17, as amended, of the same Act is hereby further amended by substituting the expression “Section 3” for the expression “Sections 3 and 4” where the latter occurs in said section. The Act of March 6, 1952 (66 Stat. 16) is hereby amended by deleting therefrom the figure “4” in the expression “sections 3, 4, and 7 of the Reclamation Project Act of 1939.” (72 Stat. 543; 43 U.S.C. §§ 485 a and b notes and 485h)

## EXPLANATORY NOTES

**Reference in the Text.** The Act of March 6, 1952 (66 Stat. 16), referred to in the text, extended the time for entering into amended repayment contracts. The Act appears herein in chronological order.

**Reference in the Text.** The Act of August 11, 1939 (53 Stat. 1418), as amended, referred to in the text, which is the Water Conservation and Utilization Act, and extracts from the Act of December 22, 1944 (58 Stat. 887, 899), including

section 8 which is also referred to in the text, are found herein in chronological order. The latter Act is the Flood Control Act of 1944.

**Editor's Note, Annotations.** Annotations of opinions under sections 1 and 3, if any, are found under the Reclamation Project Act of 1939.

**Legislative History.** H.R. 8645, Public Law 85-611 in the 85th Congress, H.R. Rept. No. 1861. S. Rept. No. 1907.

August 12, 1958

## NAME AND AMEND FISH AND WILDLIFE COORDINATION ACT

An act to amend the Act of March 10, 1934, to provide for more effective integration of a fish and wildlife conservation program with Federal water-resource developments, and for other purposes. (Act of August 12, 1958, Public Law 85-624, 72 Stat. 563)

[**Sec. 1. Short title.**]—The Act of March 10, 1934, as amended, and as further amended by this Act may be cited as the “Fish and Wildlife Coordination Act.” (72 Stat. 563)

### EXPLANATORY NOTE

**Cross Reference, Fish and Wildlife Coordination Act.** The full text of the Fish and Wildlife Coordination Act, as amended, appears herein under the Act of August 14, 1946. The text of the Act of March 10, 1934, also appears herein in chronological order.

**Sec. 2. [Revision of sections 1-4 of Fish and Wildlife Coordination Act.]**—The first four sections of the Act entitled “An Act to promote the conservation of wildlife, fish, and game, and for other purposes”, approved March 10, 1934 (16 U.S.C., secs. 661-664, inclusive) are amended to read as follows:

“For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of this Act in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of this Act; (2) to make surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein acquired or controlled by any agency of the United States; and (3) to accept donations of land and contributions of funds in furtherance of the purposes of this Act.

“SEC. 2. (a) Except as hereafter stated in subsection (h) of this section, whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of

the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.

"(b) In furtherance of such purposes, the reports and recommendations of the Secretary of the Interior on the wildlife aspects of such projects, and any report of the head of the State agency exercising administration over the wildlife resources of the State, based on surveys and investigations conducted by the United States Fish and Wildlife Service and such State agency for the purpose of determining the possible damage to wildlife resources and for the purpose of determining means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as to provide concurrently for the development and improvement of such resources, shall be made an integral part of any report prepared or submitted by any agency of the Federal Government responsible for engineering surveys and construction of such projects when such reports are presented to the Congress or to any agency or person having the authority or the power, by administrative action or otherwise, (1) to authorize the construction of water-resource development projects or (2) to approve a report on the modification or supplementation of plans for previously authorized projects, to which this Act applies. Recommendations of the Secretary of the Interior shall be as specific as is practicable with respect to features recommended for wildlife conservation and development, lands to be utilized or acquired for such purposes, the results expected, and shall describe the damage to wildlife attributable to the project and the measures proposed for mitigating or compensating for these damages. The reporting officers in project reports of the Federal agencies shall give full consideration to the report and recommendations of the Secretary of the Interior and to any report of the State agency on the wildlife aspects of such projects, and the project plan shall include such justifiable means and measures for wildlife purposes as the reporting agency finds should be adopted to obtain maximum overall project benefits.

"(c) Federal agencies authorized to construct or operate water-control projects are hereby authorized to modify or add to the structures and operations of such projects, the construction of which has not been substantially completed on the date of enactment of the Fish and Wildlife Coordination Act, and to acquire lands in accordance with section 3 of this Act, in order to accommodate the means and measures for such conservation of wildlife resources as an integral part of such projects: *Provided*, That for projects authorized by a specific Act of Congress before the date of enactment of the Fish and Wildlife Coordination Act (1) such modification or land acquisition shall be compatible with the purposes for which the project was authorized; (2) the cost of such modifications or land acquisition, as means and measures to prevent loss of and damage to wildlife resources to the extent justifiable, shall be an integral part of the cost of such projects; and (3) the cost of such modifications or land acquisition for the development or improvement of wildlife resources may be included to the extent justifiable, and an appropriate share of the cost of any project may be

August 12, 1958

1436

NAME AND AMEND COORDINATION ACT

allocated for this purpose with a finding as to the part of such allocated cost, if any, to be reimbursed by non-Federal interests.

"(d) The cost of planning for and the construction or installation and maintenance of such means and measures adopted to carry out the conservation purposes of this section shall constitute an integral part of the cost of such projects: *Provided*, That such cost attributable to the development and improvement of wildlife shall not extend beyond those necessary for (1) land acquisition, (2) modification of the project, and (3) modification of project operations; but shall not include the operation of wildlife facilities nor the construction of such facilities beyond those herein described: *And provided further*, That, in the case of projects authorized to be constructed, operated, and maintained in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior, in addition to allocations made under section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187), shall make findings on the part of the estimated cost of the project which can properly be allocated to means and measures to prevent loss of and damage to wildlife resources, which costs shall not be reimbursable, and an appropriate share of the project costs may be allocated to development and improvement of wildlife resources, with a finding as to the part of such allocated costs, if any, to be reimbursed by non-Federal fish and wildlife agencies or interests.

"(e) In the case of construction by a Federal agency, that agency is authorized to transfer to the United States Fish and Wildlife Service, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of this section.

"(f) In addition to other requirements, there shall be included in any report submitted to Congress supporting a recommendation for authorization of any new project for the control or use of water as described herein (including any new division of such project or new supplemental works on such project) an estimation of the wildlife benefits or losses to be derived therefrom including benefits to be derived from measures recommended specifically for the development and improvement of wildlife resources, the cost of providing wildlife benefits (including the cost of additional facilities to be installed or lands to be acquired specifically for that particular phase of wildlife conservation relating to the development and improvement of wildlife), the part of the cost of joint-use facilities allocated to wildlife, and the part of such costs, if any, to be reimbursed by non-Federal interests.

"(g) The provisions of this section shall be applicable with respect to any project for the control or use of water as prescribed herein, or any unit of such project authorized before or after the date of enactment of the Fish and Wildlife Coordination Act for planning or construction, but shall not be applicable to any project or unit thereof authorized before the date of enactment of the Fish and Wildlife Coordination Act if the construction of the particular project or unit thereof has been substantially completed. A project or unit thereof shall

August 12, 1958

NAME AND AMEND COORDINATION ACT

1437

be considered to be substantially completed when sixty percent or more of the estimated construction cost has been obligated for expenditure.

"(h) The provisions of this Act shall not be applicable to those projects for the impoundment of water where the maximum surface area of such impoundments is less than ten acres, nor to activities for or in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction.

"SEC. 3. (a) Subject to the exceptions prescribed in section 2(h) of this Act, whenever the waters of any stream or other body of water are impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, adequate provision, consistent with the primary purposes of such impoundment, diversion, or other control, shall be made for the use thereof, together with any areas of land, water, or interests therein, acquired or administered by a Federal agency in connection therewith, for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon, including the development and improvement of such wildlife resources pursuant to the provisions of section 2 of this Act.

"(b) The use of such waters, land, or interests therein for wildlife conservation purposes shall be in accordance with general plans approved jointly (1) by the head of the particular department or agency exercising primary administration in each instance, (2) by the Secretary of the Interior, and (3) by the head of the agency exercising the administration of the wildlife resources of the particular State wherein the waters and areas lie. Such waters and other interests shall be made available, without cost for administration, by such State agency, if the management of the properties relate to the conservation of wildlife other than migratory birds, or by the Secretary of the Interior, for administration in such manner as he may deem advisable, where the particular properties have value in carrying out the national migratory bird management program: *Provided*, That nothing in this section shall be construed as affecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

"(c) When consistent with the purposes of this Act and the reports and findings of the Secretary of the Interior prepared in accordance with section 2, land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of this Act in connection with a project as reasonably needed to preserve and assure for the public benefit the wildlife potentials of the particular project area: *Provided*, That before properties are acquired for this purpose, the probable extent of such acquisition shall be set forth, along with other data necessary for project authorization, in a report submitted to the Congress, or in the case of a project previously authorized, no such properties shall be acquired unless specifically authorized by Congress, if specific authority for such acquisition is recommended by the construction agency.

August 12, 1958

1438

NAME AND AMEND COORDINATION ACT

"(d) Properties acquired for the purposes of this section shall continue to be used for such purposes, and shall not become the subject of exchange or other transactions if such exchange or other transaction would defeat the initial purpose of their acquisition.

"(e) Federal lands acquired or withdrawn for Federal water-resource purposes and made available to the States or to the Secretary of the Interior for wildlife management purposes, shall be made available for such purposes in accordance with this Act, notwithstanding other provisions of law.

"(f) Any lands acquired pursuant to this section by any Federal agency within the exterior boundaries of a national forest shall, upon acquisition, be added to and become national forest lands, and shall be administered as a part of the forest within which they are situated, subject to all laws applicable to lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961), unless such lands are acquired to carry out the National Migratory Bird Management Program.

"SEC. 4. Such areas as are made available to the Secretary of the Interior for the purposes of this Act, pursuant to sections 1 and 3 or pursuant to any other authorization, shall be administered by him directly or in accordance with cooperative agreements entered into pursuant to the provisions of the first section of this Act and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon, as may be adopted by the Secretary in accordance with general plans approved jointly by the Secretary of the Interior and the head of the department or agency exercising primary administration of such areas: *Provided*, That such rules and regulations shall not be inconsistent with the laws for the protection of fish and game of the States in which such area is situated (16 U.S.C., sec. 664): *Provided further*, That lands having value to the National Migratory Bird Management Program may, pursuant to general plans, be made available without cost directly to the State agency having control over wildlife resources, if it is jointly determined by the Secretary of the Interior and such State agency that this would be in the public interest: *And provided further*, That the Secretary of the Interior shall have the right to assume the management and administration of such lands in behalf of the National Migratory Bird Management Program if the Secretary finds that the State agency has withdrawn from or otherwise relinquished such management and administration." (72 Stat. 563-67)

**EXPLANATORY NOTE**

**Cross Reference, Fish and Wildlife Coordination Act.**—The text of the Act of March 10, 1946. The text of the Fish and Wildlife Coordination Act, as amended, appears herein under the Act of August 14, 1934, also appears herein in chronological order.

**Sec. 3. [Addition of section 12 to Watershed Protection and Flood Prevention Act.]**—The Watershed Protection and Flood Prevention Act, as amended (16 U.S.C., secs. 1001-1007, inclusive), is amended by adding at the end thereof the following new section:

"**Sec. 12.** When the Secretary approves the furnishing of assistance to a local

August 12, 1958

NAME AND AMEND COORDINATION ACT

1439

organization in preparing a plan for works of improvement as provided for in section 3:

"(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

"(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

"(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department." (72 Stat. 567)

**EXPLANATORY NOTE**

Cross Reference, Watershed Protection appears herein under the Act of August 4, 1954, and Flood Prevention Act. The Watershed Protection and Flood Prevention Act applies to the same areas as the Soil Conservation and Water Power Act.

**Sec. 4. [Appropriations.]**—There is authorized to be appropriated and expended such funds as may be necessary to carry out the purposes of this Act. (72 Stat. 568)

**EXPLANATORY NOTES**

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Law 85-624 in the 85th Congress. H.R. Act of August 14, 1946. **Legislative History.** H.R. 13138, Public Rept. No. 2183. S. Rept. No. 1981.

