

# FEDERAL RECLAMATION AND RELATED LAWS ANNOTATED

VOLUME III OF THREE VOLUMES  
1959-1966, APPENDIX, AND INDEX

UNITED STATES DEPARTMENT OF THE INTERIOR

Rogers C. B. Morton, *Secretary*

OFFICE OF THE SOLICITOR

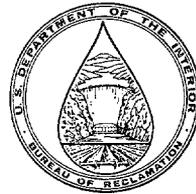
Mitchell Melich, *Solicitor*

BUREAU OF RECLAMATION

Ellis L. Armstrong, *Commissioner*

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*Richard K. Pelz, Editor*



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## 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

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
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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
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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 85th Congress</i>	<i>Page</i>
<i>1958</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, Seedska-dee 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

TABLE OF CONTENTS

xxxiii

*Acts of 86th Congress*

<i>1960</i>	<i>Page</i>
Apr. 4 . . . . Pub. L. 86-407.. Conveyance to Metropolitan Water District.	1515
Apr. 22 . . . Pub. L. 86-433.. Conveyance of Certain Public Lands to Nevada.	1517
May 5 . . . . Pub. L. 86-448.. Deliver Water, Riverton Project. . . . .	1521
May 13 . . . Pvt. L. 86-273 . . Relief of Heirs of Henkel. . . . .	1522
May 13 . . . Pvt. L. 86-283 . . Relief of Robert Dolton . . . . .	1523
June 3 . . . . Pub. L. 86-488.. San Luis Unit, Central Valley Project. .	1524
June 3 . . . . Pub. L. 86-489.. Consent to Negotiate Big Blue River Compact.	1532
June 27 . . . Pub. L. 86-523.. Historical and Archeological Data. . . . .	1533
June 27 . . . Pub. L. 86-529.. Norman Project. . . . .	1535
June 29 . . . Pub. L. 86-533.. Repeal of Reporting Requirements (Extract).	1539
July 5 . . . . Pvt. L. 86-385 . . Relief of Heirs of Wilhelm . . . . .	1540
July 7 . . . . Pub. L. 86-605.. Amistad Dam, Rio Grande. . . . .	1541
July 12 . . . Pub. L. 86-640.. Power Revenues, Grand Valley Project.	1543
July 14 . . . Pub. L. 86-645.. Flood Control Act of 1960 (Extract). . .	1544
Sept. 2 . . . . Pub. L. 86-684.. Water Delivery after Death of Spouse. . .	1550
Sept. 2 . . . . Pub. L. 86-700.. Public Works Appropriation Act, 1961 (Extract).	1551
Sept. 6 . . . . Pub. L. 86-717.. Forest and Conservation Measures at Army Reservoirs.	1553
Sept. 13 . . . Pub. L. 86-745.. Western Division, The Dalles Project. . .	1554
Sept. 13 . . . Pub. L. 86-765.. Reimburse District, Mercedes Division, Lower Rio Grande Rehabilitation Project.	1556
Sept. 14 . . . Pub. L. 86-787.. Cheney Division, Wichita Project. . . . .	1557

*Acts of 87th Congress*

<i>1961</i>		<i>Page</i>
Jan. 17 . . . Treaty. . . . .	Columbia River Treaty. . . . .	1560
June 16 . . . Pub. L. 87-50 . . .	Arizona-Nevada Boundary Compact. . . .	1602
Aug. 8 . . . . Pub. L. 87-128..	Consolidated Farmers Home Administration Act of 1961 (Extract).	1606
Aug. 17 . . . Pub. L. 87-151..	Disposal of Property, Minidoka and Other Projects.	1610
Aug. 17 . . . Pub. L. 87-156..	Transfer of Colorado River Bridge. . . . .	1612
Aug. 30 . . . Pub. L. 87-168..	Amended Contract with Huntley Project Irrigation District.	1613
Aug. 30 . . . Pub. L. 87-169..	Deliver Water, Columbia Basin Project. .	1614
Sept. 22 . . . Pub. L. 87-289..	Rehabilitation Work, Avondale, Dalton Gardens, and Hayden Lake Districts.	1615