August 14, 1958

1440

## COMPENSATE CROW TRIBE FOR LANDS, HUNTLEY PROJECT

An act to provide compensation to the Crow Tribe of Indians for certain ceded lands embraced within and otherwise required in connection with the Huntley reclamation project, Montana, and for other purposes. (Act of August 14, 1958, Public Law 85-628, 72 Stat. 575)

[Sec. 1. Indians—Payment to Crow Tribe.]—(a) There is hereby authorized to be transferred in the Treasury of the United States from funds now or hereafter made available to the Bureau of Reclamation and to be placed to the credit of the Crow Tribe of Indians, Montana, and expended for its benefit and the benefit of its members, pursuant to existing law, a sum of money determined as provided in this section for terminating and extinguishing all of the right, title, estate, and interest, except minerals including oil and gas, of said Indian tribe in and to the lands of that part of the former Crow Indian Reservation lying within the boundaries described below. The Secretary of the Interior shall appraise the fair market value of the interest in the lands taken by this Act within ninety days after passage of this Act and offer that sum to the Crow Tribe. The Crow Tribe may also appraise the fair market value of the interest in the lands taken by this Act and determine whether the appraisal of the Secretary of the Interior is acceptable to the Crow Tribe. If the offer of the Secretary of the Interior is not accepted within sixty days, the Secretary or the Crow Tribe is authorized to commence in a court of competent jurisdiction an action for determining the just compensation payable for such taking. The fair market value of, and the just compensation payable for, the Indian interest in the lands taken by this Act shall not include any value attributable to the construction and development by the United States of the Huntley reclamation project.

The perimeter boundaries of the tract of land, dealt with hereinabove, they being also the proposed exterior boundaries of the Huntley reclamation project, Montana, are described as follows:

(Legal description omitted; 72 Stat. 575-81)

(b) [Transfer of funds.]—There is hereby authorized to be transferred in the Treasury of the United States from funds now or hereafter made available to the Bureau of Reclamation and to be placed to the credit of the Crow Tribe of Indians a sum equal to all net revenues collected by the United States from grazing and agricultural leases on and other uses of the undisposed of ceded Crow lands referred to in subsection (a) of this section between 1904 and the date of this Act, together with interest which would have been earned in accordance with law on such revenues had they been deposited in the trust funds of the Tribe, as received: *Provided*, That such transfer shall not affect the credit of any part of such revenues to the repayment obligation of the Huntley Irriga-

August 14, 1958

CROW TRIBE LANDS, HUNTLEY PROJECT

1441

tion District as provided in its contract with the United States dated January 2, 1927. (72 Stat. 575-582)

**Sec. 2. [Restoration of vacant lands.]**—All unentered and vacant lands within the area described in section 1 hereof, are hereby restored to the public domain for administration, use, occupancy, and disposal under the reclamation and public-land laws of the United States, and shall not be subject to any other law with respect to Indian ceded lands: *Provided*, That the minerals reserved for the benefit of the Crow Tribe pursuant to section 1 hereof shall be leased or otherwise disposed of under the laws and regulations relating to Indian trust lands. (72 Stat. 582)

**Sec. 3. [Net proceeds.]**—The sum transferred to the credit of the Crow Tribe of Indians as aforesaid and the expenses of carrying out the provisions of this Act shall be nonreimbursable and nonreturnable under the reclamation laws of the United States. The net proceeds derived from the disposal of said lands shall be covered into the general fund of the Treasury or into the reclamation fund as the Secretary of the Interior shall find appropriate in the light of the source from which the funds transferred or expended in carrying out this Act are derived. (72 Stat. 582)

**Sec. 4. [Delegation of authority.]**—The Secretary of the Interior is authorized to perform any and all acts to carry out the provisions and purposes of this Act. (72 Stat. 582)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code. **Legislative History.** H.R. 11722, Public

**Authorization.** The Huntley reclamation project, Montana, was authorized by the Secretary of the Interior on April 18, 1905,

**Rept. No. 1855.** S. Rept. No. 2068.

**Under the Reclamation Act of 1902.** Law 85-628 in the 85th Congress.

**Public Law 85-628.** In the 85th Congress. H.R.

**Rept. No. 1855.** S. Rept. No. 2068.

August 14, 1958

1442

## EXTENSION OF CARIBOU AND TARGHEE NATIONAL FORESTS

An act to add certain lands located in Idaho and Wyoming to the Caribou and Targhee National Forests. (Act of August 14, 1958, Public Law 85-651, 72 Stat. 607)

[**Sec. 1. Targhee National Forest, Idaho-Wyo.—Addition of lands.**]—The exterior boundaries of the Targhee National Forest, located in Idaho and Wyoming, are hereby extended to include the following described lands:

\* \* \* \* \*

(Legal description omitted; 72 Stat. 607)

\* \* \* \* \*

**Sec. 2. [Further addition to forest lands.]**—All lands of the United States located within the exterior boundaries of the Targhee National Forest and all lands which have been, or are hereafter acquired by the United States in connection with the Palisades Reservoir reclamation project (other than the lands referred to in section 3) are hereby incorporated into and made parts of the Targhee National Forest: *Provided*, That any acquired lands hereby incorporated into the national forest shall be subject to the laws and regulations applicable to national forest lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended. (72 Stat. 608)

**Sec. 3. [Caribou National Forest, Idaho.]**—All lands of the United States within the exterior boundaries of the Caribou National Forest, Idaho, which have been, or are hereafter, acquired by the United States in connection with the Palisades Reservoir reclamation project are hereby incorporated into and made parts of the Caribou National Forest and shall be subject to the laws and regulations applicable to national forest lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended. (72 Stat. 608)

**Sec. 4. (a) [Applicability to laws and regulations.]**—It is hereby declared that the sole purpose of this Act is to subject the lands referred to in the foregoing sections of this Act to all laws and regulations applicable to national forests, and nothing in this Act shall be construed to authorize the United States to acquire any additional lands or any interest therein, nor to diminish or in anywise affect any valid rights in or to, or in connection with, any such lands which may be in existence on the date of enactment of this Act.

**(b) (1) [Palisades Reservoir reclamation project.]**—The Secretary of Agriculture shall make available, from the lands referred to in the foregoing sections of this Act, to the Bureau of Reclamation of the Department of the Interior, such lands as the Secretary of the Interior finds are needed in connection with the Palisades Reservoir reclamation project.

**(2) [Agreement.]**—The Secretary of the Interior is authorized to enter into such agreements with the Secretary of Agriculture with respect to the relative responsibilities of the aforesaid Secretaries for the administration of, as well as accountings for and use of revenues arising from, lands made available to the

August 14, 1958

CARIBOU AND TARGHEE NATIONAL FORESTS

1443

Bureau of Reclamation of the Department of the Interior pursuant to paragraph (1) as the Secretary of the Interior finds to be proper in carrying out the purpose of this Act. (72 Stat. 608)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Authorization.** The Palisades Reservoir reclamation project, Idaho-Wyoming, was initially authorized by the Secretary of the Interior on December 9, 1941, under the provisions of section 9 of the Reclamation Project Act of 1939; and was reauthorized by the Act of September 30, 1950, which appears herein in chronological order.

**Reference in the Text.** The Act of March 1, 1911 (36 Stat. 961), as amended, is the so-called Weeks Act, which authorized the acquisition of lands to be added to the national forest system.

**Legislative History.** S. 1748, Public Law 85-651 in the 85th Congress. S. Rept. No. 1408. H.R. Rept. No. 2320.

August 14, 1958

1444

## AMENDED CONTRACT WITH ARCH HURLEY CONSERVANCY DISTRICT

An act to authorize the Secretary of the Interior to amend the repayment contract with the Arch Hurley Conservancy District, Tucumcari project, New Mexico. (Act of August 14, 1958, Public Law 85-663, 72 Stat. 615)

[**Arch Hurley Conservancy District, N. Mex.—Repayment contract.—Fixed sum.**]—The Secretary of the Interior is authorized, upon the concurrence of the Arch Hurley Conservancy District, New Mexico, to amend further the repayment contract dated December 27, 1938, as amended on August 20, 1953, with said District to provide that the construction cost repayment obligation of the District, in the amount agreed to in said contract, as amended, and on which payments of installments are to commence in 1959, may be repaid in accordance with a variable repayment formula which, being based on full repayment within forty years, or as near thereto as is consistent with the adoption and operation of such a formula, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the District to pay: *Provided*, That any such amendatory contract making provision for the repayment of the District's construction cost repayment obligation in accordance with a variable repayment formula may provide further that for the years 1959 and 1960 the Arch Hurley Conservancy District's annual installments shall each be fixed in the sum of \$30,000. (72 Stat. 615)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Amendatory Repayment Contract.** The Act of July 31, 1953, 67 Stat. 243, also authorized the amendment of the Arch Hurley Conservancy District repayment contract. The Act appears herein in chronological order.

**Cross Reference, Project Authorization.** The Act of August 2, 1937, 50 Stat. 557,

conditionally authorized the construction of a Federal reclamation project to furnish a water supply for the lands of the Arch Hurley Conservancy District. The project is the Tucumcari project. The 1937 Act appears herein in chronological order.

**Legislative History.** S. 3469, Public Law 85-663 in the 85th Congress. S. Rept. No. 1730. H.R. Rept. No. 2263.

## GRAY REEF DAM AND RESERVOIR, GLENDO UNIT

An act to authorize the Gray Reef Dam and Reservoir as a part of the Glendo unit of the Missouri River Basin project. (Act of August 20, 1958, Public Law 85-695, 72 Stat. 687)

[**Sec. 1. Gray Reef Dam and Reservoir, Mo.—Glendo unit.**]—The Glendo unit of the Missouri River Basin project, as authorized by the joint resolution of July 16, 1954 (68 Stat. 486), is modified to provide for the construction and operation of the small reregulating Gray Reef Dam and Reservoir on the North Platte River downstream from Alcova Dam at an estimated cost of \$700,000. (72 Stat. 687)

**Sec. 2. [Appropriation—Reports.]**—There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act: *Provided*, That no construction shall proceed until a feasibility report has been approved by the Secretary of the Interior and submitted to the President and the Congress. (72 Stat. 687)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The joint resolution of July 16, 1954 (68 Stat. 486), authorizing the Glendo Unit, Missouri River Basin Project, referred to in the text,

appears herein in chronological order.

**Legislative History.** S. 4002, Public Law 85-695 in the 85th Congress. S. Rept. No. 1748. H.R. Rept. No. 2291. S. Con. Res. 113.

August 21, 1958

1446

## AMEND WASHOE PROJECT ACT

An act to amend the Act authorizing the Washoe reclamation project, Nevada and California, in order to increase the amount authorized to be appropriated for such project. (Act of August 21, 1958, Public Law 85-706, 72 Stat. 705)

[**Washoe Reclamation project.**]—Section 5 of the Act entitled “An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Washoe reclamation project, Nevada and California”, approved August 1, 1956 (70 Stat. 777), is amended by striking out “\$43,700,000” and inserting in lieu thereof “\$52,000,000 (April 1958 prices)”. (72 Stat. 705; 43 U.S.C. § 614d)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations. **Legislative History.** S. 4009, Public Law of opinion, if any, are found herein under 85-706 in the 85th Congress. S. Rept. No. the Act of August 1, 1956. 1749. H.R. Rept. No. 2451.

## RELIEF OF JOSEPH H. LYM

An act for the relief of Joseph H. Lym, doing business as the Lym Engineering Company.  
(Act of August 27, 1958, Private Law 85-712, 72 Stat. A187)

[Payment of claim authorized.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joseph H. Lym, doing business as the Lym Engineering Company, the sum of \$111,080.60 in accordance with the opinion and the findings of fact certified by the Court of Claims to the Congress pursuant to Senate Resolution 142, Eighty-fourth Congress, first session: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000. (72 Stat. A187)

### EXPLANATORY NOTES

**Background.** The relief granted by this Act was in settlement of a claim by the Lym Engineering Company arising out of a contract with the Bureau of Reclamation for the construction of laterals and sublaterals from an existing canal as well as the building of headgates, siphons, flumes, and out-

lets over an area of approximately 24 square miles of the Tucumcari project, New Mexico. H.R. Rept. No. 2401 on S. 3894, 85th Cong., 2d Sess.

**Legislative History.** S. 3894, Private Law 85-712 in the 85th Congress. S. Rept. No. 1711. H.R. Rept. No. 2401.

August 27, 1958

## BRIDGES ON FEDERAL DAMS

[Extracts from] An act to revise, codify, and enact into law, title 23 of the United States Code, entitled "Highways". (Act of August 27, 1958, Public Law 85-767, 72 Stat. 885)

The laws relating to highways are revised, codified, and reenacted as Title 23, United States Code, "Highways" and may be cited as "Title 23, United States Code, §—", as follows:

### TITLE 23—HIGHWAYS

\* \* \* \* \*

#### § 320. Bridges on Federal dams

(a) [Federal agencies authorized to design and construct dams so as to serve as foundation for highway bridge.]—Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of the United States, hereinafter collectively and individually referred to as "agency", which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall determine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) [Construction of bridge not to commence until State agrees to construct approach roads.]—Construction of any bridge upon and across any

dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain, or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accommodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) [Separation of cost and expense.]—All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expenditures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the national defense, the development of power, or other program, purpose, or function of such agency.

(d) [Emergency fund.]—Not to exceed \$13,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the

August 27, 1958

1450

## BRIDGES ON FEDERAL DAMS

provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) [Standards and advice of Public Roads Administration in regard to roadway design.]—In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) [Authority conferred by act to be in addition to other authority.]—The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge, approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section. (72 Stat. 917; Act of Sept. 21, 1959, 73 Stat. 613; Act of August 13, 1964, 78 Stat. 398; 23 U.S.C. § 320)

\* \* \* \* \*

### EXPLANATORY NOTES

**1964 Amendment.** Subsection 4(c) of the Act of August 13, 1964, 78 Stat. 398, amended subsection (b) by rewriting its first sentence in order to make it more understandable. For the legislative history of the 1964 Act, see H.R. 10503, Public Law 88-423 in the 88th Congress; H.R. Rept. No. 1331; S. Rept. No. 1162.

**1959 Amendment.** Section 108 of the Act of September 21, 1959, 73 Stat. 613, amended subsection (d) by striking out "\$10,000,000" and inserting in lieu thereof "\$13,000,000". For the legislative history of the 1959 Act, see H.R. 8678, Public Law 86-342 in the 86th Congress; H.R. Rept. No. 1120; S. Rept. Nos. 902 and 903.

**Department of Transportation.** The Act of October 15, 1966, 80 Stat. 931, Public Law 89-670, established the Department of Transportation. Included in its provisions is the transfer to the Secretary of Transportation of all functions, powers and duties of the Secretary of Commerce under title 23, United States Code, as amended. Reference in the text to "the Secretary", therefore, should be interpreted as referring to the Secretary of Transportation.

**Legislative History.** H.R. 12776, Public Law 85-767 in the 85th Congress. H.R. Rept. No. 1938. Companion bill S. 3953, S. Rept. No. 1928.

## MINERALS ON WIND RIVER INDIAN RESERVATION

An act relating to minerals on the Wind River Indian Reservation in Wyoming, and for other purposes. (Act of August 27, 1958, Public Law 85-780, 72 Stat. 935)

[**Sec. 1. Wind River Indian Reservation, Wyo.—Minerals.**]—From and after the effective date of this Act, all of the right, title, and interest of the United States in all minerals, including oil and gas, the Indian title to which was extinguished by the Act of August 15, 1953 (67 Stat. 592; Public Law 284, Eighty-third Congress, first session), entitled “An Act to provide compensation to the Shoshone and Arapahoe Tribes of Indians for certain lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation, and for other purposes”, is hereby declared to be held by the United States in trust for the Shoshone and Arapahoe Tribes and, notwithstanding any other provision of law, said minerals, including oil and gas, subject to the provisions of section 2 of this Act, shall be administered and leased in accordance with the provisions of the Act of May 11, 1938 (ch. 198, 52 Stat. 347) [25 U.S.C. 396a–396f and note.] The gross proceeds received by the United States from such minerals either before or after the date of this Act shall be deposited to the credit of the Shoshone and Arapahoe Tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended, and any of such gross proceeds that have been credited to miscellaneous receipts in the Treasury of the United States in accordance with the provisions of section 5 of the Act of August 15, 1953 (67 Stat. 592), shall be transferred on the books of the Treasury to the credit of such tribes. (72 Stat. 935; 25 U.S.C. § 611, note)

### EXPLANATORY NOTES

**Reference in the Text.** Extracts from the Act of August 15, 1953 (67 Stat. 592; Public Law 284, 83rd Congress, 1st Sess.), entitled “An Act to provide compensation to the Shoshone and Arapahoe Tribes of Indians for certain lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation, and for other purposes”, referred to twice in the text, appear herein in chronological order.

**Reference in the Text.** The Act of May 19, 1947 (61 Stat. 102), as amended, referred to in the text, is an act to authorize the segregation and expenditure of trust funds held in joint ownership by the Shoshone and Arapahoe Tribes of the Wind River Reservation.

**Reference in the Text.** The Act of May 11, 1938 (52 Stat. 347), referred to in the text, is an act to regulate the leasing of certain Indian lands for mining purposes. The Act provides, among other things,

that such leases shall be offered for sale to the highest responsible qualified bidder, at public auction or on sealed bids, after notice and advertisement, and reserves to the Secretary of the Interior the right to reject all bids whenever in his judgment the interest of the Indians will be served by such action.

**Cross Reference, Riverton Reclamation Project.** The Riverton reclamation project was started as an Indian reclamation project pursuant to the Acts authorizing appropriations for the Bureau of Indian Affairs for the fiscal years 1918 and 1919, Acts of March 2, 1917 (39 Stat. 969, 993), and May 25, 1918 (40 Stat. 561, 590–591). The Act of June 5, 1920, placed the project under the jurisdiction of the Bureau of Reclamation. Extensions of the project were authorized by the Flood Control Acts of December 22, 1944, and July 24, 1946. Extracts from the 1920, 1944 and 1946 Acts appear herein in chronological order.

August 27, 1958

1452 MINERALS ON WIND RIVER INDIAN RESERVATION

**Sec. 2. [Leases, renewal.]**—Notwithstanding any other provision of law, (1) all mineral leases, including oil and gas leases covering any of the minerals referred to in section 1 hereof, which have heretofore been issued by the Secretary of the Interior on a noncompetitive basis, shall be subject to renewal at the end of the primary five-year term thereof for a term that extends to a date that is five years from the date of this Act and shall not be subject to renewal or further extension except in any case where, at the expiration of said extended term, oil or gas is being produced under the lease in paying quantities, and (2) the Secretary of the Interior shall process in accordance with the Mineral Leasing Act of February 25, 1920 (ch. 85, 41 Stat. 437), as amended, and the regulations issued thereunder all oil and gas lease offers covering any of the oil and gas referred to in section 1 hereof which were filed on or before December 31, 1957: *Provided*, That any oil and gas lease issued pursuant to such lease offers shall be for a single term of five years commencing with the effective date of the lease and shall not be subject to renewal or extension except in any case where at the expiration of said five-year term, oil or gas is being produced under the lease in paying quantities.

Any oil or gas lease referred to in subparagraph (1) of this section and any oil or gas lease which may hereafter be issued pursuant to the lease offers referred to in subparagraph (2) of this section shall be subject to the provisions of section 1 (1) of the Act of July 29, 1954 (ch. 644, 68 Stat. 583), amendatory of the second paragraph of section 17 of the Mineral Leasing Act of February 25, 1920 (ch. 85, 41 Stat. 443), as amended. (72 Stat. 935; 25 U.S.C. § 611, note)

EXPLANATORY NOTES

**Reference in the Text.** Only a short extract appears herein from the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. The Act is found in title 30, sections 181, *et seq.*, United States Code. The Act of July 29, 1954 (ch. 644, 68 Stat. 583), as amended, also referred to in the text, is found in title 30, section 226, United States Code.

**Cross Reference, Easements over Wind River Reservation Lands for Riverton Project.** The Act of March 14, 1940, 54 Stat. 49, granted to the United States and its assigns, including its successors in control

of the operation and maintenance of the Riverton reclamation project, Wyoming, a flowage easement and an easement for a dam site over tribal and allotted lands of the Wind River Reservation. The 1940 Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** S. 3203, Public Law 85-780 in the 85th Congress. S. Rept. No. 1746. H.R. Rept. No. 2453.

## APPROVAL OF REPORT, RED WILLOW DAM AND RESERVOIR

Joint resolution to approve the report of the Department of the Interior on Red Willow Dam and Reservoir in Nebraska. (Act of August 27, 1958, Public Law 85-783, 72 Stat. 937)

Whereas the Red Willow Dam and Reservoir in Nebraska was authorized to be constructed by the Corps of Engineers in the 1944 Flood Control Act (58 Stat. 887); and

Whereas, by the Act of May 2, 1956 (70 Stat. 126), the Congress transferred such construction responsibility to the Secretary of the Interior but provided therein that no expenditure of funds shall be made for such construction until the Secretary of the Interior submitted to Congress a report demonstrating the Red Willow project to be economically justified, and Congress approved such report; and

Whereas the Department of the Interior has completed a report on the engineering and economic feasibility of the proposed Red Willow Dam and Reservoir:

Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled [Construction of dam and reservoir authorized.]*—That the report of the Secretary of the Interior demonstrating economic justification for construction and operation of the Red Willow Dam and Reservoir is hereby approved. (72 Stat. 937)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**References in the Text.** Extracts from the 1944 Flood Control Act (58 Stat. 887) (enacted December 22, 1944), and the full text of the Act of May 2, 1956 (70 Stat. 126),

both referred to in the text, appear herein in chronological order.

**Legislative History.** S.J. Res. 190, Public Law 85-783 in the 85th Congress. S. Rept. No. 2208. H.R. Rept. No. 2425 (on H. Con. Res. 301).

August 27, 1958

1454

## STUDIES TO EXTEND CENTRAL VALLEY PROJECT SERVICE

Joint resolution authorizing and directing the Secretary of the Interior to conduct studies and render a report on service to Santa Clara, San Benito, Santa Cruz, and Monterey Counties from the Central Valley project, California. (Act of August 27, 1958, Public Law 85-784, 72 Stat. 937)

Whereas, by the Act of October 14, 1949 (63 Stat. 852), the Secretary of the Interior was authorized and directed to conduct certain investigations, surveys, and studies and render reports thereon, including a study to extend Central Valley project service to Santa Clara, San Benito, and Alameda Counties, California; and

Whereas such report has not yet been prepared and submitted; and

Whereas the most feasible means of importing water to Santa Clara, San Benito, Santa Cruz, and Monterey Counties from the Central Valley project appears to be by way of the Pacheco Tunnel route: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

[Sec. 1. Central Valley project, Calif.—Report to Congress.]—That the Secretary of the Interior is hereby authorized and directed to conduct the necessary studies and render a report to the Congress on the feasibility of a plan to provide Central Valley project service, by way of the Pacheco Tunnel route, to lands and municipalities in Santa Clara, San Benito, Santa Cruz, and Monterey Counties: *Provided*, That said studies shall be conducted only under a contract with the Santa Clara-Alameda-San Benito Water Authority, or other public agencies or agency, pursuant to which said Authority, agencies or agency will pay 50 per centum of the cost thereof. (72 Stat. 937)

Sec. 2. [State studies and plans.]—In conducting the studies authorized herein, the Secretary shall give due consideration to the studies and plans of the California Department of Water Resources and of the Santa Clara-Alameda-San Benito Water Authority. (72 Stat. 937)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**San Felipe Division.** The contemplated service to Santa Clara, San Benito, Santa Cruz, and Monterey Counties would be provided by the proposed San Felipe division, Central Valley project. Further reference thereto is contained in section 6 of the Act of June 3, 1960, 74 Stat. 159, which appears herein in chronological order.

**Reference in the Text.** The Act of October 14, 1949 (63 Stat. 852), referred to in the text, is the Act which authorized the development of the American River Basin, Central Valley Project, California. The Act appears herein in chronological order.

**Legislative History.** H.J. Res. 585, Public Law 85-784 in the 85th Congress. H.R. Rept. No. 2527. S. Rept. No. 2411.

## ACQUISITION OF FARM LANDS, SEEDSKADEE PROJECT

An act to authorize the acquisition and disposition of certain private lands and the establishment of the size of farm units on the Seedskadee reclamation project, Wyoming, and for other purposes. (Act of August 28, 1958, Public Law 85-797, 72 Stat. 963)

[**Sec. 1. Seedskadee reclamation project—Acquisition of land.**]—For the purpose of assisting in the permanent settlement of farm families, protecting project land, facilitating project development, and other beneficial purposes the Secretary of the Interior is hereby authorized to acquire in the name of the United States such lands or interests in lands on the Seedskadee reclamation project, Wyoming, authorized by the Act of April 11, 1956 (70 Stat. 105), as he deems appropriate to accomplish the purposes above enumerated. Such lands which cannot practically be acquired by exchange of public lands of equal value outside the irrigable area to be served may be acquired by purchase, at prices satisfactory to the Secretary without reference to increment on account of the construction of the project, or by donation. (72 Stat. 963)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of April 11, 1956 (70 Stat. 105), referred to in the text, is the Colorado River Storage Project **Act.** The Act appears herein in chronological order.