## TABLE OF CONTENTS

*Acts of 87th Congress*

		<i>Page</i>
<i>1961</i>		
Sept. 26...	Pvt. L. 87-220..	Exchange of Lands with Mary Saunders Moses (Extract). 1617
Sept. 27...	Pub. L. 87-328..	Delaware River Basin Compact..... 1618
Sept. 30...	Pub. L. 87-330..	Public Works Appropriation Act, 1962 (Extract). 1651
<i>1962</i>		
Mar. 20...	Pub. L. 87-422..	Convey Property, Sweetwater County.. 1653
Apr. 27...	Pub. L. 87-440..	Defer Charges, Angostura Unit, Missouri River Basin Project. 1654
May 31...	Pub. L. 87-472..	Amended Contracts, Minidoka Project.. 1655
June 8....	Pub. L. 87-477..	Land Reclassification, Sun River Project. 1656
June 8....	Pub. L. 87-479..	Deliver Water, Riverton Project..... 1657
June 13...	Pub. L. 87-483..	Navajo Indian Irrigation Project and San Juan-Chama Project, Initial Stage. 1658
July 25...	Pub. L. 87-542..	Recreation Facilities, Elephant Butte and Caballo Reservoirs. 1667
Aug. 16...	Pub. L. 87-589..	Mann Creek Project..... 1668
Aug. 16...	Pub. L. 87-590..	Fryingpan-Arkansas Project..... 1670
Aug. 24...	Pub. L. 87-594..	Arbuckle Project..... 1676
Aug. 24...	Pub. L. 87-597..	Withdrawal of Lands, Luke-Williams Air Force Range. 1679
Aug. 28...	Pub. L. 87-613..	Irrigation Blocks; Development Period Extension; Semi-annual Installments. 1681
Sept. 5....	Pub. L. 87-630..	Amend Spokane Valley Project Act... 1683
Sept. 5....	Pub. L. 87-639..	Army and Agriculture Joint Watershed Studies. 1684
Sept. 26...	Pub. L. 87-701..	Hanford New Production Reactor (Extract). 1685
Sept. 27...	Pub. L. 87-706..	Upper Division, Baker Project..... 1687
Oct. 1....	Pub. L. 87-727..	Additional Features, Talent Division, Rogue River Basin Project. 1689
Oct. 1....	Pub. L. 87-728..	Amended Contracts and Repeal of Farm Unit Limitations, Columbia Basin Project. 1690
Oct. 5....	Pub. L. 87-752 .	Conveyance of Lands to City of Needles. 1693
Oct. 9....	Pub. L. 87-762..	Oroville-Tonasket Unit, Chief Joseph Dam Project. 1695
Oct. 15...	Pub. L. 87-828..	Exchange of Lands with Southern Ute Indian Tribe. 1697
Oct. 23...	Pub. L. 87-852..	Easements in Property of United States. 1699
Oct. 23...	Pub. L. 87-874..	Flood Control Act of 1962 (Extract).... 1701