**Sec. 2. [Sale or exchange of lands.]**—The Secretary is further authorized to administer the public and acquired lands on the Seedskadee reclamation project, to sell, exchange, lease, or otherwise dispose of such lands and any improvements thereon, to establish townsites and to dedicate portions of said lands for public purposes, to the extent, in the manner, and on terms that in his judgment are in keeping with sound project development: *Provided*, That all the lands included in any farm units and made available for settlement, irrespective of whether said farm units are composed of public lands, acquired lands, or both, shall be sold at prices per acre established by the Secretary that in his judgment will, as nearly as practicable, equitably provide for the return in a reasonable period of years of the costs of acquisition and disposition of all settlement lands on the project. (72 Stat. 963)

**Sec. 3. [Assessment and taxation.]**—Beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations issued by the Secretary under the authority of this Act, any public lands and any lands acquired under this Act shall be, after disposition thereof by the United States by contract of sale and during the time such contract shall remain in effect, (i) subject to the laws of the State of Wyoming relating to the organization, government, and regulation of conservancy and other similar districts, and (ii) subject to legal assessment or taxation by such district and by said State or political subdivisions thereof, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands: *Provided, however*, That the United

August 28, 1958

States does not assume any obligation for amounts so assessed or taxed: *And provided further*, That any proceedings to enforce said assessments or taxes shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land sale contracts made under this Act, and to any obligation for any other charges, accrued or unaccrued, for special improvements, construction, or operation and maintenance costs of said project. (72 Stat. 963)

**Sec. 4. [Irrigation water.]**—No water shall be furnished from, through, or by means of project works to lands which are held in private ownership by any one owner in excess of the equivalent of one hundred and sixty acres of class 1 lands unless the owner thereof shall have executed a valid recordable contract with respect to the excess in like manner as is provided in the third sentence of section 46 of the Act of May 25, 1926. (44 Stat. 636, 649). In computing “the equivalent of one hundred and sixty acres of class 1 lands” under this section, each acre of class 2 land shall be counted as eighty-eight one-hundredths of an acre, each acre of class 3 land shall be counted as seventy-one one-hundredths of an acre, and each acre of class 4 land shall be counted as forty-three one-hundredths of an acre. (72 Stat. 963)

EXPLANATORY NOTE

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636, 649), referred to in the text, is the Omnibus Adjustment Act. The Act appears herein in chronological order.

**Sec. 5. [Conveyances.]**—The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in contracts made under the authority of this Act such provisions as he deems proper for carrying out the provisions of this Act; and in connection with sales or exchanges under this Act, he is authorized, in his discretion, to effect conveyance without regard to the laws governing the patenting of public lands. (72 Stat. 964)

**Sec. 6. [Supplement to Colorado River Storage Project Act.]**—This Act shall be deemed a supplement to and part of the Act of April 11, 1956 (70 Stat. 105). (72 Stat. 964)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Supplementary Provision.** The Act of September 2, 1964, 78 Stat. 852, provides that the provisions of the Act of August 28, 1958, relating to the Seedskadee project in Wyoming are “made equally applicable to the Savery-Pot Hook, Bostwick Park and Fruitland Mesa projects and all references therein to ‘Wyoming,’ ‘the State of Wyoming,’ or ‘said State’ shall also refer to the State of Colorado to the extent that lands of the said project are situated therein, except that on the said projects the limitation on lands held in single ownership which may be eligible to receive project

water from, through, or by means of project works shall be one hundred and sixty acres of class 1 land as defined for the Bostwick Park project or the equivalent thereof in other land classes as determined by the Secretary of the Interior.” The 1964 Act appears herein in chronological order.

**Reference in the Text.** The Act of April 11, 1956 (70 Stat. 105), referred to in the text, is the Colorado River Storage Project Act. The Act appears herein in chronological order.

**Legislative History.** S. 3448, Public Law 85-797 in the 85th Congress. S. Rept. No. 1906. H.R. Rept. No. 2454.

August 28, 1958

1457

## IRRIGATION OF INDIAN LANDS, COACHELLA VALLEY WATER DISTRICT

An act to provide for the construction of an irrigation distribution system and drainage works for restricted Indian lands within the Coachella Valley County Water District in Riverside County, California, and for other purposes. (Act of August 28, 1958, Public Law 85-801, 72 Stat. 968)

[**Sec. 1. Construction of distribution system for designated Indian lands.**]—Section 1 of the Act of August 25, 1950 (64 Stat. 470), is amended to read as follows:

“(a) The Secretary of the Interior is hereby authorized and directed to—

“(1) designate the trust or restricted Indian lands on the Cabazon, Augustine, and Torres-Martinez Indian Reservations which may be irrigated from distribution facilities administered by the Coachella Valley County Water District in Riverside County, California;

“(2) construct an irrigation distribution system and drainage works within improvement district numbered 1 of the Coachella Valley County Water District that connect with the distribution system and drainage works now administered by Coachella Valley County Water District and that will irrigate and drain the Indian lands designated therein pursuant to this section: *Provided*, That such irrigation and distribution system and drainage works shall be constructed on the Torres-Martinez Indian Reservation only upon the request of the Indian owners of the lands to be irrigated thereby and a determination by the Secretary of the Interior that the construction of the irrigation distribution system and drainage works is economically feasible;

“(3) contract with the Coachella Valley County Water District, prior to the construction of the irrigation distribution system and drainage works authorized by this section, for engineering and supervision services in connection with such construction, and for the care, operation, and maintenance thereof after construction. Such contract shall provide, among other things, that—

“(i) the irrigation distribution system and drainage works authorized to be constructed by this section, or any major part thereof, when completed and ready for use as determined by the Secretary, shall be turned over to the district for care, operation, and maintenance and the district shall assume the care, operation, and maintenance thereof upon sixty days written request therefor made by the Secretary;

“(ii) water shall be delivered to the lands within improvement district numbered 1 designated pursuant to this section, through the irrigation distribution system authorized to be constructed, under the same rules and regulations, to the same extent, and for the same charges as water is delivered by the district to other lands similarly located within the district. As long as said Indian lands for which an irrigation distribution system is constructed pursuant to this section remain in a trust or restricted status

August 28, 1958

1458 IRRIGATION OF INDIAN LANDS, COACHELLA VALLEY

the Secretary shall guarantee payment to the district for all such charges for the delivery of water, including standby charges, as well as payment of an amount of money during each year equal to the amount which would be levied by or on behalf of the district in the form of taxes on said lands if said lands were on the assessment rolls of Riverside County;

"(iii) one-half of all moneys received by the district for the delivery of water to the designated lands (not including gate and other service charges) shall be paid annually by the district to the United States until the United States has been reimbursed in full for the actual costs incurred in the construction of the distribution system and drainage works authorized by this section;

"(iv) article 21 (access to books and records), article 23 (disputes or disagreements), article 35 (remedies under contract not exclusive), article 36 (interest in contract not transferable), article 39 (officials not to benefit), and article 41 (representative of the Secretary), of that certain contract between the United States and the district dated December 22, 1947, entitled 'Contract for Construction of Distribution System, Protective Works and Drainage Works', shall be incorporated by reference, haec verba, into the contract authorized by this section as a part thereof.

"(b) There are authorized to be appropriated such amounts as may be necessary for the construction of the distribution system and drainage works authorized by this section and for making the payments guaranteed pursuant to this section. There is hereby created a recordable first lien against said Indian lands for any amounts paid by the United States to the district pursuant to such guaranty, and such lien shall be enforced at the time the land passes out of Indian ownership. The provisions of the Act of July 1, 1932, [47 Stat. 564.] with respect to the assessment and collection of irrigation construction costs shall not apply to such lands.

"(c) The Secretary of the Interior is authorized to take, use, and convey to the Coachella Valley County Water District, or other governmental agency, such rights-of-way across trust or restricted Indian lands as in his discretion may be needed for the construction, care, operation, and maintenance of the irrigation distribution system and drainage works authorized by this section or the irrigation distribution system and drainage works now administered by the District, and for the construction or improvement of roads necessary to serve the Augustine, Cabazon, and Torres-Martinez Reservations. The Indian landowner shall be paid reasonable compensation for such rights-of-way. The rights-of-way needed for the drainage works now administered by the district shall be taken and conveyed to the district only after the district has paid to the Indian landowner reasonable compensation therefor." (72 Stat. 968)

Sec. 2. [Section 7 of 1950 act amended.]—Section 7 of the Act of August 25, 1950 (64 Stat. 470), is amended to read as follows: In clause "(a)" delete "within three years from the date of approval of this Act". (72 Stat. 969)

Sec. 3. [Leasing of Indian lands authorized.]—Subsections (a) and (c)

August 28, 1958

IRRIGATION OF INDIAN LANDS, COACHELLA VALLEY 1459

of section 8 of the Act of August 25, 1950 (64 Stat. 470), are amended to read as follows:

"(a) Any trust or restricted Indian land, whether individually or tribally owned, may be leased in accordance with the provisions of the Act of August 9, 1955. (69 Stat. 539)

"(c) If the Secretary of the Interior determines that beneficial use of any trust or restricted lands is not being made by the owner or owners thereof, the Secretary is authorized to lease such lands for the benefit of the owner or owners." (72 Stat. 969)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Purpose.** The committee reports state that the "principal purpose of [the act] is to modify the Act of August 25, 1950 (64 Stat. 470), to provide for the construction by the United States of an irrigation distribution system and drainage works for approximately 10,000 acres of restricted Indian lands within the Coachella Valley County Water District, California. The Act of August 25, 1950, contemplated that the

construction would be undertaken by the district." H.R. Rept. No. 2555, 85th Cong., 2d Sess. and S. Rept. No. 2412, 85th Cong., 2d Sess. (1958).

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** H.R. 9239, Public Law 85-801 in the 85th Congress. H.R. Rept. No. 2555. S. Rept. No. 2412.

September 2, 1958

1460

## PUBLIC WORKS APPROPRIATION ACT, 1959

[Extracts from] An act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority, for the fiscal year ending June 30, 1959, and for other purposes. (Act of September 2, 1958, Public Law 85-863, 72 Stat. 1572)

\* \* \* \* \*

### BUREAU OF RECLAMATION

\* \* \* \* \*

[Solano project—Safety and public use facilities.]—Not to exceed \$125,000 of the funds made available for the Solano project, California, shall be available for the construction of safety and public-use facilities which shall be non-reimbursable and non-returnable. (72 Stat. 1578)

[Foss Dam and Reservoir—Costs to furnish water supply to Clinton-Sherman Air Force Base nonreimbursable.]—Not to exceed \$600,000 of the amount appropriated herein for the Washita Basin project, Oklahoma, shall be non-reimbursable, representing that portion of the cost of the Foss Dam and Reservoir allocated to furnish a water supply for the Clinton-Sherman Air Force Base. (72 Stat. 1578)

\* \* \* \* \*

**Sec. 205. [Restriction on transfer of funds by Southwestern Power Administration.]**—No part of any funds made available by this Act to the Southwestern Power Administration may be made available to any other agency, bureau, or office for any purposes other than for services rendered pursuant to law to the Southwestern Power Administration. (72 Stat. 1579)

### EXPLANATORY NOTE

**Provision Repeated.** The same provision is contained in each subsequent annual Public Works Appropriation Act through the most recent one, the Act of October 15, 1966, 80 Stat. 1006.

\* \* \* \* \*

[Short title.]—This act may be cited as the “Public Works Appropriation Act, 1959”. (72 Stat. 1579)

### EXPLANATORY NOTES

**Not Codified.** Extracts of this act shown here are not codified in the U.S. Code.

**Validation of Contracts Required.** The report of the House Appropriations Committee, H.R. Rept. No. 1864, states at page 16:

“The Committee desires to reiterate its previous directive that no new contracts for construction of strictly irrigation features on any reclamation project shall be

entered into where a repayment contract is required, until such repayment contract has been executed. Where validation of a repayment contract is required by State or local jurisdictions, construction is not to be undertaken until such validation is accomplished. The only exception to the stated policy will be for those projects involving public domain lands.”

In response to this directive, the regional

September 2, 1958

PUBLIC WORKS APPROPRIATION ACT, 1959

1461

directors were advised by Acting Associate Commissioner Campbell on October 14, 1958, that effective immediately, no construction contracts should be awarded until contracts with water users' organizations had been executed and validated.

**Editor's Note, Provisions Repeated in Appropriation Acts.** Provisions which are

repeated in two or more appropriation acts appear herein only in the act in which first used.

**Legislative History.** H.R. 12858, Public Law 85-863 in the 85th Congress. H.R. Rept. No. 1864. S. Rept. No. 1796. H.R. Rept. No. 2670 (conference report).

September 2, 1958

1462

## LAND EXCHANGE, NAVAJO TRIBE

An act to provide for the exchange of lands between the United States and the Navajo Tribe, and for other purposes. (Act of September 2, 1958, Public Law 85-868, 72 Stat. 1686)

[Sec. 1. (a) **Public lands transferred to Navajo Tribe, excluding minerals—Owners of range improvements on transferred lands to be compensated.**]—The Secretary of the Interior shall, in consideration of and as just compensation for the transfer made by section 2 of this Act as well as for the use and occupancy of the lands therein described under terms of the right-of-way granted March 22, 1957, by the Secretary pursuant to the Act of February 5, 1948 (62 Stat. 17), transfer to the Navajo Tribe so much of the block of public lands (exclusive of the minerals therein, but inclusive of all range improvements constructed thereon) described in subsection (c) of this section, as shall constitute a reasonably compact area equal in acreage to the lands transferred to the United States under section 2, and the lands so transferred shall constitute a part of the Navajo Reservation and shall be held by the United States in trust for the Navajo Tribe and shall be subject to all laws and regulations applicable to that reservation. The owners of range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on lands transferred pursuant to this section shall be compensated for the reasonable value of such improvements, as determined by the Secretary out of appropriations available for the construction of the Glen Canyon unit, Colorado River storage project. To the extent that the Secretary is unable to transfer, from the lands described in subsection (c), lands equal in acreage to the lands transferred to the United States under section 2, because of the existence of valid rights in other parties than the United States (other than the rights described in subsection (d) of this section), he shall transfer to the Navajo Tribe such other available public lands (exclusive of the minerals therein but inclusive of all range improvements thereon) in reasonable proximity to the Navajo Reservation and to the lands described in subsection (c) as the tribe, with the concurrence of the Secretary, may select and as may be necessary to transfer to the tribe equal acreage in exchange for the lands transferred under section 2, and those lands so transferred shall be treated in the same manner as other lands transferred pursuant to this section.

(b) [Mineral activities affecting the land.]—Subject to valid, existing rights, in addition to other requirements under applicable laws and regulations, mineral activities affecting the land transferred pursuant to this section shall be subject to such regulations, which may include, among others, a requirement for the posting of bond or other undertaking, as the Secretary may prescribe for protection of the interests of the Indians. Patents issued with respect to mining claims on the lands transferred pursuant to this section shall be limited to the minerals only, and for a period of ten years after the effective date of this Act,

September 2, 1958

LAND EXCHANGE, NAVAJO TRIBE

1463

none of the lands described in subsection (c) of this section shall be opened to location and entry under the general mining laws.

(c) [Legal description of the lands.]—The block of public lands (which 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 the county) from which the transfer under this section is to be made, is described as follows:

\* \* \* \* \*

(Legal description omitted; 72 Stat. 1687)

\* \* \* \* \*

(d) [Rights of Navajos having used the lands prior to the transfer.]—The transfer hereinabove provided for shall also be deemed to constitute full and complete satisfaction of any and all rights which are based solely upon Indian use and occupancy or possession claimed by or on behalf of any individual members of the Navajo Tribe in their individual capacities or any groups or identifiable bands thereof to any and all public lands in San Juan County, Utah, outside the exterior boundaries of the Navajo Indian Reservation as the same are described in:

- (1) The Act of March 1, 1933 (ch. 160, 47 Stat. 1418);
- (2) Executive Order 324A of May 15, 1905;
- (3) Executive order of May 17, 1884; and

all such rights to such lands are hereby extinguished from and after January 1, 1963. 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. The tribe is hereby authorized to adopt such rules and regulations as it deems appropriate, with the approval of the Secretary, for residence and use of the lands transferred pursuant to this section: *Provided*, That the tribal council shall give preference until January 1, 1963, in granting residence and use rights to: (1) those Navajos who prior to the effective date of this Act, have used or occupied the transferred lands and (2) those Navajos who, prior to the effective date of this Act, have used or occupied other public lands in San Juan County, Utah.

(e) [Livestock driveway granted tribe.]—Upon application of the Navajo Tribe, the Secretary shall grant to the tribe, to be held in trust by the United States for use of tribal members grazing livestock upon the lands transferred under this section, a nonexclusive easement, of suitable width and location as he determines, for a livestock driveway across the public lands in sections 21, 22, 23, and 24, township 39 south, range 22 east, and in section 19, township 39 south, range 23 east, Salt Lake meridian, to connect with United States Highway Numbered 47. Use of said nonexclusive easement shall be in accord-

September 2, 1958

ance with regulations prescribed by the Secretary, and future uses and dispositions of the public lands affected shall be subject to said easement.

(f) [Highway rights-of-way.]—The transfer of lands to the Navajo Tribe, as provided in this section, shall not affect the status of rights-of-way for public highways traversing such lands, which rights-of-way shall remain available for public use, including the movement of livestock thereon.

(g) [Grazing permittees or licensees affected by the transfer to be compensated.]—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 canceled because of such transfer. Such compensation shall be determined in accordance with the standard 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. (72 Stat. 1686–1688)

EXPLANATORY NOTES

**Reference in the Text.** The Act of February 5, 1948 (62 Stat. 17), referred to in section 1(a) of the text, is an act empowering the Secretary of the Interior to grant rights-of-way for various purposes across lands of individual Indians or Indian tribes, communities, bands or nations. The Act appears herein in chronological order.

**Reference in the Text.** The Act of July 9, 1942, as amended (43 U.S.C. 315q) referred to in section 1(g) of the text, provides that: "Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding

grazing permits or licenses and persons whose grazing permits or licenses have been or will be cancelled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payment shall be deemed payment in full for such losses. Nothing herein contained shall be construed to create any liability not now existing against the United States."

**Sec. 2. (a) [Navajo lands transferred to the United States—Status of lands administered pursuant to the Federal reclamation laws—Recreational restrictions—Minerals reserved to Navajo Tribe.]**—There is hereby transferred to the United States all the right, title, and interest of the Navajo Tribe in and to the lands (exclusive of the minerals therein) described in subsection (b) of this section. These lands shall no longer be "Indian country" within the meaning of title 18, United States Code, section 115 [71 Stat. 633.], and they shall have the status of public lands withdrawn and being administered pursuant to the Federal reclamation laws and shall be subject to all laws and regulations governing the use and disposition of public lands in that status. The rights herein transferred shall not extend to the utilization of the lands hereinafter described under the heading "parcel B" for public recreational facilities without the approval of the Navajo Tribal Council. No permit, lease, license, or other right covering the exploration for or extraction of the minerals herein reserved to the tribe shall be granted or exercised by or on behalf of the tribe except under such conditions and with such restrictions, limitations, or stipulations as the Secretary deems appropriate, in connection with the Glen

September 2, 1958

LAND EXCHANGE, NAVAJO TRIBE

1465

Canyon unit, to protect the interests of the United States and of its grantees, licensees, transferees, and permittees, and their heirs and assigns. Subject to the mineral rights herein reserved to the tribe as aforesaid, the Secretary may dispose of lots in townsites established on the lands transferred under this section, together with improvements thereon, under such terms and conditions as he determines to be appropriate, including provisions for payment for the furnishing of municipal facilities and services while such facilities and services are provided by the United States and for the establishment of liens in connection therewith, but no disposition shall be at less than the current fair market value, and he may dedicate portions of lands in such townsites, whether or not improved, for public purposes and transfer the land so dedicated to appropriate State or local public bodies and nonprofit corporations. He may also enter into contracts with State or local public bodies and nonprofit corporations whereby either party may undertake to render to the other such services in aid of the performance of activities and functions of a municipal, governmental, or public or quasi-public nature as will, in the Secretary's judgment, contribute substantially to the efficiency or the economy of the operations of the Department of the Interior in connection with the Glen Canyon unit.

(b) [Legal description of the lands.]—The lands which are transferred under this section are described as follows:

\* \* \* \* \*

(Legal description omitted; 72 Stat. 1689)

\* \* \* \* \*

(c) [Preservation of the Rainbow Bridge National Monument.]—The Secretary and the tribe may enter into such agreements as are appropriate for the utilization, under permits or easements, of such tribal lands, in the vicinity of Rainbow Bridge National Monument, as may be necessary in connection with the carrying out of any measures undertaken to preclude impairment of the monument as provided by section 1 of the Act of April 11, 1956 (70 Stat. 105).

(d) [“Minerals” defined.]—As used in this and in the preceding section of this Act, the term “minerals” shall not be construed to include sand, gravel, or other building or construction materials. (72 Stat. 1689)

Sec. 3. (a) [Indemnity selections by the State of Utah—Cases of superior Navajo title.]—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 terms and conditions as, lands de-

September 2, 1958

scribed 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 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 this section 1 in lieu thereof.

(b) [Additional lands described.]—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) [Five years allowed for indemnity selections.]—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. (72 Stat. 1689)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Reference in the Text.** The Act of April 11, 1956 (70 Stat. 105), referred to in the text, is the Colorado River Storage Project Act. The Act is found herein in chronological order.

**Reference in the Text.** Sections 2275 and 2276 of the Revised Statutes (43 U.S.C., secs. 851, 852), referred to in the text, authorize the States to select sections of public land in lieu of those sections they would have been granted by law except for the fact that the sections were settled prior to the land being surveyed. The limitations and requirements for such selections are set forth in the sections, also.

**Background.** The purpose of this Act was 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 [transferred] to the Navajo Tribe, to be held in trust and 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." S. Rept. No. 1867 on S. 3754, 85th Cong., 2d Sess.

**Legislative History.** S. 3754, Public Law 85-868 in the 85th Congress. S. Rept. No. 1867. H.R. Rept. No. 2457.

## SALINE WATER DEMONSTRATION PLANTS

Joint resolution providing for the construction of demonstration plants for the production, from saline or brackish waters, of water suitable for agricultural, industrial, municipal, and other beneficial consumptive uses. (Act of September 2, 1958, Public Law 85-883, 72 Stat. 1706)

Whereas official Government reports show unmistakably that the United States population is multiplying at a rate which by 1980 will triple the demand for supplies of fresh water, which if not available will adversely affect the national defense by jeopardizing the economic welfare and general well-being of vast segments of the population of the United States, as well as the populations of some of our Territorial possessions; and

Whereas many cities, towns, and rural areas are already confronted by shortages of potable water that imperil health; and

Whereas the expanding population, industry, and agriculture of the United States are becoming increasingly dependent upon an assured augmented supply of fresh water while the future welfare and national defense of the United States rest upon increased sources of fresh water; and

Whereas research by governmental agencies, educational institutions, and private industry has brought about the evolution, on a limited scale, of methods of desalting sea water and the treatment of brackish water which give promise of ultimate economical results; and

Whereas the United States Government has the responsibility, along with safeguarding the national defense, and protecting the health, welfare, and economic stability of the country, to transform these experiments into production tests on a scale not possible of achievement otherwise; and

Whereas the Congress recognized its responsibility in this field by the enactment in 1952 of the Saline Water Act (66 Stat. 328), reaffirmed its position by the amendments to such Act in 1955 (69 Stat. 198); and the legislative history of such Acts reveals that the Congress recognized even then that the time had arrived for tackling the problem more realistically and effectively, but unfortunately the program was limited to such an extent that concrete results are not possible of attainment under the provisions of existing legislation; and

Whereas the Congress now finds it is in the national interest to demonstrate, with the least possible delay, in actual production tests the several optimum aspects of the construction, operation, and maintenance of sea water conversion and brackish water treatment plants: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

[Sec. 1. **Saline water research—Demonstration plants—Report to Congress.**]—That (a) the Secretary of the Interior shall, pursuant to the provisions of the Act of July 3, 1952, as amended (42 U.S.C. 1951-1958) and in accordance with this joint resolution, provide for the construction, operation, and maintenance of not less than five demonstration plants for the production, from sea

September 2, 1958

1468

## SALINE WATER DEMONSTRATION PLANTS

water or brackish water, of water suitable for agricultural, industrial, municipal, and other beneficial consumptive uses. Such plants shall be designed to demonstrate the reliability, engineering, operating, and economic potentials of the sea or brackish water conversion processes which the Secretary shall select from among the most promising of the presently known processes, and each plant shall demonstrate a different process. A decision with respect to the process to be utilized in the first of these five plants shall be made by the Secretary within six months after the date of approval of this joint resolution and decisions with respect to the processes to be utilized in the other plants shall follow at intervals of not more than three months. Each such decision shall be reported promptly to the Congress and the construction of the plants shall proceed as rapidly as is possible.