TABLE OF CONTENTS

xxxv

*Acts of 88th Congress*

<i>1963</i>	<i>Page</i>
Apr. 19... Pub. L. 88-10... Deliver Water, Riverton Project.....	1708
Apr. 26... Pvt. L. 88-1.... Consent to Suit by Forman.....	1709
Apr. 26... Pub. L. 88-14... Townsite Plat for Village of Heyburn...	1710
May 28... Pub. L. 88-29... Coordination of Recreation Programs...	1711
June 21... Pub. L. 88-43... Modify Contract with Grand Valley Water Users' Association.	1713
June 21... Pub. L. 88-44... Renewal of Water Supply Contracts....	1714
July 22... Pub. L. 88-73... Conveyance of Lands to City of Henderson,	1715
Aug. 8... Pub. L. 88-91... Exchange of Lands, Town of Powell....	1718
Aug. 19... Pub. L. 88-99... Extension of Cache National Forest....	1720
Oct. 16... Pub. L. 88-140.. Interest of Local Agencies in Army Reservoirs.	1722
Dec. 12... Pub. L. 88-198.. Amended Costilla Creek Compact.....	1724
Dec. 23... Pub. L. 88-237.. Marketing of Power from Amistad Dam.	1736
Dec. 30... Pub. L. 88-253.. Additional Authorization for Certain River Basins (Extract).	1737
Dec. 31... Pub. L. 88-257.. Public Works Appropriation Act, 1964 (Extract).	1738
 <i>1964</i>	
Mar. 10... Pub. L. 88-278.. Purchase Lands, Adjust Costs, Third Division, Riverton Project.	1740
Mar. 26... Pub. L. 88-291.. Defer Operation Charges, Eden Project.	1743
Mar. 26... Pub. L. 88-293.. Permanent Pool, Cochiti Reservoir.....	1744
May 28... Pub. L. 88-314.. Amended Contract with Newton Water Users' Association.	1745
May 28... Pub. L. 88-315.. Amended Contract with Big Flat Irrigation District.	1746
July 17... Pub. L. 88-379.. Water Resources Research Act of 1964..	1747
Aug. 10... Pub. L. 88-411.. International Flood Control Measures, Lower Colorado River.	1753
Aug. 14... Pub. L. 88-442.. Increased Authorization, Missouri River Basin Project.	1755
Aug. 27... Pub. L. 88-491.. Moratorium on Power Licenses, Colorado River.	1756
Aug. 30... Pub. L. 88-511.. Public Works Appropriation Act, 1965 (Extract).	1757
Aug. 31... Pub. L. 88-536.. Recreation Development, Sanford Reservoir.	1759
Aug. 31... Pub. L. 88-552.. Pacific Northwest Power Marketing....	1760
Aug. 31... Pub. L. 88-555.. Judge Francis Carr Powerhouse.....	1765
Sept. 2.... Pub. L. 88-561.. Compensation for Canal Rights-of-Way.	1766
Sept. 2.... Pub. L. 88-565.. Dixie Project.....	1768
Sept. 2.... Pub. L. 88-567.. Wildlife Management. Klamath Project.	1771

		<i>Acts of 88th Congress</i>	<i>Page</i>
<i>1964</i>			
Sept. 2....	Pub. L. 88-568..	Savery-Pot Hook, Bostwick Park, and Fruitland Mesa Projects.	1774
Sept. 3....	Pub. L. 88-577..	Wilderness Act.....	1777
Sept. 3....	Pub. L. 88-578..	Land and Water Conservation Fund Act of 1965.	1785
Sept. 7....	Pub. L. 88-583..	Lower Teton Division, Teton Basin Project.	1796
Sept. 12...	Pub. L. 88-590..	Canyonlands National Park (Extract)..	1799
Sept. 12...	Pub. L. 88-594..	Phreatophyte Control, Pecos River Basin.	1800
Sept. 18...	Pub. L. 88-598..	Crooked River Project Extension.....	1802
Sept. 18...	Pub. L. 88-599..	Whitestone Coulee Unit, Chief Joseph Dam Project.	1803
Sept. 18...	Pub. L. 88-600..	Watershed Control Works, Rio Grande Canalization Project.	1805
Sept. 19...	Pub. L. 88-605..	H.E.W. Appropriation Act, 1965 (Extract).	1807
Sept. 19...	Pub. L. 88-606..	Public Land Law Review Commission..	1808
Oct. 8....	Pub. L. 88-639..	Lake Mead National Recreation Area..	1813
Oct. 13...	Pub. L. 88-662..	Clair Engle Lake.....	1817
<i>Acts of 89th Congress</i>			
<i>1965</i>			
June 24....	Pub. L. 89-48...	Amend Movable Property Title Transfer Act.	1818
June 30...	Pub. L. 89-60...	Amend Mann Creek Project Act.....	1819
July 9....	Pub. L. 89-72...	Federal Water Project Recreation Act..	1820
July 22...	Pub. L. 89-80...	Water Resources Planning Act.....	1828
July 27...	Pub. L. 89-94...	Pueblo Indian Irrigation Charges, Middle Rio Grande Conservancy District.	1840
Aug. 5....	Pub. L. 89-108..	Garrison Diversion Unit, Missouri River Basin Project.	1841
Aug. 31...	Pub. L. 89-153..	Lake Meredith.....	1845
Aug. 31...	Pub. L. 89-154..	Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument.	1846
Sept. 2....	Pub. L. 89-161..	Auburn-Folsom South Unit, Central Valley Project.	1847
Oct. 22...	Pub. L. 89-292..	Southern Nevada Water Project.....	1851
Oct. 27...	Pub. L. 89-298..	Flood Control Act of 1965 (Extract)....	1855
Oct. 28...	Pub. L. 89-299..	Public Works Appropriation Act, 1966 (Extract).	1858
Oct. 30...	Pub. L. 89-304..	Anadromous and Great Lakes Fisheries.	1860