(b) The construction of the demonstration plants referred to above shall be subject to the following conditions:

(1) Not less than three plants shall be designed for the conversion of sea water, and each of two plants so designed shall have a capacity of not less than one million gallons per day;

(2) Not less than two plants shall be designed for the treatment of brackish water, and at least one of the plants so designed shall have a capacity of not less than two hundred and fifty thousand gallons per day; and

(3) Such plants shall be located in the following geographical areas with a view to demonstrating optimum utility from the standpoint of reliable operation, maintenance, and economic potential—

(A) At least one plant which is designed for the conversion of sea water shall be located on the west coast of the United States, at least one such plant shall be located on the east coast thereof, and at least one such plant shall be located on the gulf coast thereof; and

(B) at least one plant which is designed for the treatment of brackish water shall be located in the area generally described as the Northern Great Plains and at least one such plant shall be located in the arid areas of the Southwest.

(c) As used in this joint resolution, the term "demonstration plant" means a plant of sufficient size and capacity to establish on a day-to-day operating basis the optimum attainable reliability, engineering, operating, and economic potential of the particular sea water conversion process or the brackish water treatment process selected by the Secretary of the Interior for utilization in such plant. (72 Stat. 1706; 42 U.S.C. § 1958a)

**Sec. 2. [Contracts.]**—The Secretary of the Interior shall enter into a contract or contracts for the construction of the demonstration plants referred to in the preceding section, and the Secretary shall enter into a separate contract or contracts for the operation and maintenance of such plants. Any such operation and maintenance contract shall provide for the compilation by the contractor of complete records with respect to the operation, maintenance, and engineering of the plant or plants specified in the contract. The records so compiled shall be made available to the public by the Secretary at periodic and reasonable intervals with a view to demonstrating the most feasible existing processes for desalting sea

water and treating brackish water. Access by the public to the demonstration plants herein provided for shall be assured during all phases of construction and operation subject to such reasonable restrictions as to time and place as the Secretary of the Interior may require or approve. (72 Stat. 1707; 42 U.S.C. § 1958b)

**Sec. 3. [Public assistance.]**—The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies, surveys, location, construction, operation, or other work relating to saline or brackish water conversion problems and facilities for such conversion, and to enter into contracts with respect to such assistance, which contracts shall detail the purposes for which the assistance is contributed. Any funds so contributed shall be available for expenditure by the Secretary in like manner as if they had been specifically appropriated for purposes for which they are contributed, and any funds not expended for these purposes shall be returned to the State or public agency from which they were received. (72 Stat. 1707; 42 U.S.C. § 1958c)

**Sec. 4. [Termination of authority.]**—The authority of the Secretary of the Interior under this joint resolution to construct, operate, and maintain demonstration plants shall terminate upon the expiration of twelve years after the date on which this joint resolution is approved. Upon the expiration of a period deemed adequate for demonstration purposes for each plant, but not to exceed such twelve-year period, the Secretary shall proceed as promptly as practicable to dispose of any plants so constructed by sale to the highest bidder, or as may otherwise be directed by Act of Congress. Upon such sale, there shall be returned to any State or public agency which has contributed financial assistance under section 3 of this joint resolution a proper share of the net proceeds of the sale. (72 Stat. 1707; § 2, Act of Sept. 22, 1961, 75 Stat. 630; 42 U.S.C. § 1958d)

#### EXPLANATORY NOTE

**1961 Amendment.** Section 2 of the Act of September 22, 1961, 75 Stat. 630, extended the demonstration period from seven to twelve years. For legislative history of the 1961 Act, see H.R. 7916, Public Law 87-295 in the 87th Congress; H.R. Rept. No. 908; S. Rept. No. 780 (on S. 2156); H.R. Rept. No. 1158 (conference report).

**Sec. 5. [Administration.]**—The powers conferred on the Secretary of the Interior by this joint resolution shall be in addition to and not in derogation of the authority conferred on the Secretary by the Act of July 3, 1952, as amended (42 U.S.C. 1951–1958). The provisions of such Act, except as otherwise provided in this joint resolution, shall be applicable in the administration of this joint resolution. (72 Stat. 1708; 42 U.S.C. § 1958e)

**Sec. 6. [Contracts.]**—When appropriations have been made for the construction or operation and maintenance of any demonstration plant under this joint resolution, the Secretary may, in connection with such construction or operation and maintenance, enter into contracts for construction, for materials and supplies, and for miscellaneous services, which contracts may cover such periods of time as he shall consider necessary but under which the liability of the United States shall be contingent upon appropriations being available therefor. Unobligated appropriations heretofore made to carry out the Act of July 3, 1952 (66 Stat. 328), as amended (42 U.S.C. 1951 and following) shall be available for administrative and technical services, including travel expenses and the procure-

September 2, 1958

1470 SALINE WATER DEMONSTRATION PLANTS

ment of the services of experts, consultants, and organizations thereof in accordance with section 15 of the Act of August 2, 1946 (60 Stat. 806), as amended (5 U.S.C. 55a), in connection with carrying out the provisions of this joint resolution. (72 Stat. 1708; 42 U.S.C. § 1958f)

**Sec. 7. [Appropriation.]**—There are hereby authorized to be appropriated such sums, not in excess of \$10,000,000, as may be necessary to provide for the construction of the demonstration plants referred to in this joint resolution, together with such additional sums as may be necessary for the operation and maintenance of such plants, and the administration of the program authorized by this resolution. (72 Stat. 1708; 42 U.S.C. § 1958g)

EXPLANATORY NOTES

**Cross Reference.** The Act of July 3, 1952, 66 Stat. 328, as amended, authorizes a general program of research in saline water conversion.

**Editor's Note, Annotations.** Annotations of opinions are not included because this statute does not deal primarily with the

activities of the Bureau of Reclamation. **Legislative History.** S.J. Res. 135 (S. Con. Res. 121), Public Law 85-883 in the 85th Congress. S. Rept. No. 1593. H.R. Rept. No. 2450. H.R. Rept. No. 2674 (conference report).

## APPROVE CONTRACT WITH HEART MOUNTAIN IRRIGATION DISTRICT

An act to approve a repayment contract negotiated with the Heart Mountain Irrigation District, Wyoming and to authorize its execution. (Act of September 2, 1958, Public Law 85-889, 72 Stat. 1711)

[**Heart Mountain Irrigation District, Wyo.**]—The contract negotiated pursuant to section 7 of the Reclamation Project Act of 1939 by the Secretary of the Interior with the Heart Mountain Irrigation District, which was approved as to form by the Department of the Interior on May 28, 1958, and approved by resolution of the Heart Mountain Irrigation District Board of Commissioners on March 20, 1958, is approved and execution thereof by the Secretary of the Interior on behalf of the United States is hereby authorized after the contract has been approved by the electors of the District. (72 Stat. 1711)

### EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Cross Reference, Delivery of Water.** The Act of May 16, 1957, 71 Stat. 30, authorized the delivery of water to the Heart Mountain Division, Shoshone Federal reclamation project during the calendar years

1957 and 1958 pending completion of a repayment contract. The 1957 Act appears herein in chronological order.

**Legislative History.** S. 4088, Public Law 85-889 in the 85th Congress. S. Rept. No. 2264. H.R. Rept. No. 2669.

September 2, 1958

1472

## BOULDER CITY ACT OF 1958

An act to provide for the disposal of certain Federal property in the Boulder City area, to provide assistance in the establishment of a municipality incorporated under the laws of Nevada, and for other purposes. (Act of September 2, 1958, Public Law 85-900, 72 Stat. 1726)

[**Sec. 1. Purpose.**]—It is the purpose of this Act to authorize the disposal of certain Federal property in that area in Clark County in the State of Nevada commonly known as Boulder City, now a part of the Boulder Canyon project, in order that the people of that area may enjoy local self-government and to facilitate the establishment by them of a municipal corporation under the laws of the State of Nevada. (72 Stat. 1726)

[**Sec. 2. [Definitions.]**]—Wherever the following terms are used in this Act, they shall be interpreted as follows:

- (a) “Adjustment Act” shall mean the Boulder Canyon Project Adjustment Act (54 Stat. 774);
- (b) “Appraised value” shall be current fair market value;
- (c) “Boulder City municipal area” shall consist of and include the tract of land particularly described as follows:

\* \* \* \* \*

(Legal description omitted; 72 Stat. 1726)

\* \* \* \* \*

(d) “Boulder City Municipal Fund” shall mean the fund in the Treasury created by section 6 of this Act;

(e) “City” shall mean Boulder City, Nevada, prior to its incorporation as a municipality under the laws of the State of Nevada;

(f) “Colorado River Dam Fund” shall mean the special fund in the Treasury created by section 2 of the Project Act;

(g) “Department” shall mean the Department of the Interior;

(h) “Municipal operations” shall mean the financing, operation, maintenance, replacement, and expansion of municipal facilities and utilities and other operations of a municipal character;

(i) “Municipality” shall mean Boulder City, Nevada, after its incorporation as a municipality under the laws of the State of Nevada;

(j) “Persons employed by the Federal Government within or near the Boulder City municipal area” shall, in addition to the ordinary meaning of the term, include (1) retired employees who were so employed immediately prior to their retirement, (2) persons who were so employed on May 15, 1958, but who, because of a reduction in force, have ceased being so employed at the time property is offered for sale under subsections 3(b)(1) and 3(b)(2) of this Act, and (3) persons who have been so employed but who are, at the time property is offered for sale under subsections 3(b)(1) and 3(b)(2) of this Act, temporarily absent on other assignment (including foreign assignments) for the interest

or convenience of the Federal Government. For the purpose of subsection 3(b)(2) of this Act, persons referred to in this subsection under (1), (2), and (3) shall be limited to those whose permanent residence is within the Boulder City municipal area.

(k) "Persons employed by the United States for purposes other than the construction, operation, and maintenance of the project" shall mean all persons who are so employed and who are resident in the municipality;

(l) "Persons employed in the construction, operation, and maintenance of the project" shall mean all persons who are so employed, whether by a Federal agency or by an agent designated pursuant to section 9 of the Adjustment Act, and who are resident in the municipality. This term shall not include persons employed in municipal operations of the municipality;

(m) "Project" shall mean the works authorized by the Project Act to be constructed and owned by the United States, exclusive of the diversion dam, main canal, and appurtenances mentioned therein, now known as the All-American Canal System;

(n) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057);

(o) "Secretary" shall mean the Secretary of the Interior. (72 Stat. 1726)

#### EXPLANATORY NOTES

**Reference in the Text.** The Boulder Canyon Project Adjustment Act (54 Stat. 774), referred to in the text, was enacted July 19, 1940, and appears herein in chronological order.

**Reference in the Text.** The Boulder Canyon Project Act (45 Stat. 1057), referred to in the text, was enacted December 21, 1928, and appears herein in chronological order.

**Sec. 3. (a) [Sale of certain housing.]**—The Secretary is authorized to sell such dwelling houses, duplex houses or units thereof, and garages, with furniture, fixtures, and appurtenances, as are owned by the United States within the Boulder City municipal area and are not needed in connection with the administration, operation, and maintenance of Federal activities located within or near the Boulder City municipal area.

(b) Except in the case of property determined to be substandard under subsection (c) of this section, the following system of priority shall be established with respect to property authorized to be sold under subsection (a) of this section:

(1) **[Purchase right.]**—Persons employed by the Federal Government within or near the Boulder City municipal area (and surviving spouses of such persons who have not remarried) who are tenants in Federal housing in Boulder City shall be offered the opportunity to purchase the property in which they are tenants at the appraised value as established under subsection (d) of this section. This right of priority shall expire unless notice of intent to purchase has been received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and shall be deemed abandoned unless before the expiration of sixty days after the Secretary's tender of the instrument of transfer the prospective purchaser concludes the sale;

(2) **[Applicants.]**—Persons employed by the Federal Government within or

September 2, 1958

1474

BOULDER CITY ACT OF 1958

near the Boulder City municipal area may apply to purchase housing not purchased under subsection (b)(1) of this section. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be made at the appraised value as established under subsection (d) of this section, and selections and purchases by successful applicants shall be concluded within limits of time to be established by the Secretary. A purchase under subsection (b)(1) or (b)(2) of this section shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under subsection (b)(1) or (b)(2); and

(3) [Unsold property.]—Property subject to disposal under this section and not sold pursuant to subsections (b)(1) and (b)(2) of this section shall be opened to bids from the general public, and shall be sold to the highest responsible bidder.

[Eligibility to purchase.]—In the event that incorporation of the municipality shall be effected within four years after the date of this Act, persons purchasing housing under this subsection or their successors, assigns, or legal representatives, shall be entitled to a reduction in the purchase price (or rebate as appropriate) of 10 per centum: *Provided*, That no person who has purchased a house under the Act of May 25, 1948 (62 Stat. 268), shall be eligible for such reduction.

(c) [Substandard property.]—Where the Secretary determines that property authorized to be sold under subsection (a) of this section is substandard, he shall sell such property only for off-site use, such property to be opened to bids from the general public for sale to the highest responsible bidder.

(d) [Appraisals.]—The appraised value of all property to be sold under subsections (b)(1) and (b)(2) of this section, and of all lots leased or to be leased by the United States for the purpose of maintaining, locating, or erecting permanent structures thereon, shall be determined by an appraiser or appraisers to be designated by the Administrator of Housing and Home Finance Agency at the request of the Secretary. Said appraisals shall be made promptly after the date of this Act, or immediately prior to the granting of any lease of lands not previously appraised, as the case may be. The representatives of the Boulder City community, as determined by the Secretary, shall be granted an opportunity to offer advice in connection with such appraisals.

(e)(1) [Disposal of certain property.]—Except as otherwise provided in this subsection, the Secretary is authorized to dispose of such multiple-unit garages, and such apartment houses together with furniture, fixtures, and appurtenances, including, without being limited to, any appurtenant garages, as are owned by the United States within the Boulder City municipal area. Such property shall be offered to the general public and sold to the highest responsible bidder.

(2) Of the property subject to disposal under this section, the Secretary is authorized to lease, to the corporation owning and operating the Boulder City hospital, for the purpose of providing living accommodations for employees of the hospital, not more than two dwelling houses, or not more than one dwelling house and one apartment-house building containing not more than six apartment

September 2, 1958

BOULDER CITY ACT OF 1958

1475

units, together with furniture, and appurtenances, including, without being limited to, any appurtenant garage or garages. Upon incorporation of the municipality, the Secretary may transfer said property, together with the land on which it is situated, to the municipality without cost, subject to existing leases.

(f) (1) [Leases.]—Except in the case of property determined to be substandard under subsection (c) of this section, the Secretary shall, pursuant to the first proviso under the heading "Boulder Canyon Project" in the Interior Department Appropriation Act, 1941 (54 Stat. 406, 437), lease to the purchasers thereof the lots on which structures sold under this section are situated. Any such lease shall be executed prior to transfer of title to the purchaser and shall incorporate the conditions enumerated in the proviso of subsection 4(a) of this Act.

(2) [Sale of leased land.]—At the expiration of fiscal year 1963, unless incorporation of the municipality shall previously have been achieved, the Secretary may (A) negotiate the sale of <sup>1</sup> the lessees thereof of all leased lands within the Boulder City municipal area, and (B) sell to the highest responsible bidder at not less than the appraised value as determined by the Secretary any other lands within the Boulder City municipal area not needed for Federal purposes, including the purposes of this Act.

(g) [Sale of unsold property.]—Except in the case of property determined to be substandard under subsection (c) of this section, the Secretary may sell any structure authorized to be sold under this section which is unsold at the time of incorporation of the municipality together with the land on which it is situated. Such sales shall be made, as near as may be, in accordance with the procedures and the system of priority established under subsections (b) (1), (b) (2), (b) (3), and (e) of this section; and, where applicable, the appraised value shall be the combined appraised value of structure and land.

(h) [Notes and mortgages.]—In the event that the Secretary finds that financing on reasonable terms is not available from other sources, he may, in order to facilitate the sale of property to be sold under subsections (b) (1) and (b) (2) of this section, accept, in partial payment of the purchase price of the property, notes secured by first mortgages on such terms and conditions as he deems appropriate. The maturity and percentage of appraised value in connection with such notes and mortgages shall not exceed those prescribed under section 223(a) of the National Housing Act, as herein further amended, and the interest rate shall equal the interest rate plus the premium being charged (and any periodic service charge being authorized by the Federal Housing Commissioner for properties of similar character) under section 223(a) of the National Housing Act, as herein further amended, at the effective date of such notes and mortgages. The Secretary may sell any such notes and mortgages on such terms as he deems appropriate.

(i) [Rules and regulations.]—In establishing rules and regulations governing sales of property under this section and in determining the terms and conditions of such sales, the Secretary shall consult with representatives of the Boulder City community, as determined by him. (72 Stat. 1728)

September 2, 1958

BOULDER CITY ACT OF 1958

EXPLANATORY NOTES

<sup>1</sup> Textual error. Sic. Should be "to".

Reference in the Text. The Act of May 25, 1948 (62 Stat. 268), referred to in the text, authorizes the Secretary of the Interior to sell and lease certain houses, apartments and lands in Boulder City, Nevada. The Act

appears herein in chronological order.

Reference in the Text. Section 223(a) of the National Housing Act, referred to in the text, is found at 71 Stat. 298; 12 U.S.C. § 1715n.

NOTE OF OPINION

1. Priorities

The term "tenant" includes those who occupy quarters under a local administrative arrangement for the convenience of the United States. Resort to the Nevada law of landlord and tenant to ascertain the status of individuals is not mandatory. Memorandum of Associate Solicitor Fisher, March 13, 1959.

dum of Associate Solicitor Fisher, March 13, 1959.

The surviving spouse of a Federal employee has a priority right regardless of whether the deceased spouse was alive on the date the property is offered for sale. Memorandum of Associate Solicitor Fisher, March 13, 1959.

Sec. 4. (a) [Transfer of improved lands.]—Upon incorporation of the municipality, the Secretary shall be authorized to transfer to the municipality without cost, subject to any existing leases granted by the United States, all improved lands within the Boulder City municipal area the improvements to which are privately owned and such unimproved lands within that area as the Secretary determines are not required in connection with the administration, operation, and maintenance of Federal activities located within or near the Boulder City municipal area, and to assign to the municipality without cost any leases granted by the United States on such lands: *Provided*, That any such lease shall provide, or, at the request of the holder of an existing lease, shall be amended to provide, (1) that, in the event the leased property shall be transferred to the municipality pursuant to this section, the holder of any such lease shall, for a period of two years after the date of incorporation of the municipality, be entitled to exercise an option to purchase the leased property at the original appraised value as determined pursuant to subsection 3(d) of this Act, and shall, after the end of the aforesaid two-year period and until the expiration of the lease, be entitled to exercise an option to purchase the leased property at its appraised value as determined by a qualified appraiser or appraisers to be appointed by the governing authority of the municipality; (2) that all determinations of appraised value with respect to the aforesaid property shall be made without reference to improvements on the leased property made or acquired at the expense of the current or any former lessee thereof; and (3) that, in the event that incorporation of the municipality shall be effected within four years after the date of this Act, the holder of the lease shall be entitled to a reduction in the price of any purchase under the aforesaid option of 10 per centum of the purchase price.

(b) [Determination of boundaries; granting of leases.]—In that part of Boulder City where federally owned lands not under lease are occupied by privately owned structures and which is commonly referred to as Lakeview Addition, the Secretary shall determine, by such method as may be appropriate, lot lines to conform, as nearly as is reasonable and feasible in his judgment, to the existing pattern of land occupancy. On submission of satisfactory proof of ownership, the Secretary shall offer to the owner a lease, in accordance with the

terms of the first proviso under the heading "Boulder Canyon Project" in the Interior Department Appropriation Act, 1941 (54 Stat. 406, 437), of the lot his structure is occupying, as determined and defined by the Secretary. Or, on request of any such owner, the Secretary may, in his discretion, lease to such owner, in lieu of the lot his structure is occupying, another lot in the Boulder City municipal area, to be approved by the Secretary, on condition that such owner agree to clear and vacate the former lot and to relocate or build on the lieu lot a habitable structure. Where the removal of any structure becomes necessary in order to accomplish the subdivision, the Secretary may acquire or relocate such structure. The continuing validity of any lease granted under this subsection shall be conditioned on the lessee's making proper connections to water, electric, and sewerage systems, and may be conditioned on the lessee's rehabilitation, replacement, or relocation of any or all structures occupying the land in order to bring about closer conformance with general standards prevailing in the community. Unless incorporation of the municipality shall previously have been achieved, the Secretary, at the expiration of fiscal year 1963, may terminate and may renegotiate, on such terms and conditions as he may prescribe, any lease of a lot granted under this subsection, except a lease of a lieu lot. The Secretary's determinations under this subsection shall be final and conclusive. (72 Stat. 1730)

**Sec. 5. [Transfer of functions, title, etc.]**—(a) Subject to the provisions of subsection 9(a) and section 11 of this Act, the Secretary shall transfer all activities and functions of a municipal character to the municipality upon its incorporation.

(b) The Secretary is authorized to transfer to the appropriate school district all right, title, and interest of the United States to all the school buildings and related equipment and facilities, and to lands upon which they are situated, owned by the United States in the Boulder City municipal area.

(c) Upon its incorporation, the Secretary shall transfer to the municipality, subject to the limitation contained in subsection (d) of this section, all real and personal property, including, but not limited to, buildings, lands, equipment, facilities, works, and utilities, owned by the United States, and used primarily in the performance of activities and functions to be transferred under subsection (a) of this section.

(d) The Secretary shall determine which contracts to which the United States is now a party concern activities and functions to be transferred under subsection (a) of this section and are properly assignable to the municipality. The Secretary shall assign such contracts to the municipality upon its incorporation, and the acceptance of such assignment by the municipality shall be a condition precedent to the transfer of property under subsection (c) of this section. (72 Stat. 1731)

**Sec. 6. (a) [Boulder City Municipal Fund.]**—There is hereby established in the Treasury a special fund to be known as the Boulder City Municipal Fund. All proceeds from the disposal under this Act of Federal property lying within the Boulder City municipal area shall be deposited in such fund.

(b) **[Appropriations.]**—(1) Moneys in the Boulder City Municipal Fund are hereby appropriated for expenditure at the direction of the Secretary for

September 2, 1958

1478

BOULDER CITY ACT OF 1958

payment of the expenses of the disposal of property under section 3, 4, and 5 of this Act, including the cost of subdividing land and affecting the necessary acquisition or relocation of structures under subsection 4(b) of this Act and the payment of rebates, where appropriate, to vendees of the United States entitled to the special benefit provided under section 3 of this Act for attainment of early incorporation of the municipality.

(2) There are hereby authorized to be appropriated from moneys in the Boulder City Municipal Fund, or from general funds, (A) an amount not to exceed \$75,000 for payment to the municipality for replacement and rehabilitation of municipal facilities and utilities, such payment to be diminished by an amount, as estimated by the Secretary, equal to the revenues which would otherwise probably have accrued to the United States from municipal operations of the city between the date of incorporation of the municipality and the end of the fiscal year in which such date falls; and (B) an amount not to exceed \$150,000 for expenditure by the Secretary for such initial construction or improvement of, or additions to, street, water, electric, and sewerage systems for that part of Boulder City referred to in subsection 4(b) of this Act as Lakeview Addition as the Secretary may deem necessary toward conformance with general standards for such utilities and facilities prevailing in the community.

(c) [General fund.]—Except for such sums as may be required for expenditures under subsection (b)(1) of this section, all moneys remaining in and accruing to the Boulder City Municipal Fund either (1) after the date of incorporation of the municipality, or (2) after the expiration of fiscal year 1963, if such incorporation shall not then have been achieved, shall be divided into two parts, as determined by the Secretary, representing project and nonproject investments in the property yielding the moneys deposited in the Boulder City Municipal Fund. Said parts shall be covered into the general fund of the Treasury, but the first part shall constitute a payment to the Treasury diminishing the obligation under section 2 of the Adjustment Act to repay advances and readvances to the Colorado River Dam Fund, and the rates computed pursuant to section 1 of said act shall reflect such diminution: *Provided*, That, solely for the purpose of effecting the aforesaid division, the principal of all mortgage obligations held by the United States pursuant to section 3 of this Act shall then be deemed to have been paid in full into the Boulder City Municipal Fund; and all moneys thereafter received by the United States in payment of principal, interest, or other charges under such mortgage obligations shall be covered into the general fund of the Treasury, except as such moneys may initially be required to repay the outstanding portion of any loan under subsection (d) of this section.