TABLE OF CONTENTS

xxxvii

*Acts of 89th Congress*

	<i>Page</i>
<i>1965</i>	
Nov. 8.... Pub. L. 89-336.. Whiskeytown-Shasta-Trinity National Recreation Area.	1863
<i>1966</i>	
June 14... Pub. L. 89-448.. Third Powerplant, Grand Coulee Dam.	1870
July 19... Pub. L. 89-510.. Amend Southern Nevada Project Act...	1873
July 19... Pub. L. 89-515.. Increased Authorization, Missouri River Basin Project.	1874
Aug. 11... Pub. L. 89-531.. Arizona-California Boundary Compact..	1875
Aug. 23... Pub. L. 89-543.. Amended Contract, El Paso County Water Improvement District No. 1.	1881
Sept. 2.... Pub. L. 89-553.. Amend Small Reclamation Projects Act.	1882
Sept. 7.... Pub. L. 89-557.. Manson Unit, Chief Joseph Dam Project.	1884
Sept. 7.... Pub. L. 89-561.. Feasibility Studies.....	1886
Sept. 16... Pub. L. 89-579.. Adjust Acquired Estate, Vega Dam....	1896
Sept. 19... Pub. L. 89-584.. Lower Rio Grande Salinity Problem...	1897
Sept. 20... Pub. L. 89-596.. Tualatin Project.....	1899
Oct. 4.... Pub. L. 89-624.. Amend Compensation for Canal Rights-of-Way Act.	1902
Oct. 10... Pub. L. 89-640.. International Flood Control Project, Tijuana River.	1903
Oct. 15... Pub. L. 89-664.. Bighorn Canyon National Recreation Area.	1904
Oct. 15... Pub. L. 89-672.. Contracts for Scientific and Technical Research.	1907
Oct. 15... Pub. L. 89-689.. Public Works Appropriation Act, 1967 (Extract).	1909
Nov. 5.... Pub. L. 89-760.. Lands Reverting to the United States, Payment for Improvements, Sweet- water County.	1911
Nov. 6.... Pub. L. 89-769.. Disaster Relief Act of 1966 (Extract)...	1912
Nov. 7.... Pub. L. 89-789.. River and Harbor and Flood Control Acts of 1966 (Extract).	1914

## Appendix

SELECTED ADMINISTRATIVE AND OTHER LAWS  
TAKEN FROM THE UNITED STATES CODE

(As codified through 1968)