(d) [Loans.]—The Secretary, if he deems it necessary, may arrange for the loan of moneys from the Colorado River Dam Fund to the Boulder City Municipal Fund in order that he may make expenditures pursuant to subsections (b)(1) and (b)(2) of this section prior to the receipt of sufficient revenue from the disposal of property under this Act, the loans to be repaid out of such revenues.

(e) [Payments.]—Upon its incorporation, the Secretary shall cause to be paid over to the municipality all unobligated balances from appropriations avail-

able for municipal operations of the city, less the estimated cost for the remainder of the fiscal year after incorporation of furnishing water to the municipality pursuant to section 9 of this Act. (72 Stat. 1731)

**Sec. 7. [Repeals.]**—Nothing in this Act shall affect any component of the rates and charges for electrical energy generated at Hoover Dam for amortization of the cost of works and improvements on land, including the school buildings and related facilities and equipment, within the Boulder City municipal area, transferred to non-Federal ownership pursuant to this Act less that part of such cost allocated by the Secretary to nonproject purposes pursuant to those portions of the Interior Department Appropriations Acts, 1949 and 1950 (62 Stat. 1112, 1130; 63 Stat. 765, 784), under the headings "Colorado River Dam Fund" which, in the case of each statute, follow the first sentence thereof. Effective at the beginning of the first full fiscal year after the date of incorporation of the municipality, if achieved before the expiration of fiscal year 1963, the aforesaid provisions of law are hereby repealed. (72 Stat. 1732)

**Sec. 8. [Kilowatts—Limitation.]**—From the electrical energy reserved to the United States under article 4 of the "General Regulations for Generation and Sale of Power in Accordance With the Boulder Canyon Project Adjustment Act," promulgated by the Secretary on May 20, 1941, the Secretary is authorized to deliver, at the Boulder City substation, at rates determined on the basis of (a) the Adjustment Act and (b) any other costs incurred in connection with such delivery, up to a maximum demand of seventeen thousand kilowatts to the municipality for its own use or for resale for use within the Boulder City municipal area less such capacity as is required by the United States for pumping water delivered to the municipality pursuant to section 9 of this Act: *Provided*, That should the present electrical energy requirements of the Bureau of Mines in Boulder City be substantially curtailed or discontinued, the maximum demand for the use of the municipality may be increased at the discretion of the Secretary up to nineteen thousand five hundred kilowatts less such capacity as is required by the United States for pumping water delivered to the municipality pursuant to section 9 of this Act: *Provided further*, That the electrical energy delivered hereunder to the municipality in any one year shall not exceed eighty million kilowatt-hours, less such energy as is required by the United States for pumping water delivered to the municipality pursuant to section 9 of this Act, and that this amount shall be reduced in any year in which there is a deficiency in electrical energy available from the Boulder Canyon project in the same proportion as firm energy delivered to allottees is reduced in such year below firm energy as defined in said general regulations. (72 Stat. 1732)

**Sec. 9. (a) [Water supply.]**—Because of its climate and its location with respect to the only source of water, Boulder City faces extraordinary difficulties in connection with a domestic water supply. In recognition of this fact, the existing water supply system from Hoover Dam to, but not including, the Boulder City storage tanks shall be retained by the United States and shall be operated and maintained by the Secretary in order to supply water to the municipality at said storage tanks, for domestic, industrial, and municipal purposes, at a maxi-

September 2, 1958

1480

BOULDER CITY ACT OF 1958

mum rate of delivery of three thousand six hundred and fifty gallons a minute: *Provided*, That the cost of supplying such water, to the extent of not more than \$150,000 in any one year, shall be borne as provided in subsection (c) of this section: *Provided further*, That the municipality shall assume (i) all additional costs of supplying water under this section and (ii) all costs of filtration and treatment of water supplied under this section. There shall be no charge under the contract between the United States and the State of Nevada dated March 30, 1942, as amended, for water delivered in accordance with this section. Such delivery shall be subject to the availability of water for use in the State of Nevada under the provisions of the Colorado River compact and the Project Act and, except as hereinabove provided with respect to the charge for water, shall be in accordance with the terms of the aforesaid contract.

(b) [Number of employees.]—As of the end of each year of project operation, or fraction thereof, after incorporation of the municipality, the Secretary shall determine the number of all persons employed in the construction, operation, and maintenance of the project and the number of all persons employed by the United States for purposes other than the construction, operation, and maintenance of the project.

(c) [Cost of operation.]—The Secretary shall divide the cost for each year of project operation, or fraction thereof, after the incorporation of the municipality, of supplying water under subsection (a) of this section into two parts. The first such part shall bear the same ratio to the second such part as the number of all persons employed in the construction, operation, and maintenance of the project, as determined by the Secretary under subsection (b) of this section, bears to the number of all persons employed by the United States for purposes other than construction, operation, and maintenance of the project, as determined by the Secretary under subsection (b) of this section. Notwithstanding the provisions of this subsection, the first part as aforesaid shall in no instance exceed 65 per centum of the total cost of furnishing water under subsection (a) of this section. Such total cost, less a sum equal to part 1 as aforesaid, shall constitute an amount whereby the obligation under section 2 of the Adjustment Act to repay to the Treasury advances and readvances to the Colorado River Dam Fund shall be diminished annually; and the rates computed pursuant to section 1 of said Act shall reflect such diminution.

(d) [Additional water requirement.]—If the requirements of the municipality shall at any time exceed three thousand six hundred and fifty gallons a minute, the Secretary may furnish whatever additional water and whatever additional carrying capacity may be needed. The municipality shall bear the full cost of furnishing such additional water; and before the commencement of any construction to provide additional carrying capacity, the municipality shall enter into a repayment contract for the return to the United States of the full cost of furnishing such additional carrying capacity over a period of not more than forty years from the date when the facilities providing such additional carrying capacity are placed in service. Interest not exceeding the rate of 3 per centum per annum of the unamortized construction costs shall be paid.

## NOTES OF OPINION

Storage reservoirs 2  
Water priority date 1

**1. Water priority date**

The reservation of Colorado River water for Boulder City, as authorized by the Boulder City Act of 1958, has a priority date of May 15, 1931. Decree entered in *Arizona v. California*, 376 U.S. 340, 346 (1964).

**2. Storage reservoirs**

The Secretary is authorized under Sec-

tion 9(d) of the Boulder City Act to construct two concrete storage reservoirs, subject to the City's agreement to repay the costs over a period of not more than forty years with 3 per cent interest, inasmuch as the addition of such reservoirs is one of the alternate means available to increase the "carrying capacity" of the system. Memorandum of Associate Solicitor Hogan, December 7, 1964.

(e) [Investigation.]—At the end of each period of five years after the date of incorporation of the municipality, the Secretary shall investigate the need for continuation of all or part of the assistance to the municipality provided under this section and shall report his findings and recommendations to the Congress as soon thereafter as practicable. (72 Stat. 1733)

**Sec. 10. [Restrictions.]**—In all sales, leases, transfers, and grants of Federal real property situated within the Boulder City municipal area the Secretary shall attach conditions involving such use restrictions as he may deem reasonable and necessary to preserve those community standards consistent with the national use and enjoyment of the project. Such restrictions shall include, without being limited to, restrictions against use of the property for the manufacture, sale, or distribution of intoxicating liquors (except light wines and beer or similar malt beverages and only to the extent that such manufacture, sale, or distribution is in accordance with State and local laws), or narcotics, or habit-forming drugs, or for gambling, prostitution, or lewd or immoral conduct. The sale or distribution of intoxicating liquors, narcotics, or habit-forming drugs in accordance with State and local laws for medical or pharmaceutical purposes shall be deemed not a violation of such conditions. Upon a determination, as hereinafter provided, that there has been a breach of any such condition by, or with the express or implied consent of, the grantee, his successors, assigns, or legal representatives, the United States shall have, and the Secretary shall thereupon exercise, the right to reenter the property or any part thereof and declare all right, title, and interest in and to the property or part thereof forfeited to the United States. Determination of a breach as aforesaid shall be by appropriate proceedings which the Attorney General of the United States shall institute, on recommendation of the Secretary, in the United States district court for the district in which the property is located. Nothing contained herein shall prejudice the cancellation of leases for breach of similar conditions or covenants contained therein or the enforcement by other appropriate means of such conditions or covenants.

All conditions attached pursuant to this section shall continue in full force and effect until, by election or referendum held especially for this purpose not less than three years after incorporation of the municipality, a majority of the registered voters of the municipality participating in such election shall have voted to dispense with all the aforesaid conditions simultaneously. (72 Stat. 1734)

**Sec. 11. [Contracts.]**—The Secretary is authorized to enter into contracts with the municipality whereby either party might undertake to render to the other

September 2, 1958

1482

BOULDER CITY ACT OF 1958

such services in aid of the performance of activities and functions of the municipality and of the Department within or near Boulder City as will in the Secretary's judgment contribute substantially to the efficiency or economy of the operations of the Department. (72 Stat. 1735)

**Sec. 12. [National Housing Act amendment.]**—Paragraph (3) of subsection 223(a) of the National Housing Act, as amended, is hereby amended by changing the final semicolon in the paragraph to a comma and adding at the end of the paragraph the following: “of any permanent housing under the jurisdiction of the Department of the Interior constructed under the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented, located within the Boulder City municipal area: *Provided*, That for purposes of the application of this title to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958, the selling price of the property involved shall be deemed to be the appraised value; or”. (72 Stat. 1735; 12 U.S.C. § 1715n)

EXPLANATORY NOTE

**Reference in the Text.** Section 223(a) of the text, is found at 71 Stat. 298, 12 U.S.C. the National Housing Act, referred to in the § 1715n.

**Sec. 13. [Rights-of-way unaffected.]**—The provisions of this Act for the disposal of federally owned property are to be carried out notwithstanding any other provisions of law: *Provided*, That nothing in this Act shall be deemed to affect any existing right-of-way heretofore granted under the provisions of the Project Act or otherwise, or any rights reserved to the United States in connection with grants of such rights-of-way. (72 Stat. 1735)

**Sec. 14. [Act supplements Project and Adjustment Acts.]**—This Act shall be a supplement to the Project Act and the Adjustment Act, and said Acts shall govern the administration of this Act, except as is otherwise herein provided. (72 Stat. 1735)

**Sec. 15. [Delegation of authority.]**—The Secretary is hereby authorized, subject only to the provisions of this Act, to perform such acts, to delegate such authority, and to prescribe such rules and regulations and establish such terms and conditions as he may deem necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. (72 Stat. 1735)

**Sec. 16. [Termination.]**—Except as provided in subsection (f)(2) of section 3, subsection (b) of section 4, and subsection (c) of section 6 of this Act, all authority of the Secretary under this Act shall terminate at the expiration of fiscal year 1963, unless incorporation of the municipality shall previously have been achieved. (72 Stat. 1735)

**Sec. 17. [Repeals.]**—The second and third provisos of the penultimate paragraph under the heading “Office of Education” in the Departments of Labor and Health, Education, and Welfare Appropriation Act, 1954 (67 Stat. 245, 250) are hereby repealed. (72 Stat. 1735)

September 2, 1958

BOULDER CITY ACT OF 1958

1483

EXPLANATORY NOTE

**Provision Repealed.** The provisions of the Departments of Labor and Health, Education, and Welfare Appropriation Act, 1954 (67 Stat. 245, 250), repealed by this section, provided for taxation of leaseholds lying within Boulder Canyon Project Reservation and deduction of certain school taxes in Boulder City Union School District.

**Sec. 18. [Short title.]**—This Act may be cited as the “Boulder City Act of 1958”. (72 Stat. 1735)

EXPLANATORY NOTES

**Not Codified.** This Act is not codified in the U.S. Code.

**Legislative History.** H.R. 9147, Public Law 85-900 in the 85th Congress. H.R.

Rept. No. 1847. S. Rept. No. 1745 (on S. 2675). H.R. Rept. No. 2655 (conference report).