TITLE 5, U.S. CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES		<i>Page</i>
§301.....	Departmental Regulations.....	1927
§302.....	Delegation of Authority.....	1927
§500.....	Administrative Practice.....	1927
§§551-59.....	Administrative Procedure.....	1928
§552.....	Public Information.....	1930
§§701-06.....	Judicial Review.....	1939
§2953.....	Reports to Congress on Additional Employee Requirements.	1941
§2954.....	Information on Request of Government Operations Committees.	1942
§5595.....	Severance Pay.....	1942
TITLE 16, U.S. CODE—CONSERVATION		
§§20-20g.....	National Parks Concessions.....	1945
TITLE 18, U.S. CODE—CRIMES AND CRIMINAL PROCEDURES		
§435.....	Contracts in Excess of Specific Appropriations..	1949
§643.....	Accounting for Public Money Generally.....	1949
§1905.....	Disclosure of Confidential Information Generally.	1949
TITLE 28, U.S. CODE—JUDICIARY AND JUDICIAL PROCEDURE		
§1346.....	Suits in District Courts Against United States....	1950
§1491.....	Suits in Court of Claims Against United States..	1951
TITLE 31, U.S. CODE—MONEY AND FINANCE		
§§13-15.....	Appropriation Requests.....	1952
§18c.....	Accounting and Budget Classifications.....	1953
§25.....	Horizontal Budget for Meteorology.....	1953
§§65-67.....	Accounting and Auditing Act of 1950.....	1953
§§71-74, 93...	Settlement of Accounts Generally.....	1959
§194.....	Compromise of Claims Generally.....	1960
§483a.....	Fees and Charges by Federal Agencies.....	1960
§§484-89.....	Proceeds of Sales Generally.....	1961
§529.....	Advances of Public Money.....	1962

TABLE OF CONTENTS

xxxix

TITLE 31, U.S. CODE—MONEY AND FINANCE—Continued		<i>Page</i>
§§627-28.....	Specific Appropriations Required.....	1963
§§665.....	Anti-Deficiency Law.....	1963
§673.....	Expenses of Commissions, etc.....	1967
§§686-86-1....	Interdepartmental Transfers.....	1967
§691.....	Expenses of Interagency Groups.....	1968
§723-23a.....	Advance Planning of Public Works.....	1969
§§951-53.....	Compromise and Collection of Federal Claims..	1969
TITLE 33, U.S. CODE—NAVIGATION AND NAVIGABLE WATERS		
§408.....	Defacing of Public Works on Navigable Waters.	1971
§702c.....	No Liability for Flood Damage.....	1971
TITLE 40, U.S. CODE—PUBLIC BUILDINGS, PROPERTY, AND WORKS		
§§255-58f....	Acquisition of Land.....	1972
§§270a-70d....	Bonds of Contractors.....	1976
§§276a-76c....	Wage Rates for Laborers and Mechanics Employed by Contractors.	1978
§§303b-03c....	Lease of Buildings by Government.....	1982
§§327-32.....	Contract Work Hours Standards Act.....	1982
§345c.....	Conveyance for Street Widening.....	1986
TITLE 41, U.S. CODE—PUBLIC CONTRACTS		
§5, 8.....	Competitive Bids.....	1987
§§10a-d.....	Buy American Act.....	1987
§§11-14.....	Limitations on Contracts and Purchases.....	1989
§§20-21.....	Deposit of Contracts in GAO.....	1990
§§35-45.....	Employment Conditions of Manufacturers and Suppliers.	1991
§§251-60.....	Procurement Procedures.....	1996
§§321-22.....	Judicial Review of Administrative Decisions....	2002
§§351-57.....	Service Contract Act of 1965.....	2003
TITLE 42, U.S. CODE—THE PUBLIC HEALTH AND WELFARE		
§§1891-93.....	Grants for Support of Scientific Research.....	2007
§§2000d-1-4...	Nondiscrimination in Federally Assisted Programs.	2007
§§2711-29.....	Job Corps.....	2009
TITLE 43, U.S. CODE—PUBLIC LANDS		
§§161-284.....	Homestead Laws.....	2023
TITLE 50, APPENDIX, U.S. CODE—WAR AND NATIONAL DEFENSE		
§1622(d).....	Disposal of Surplus Power Transmission Lines..	2041
INDEX.....		2043

### RESEARCH FARM, WASHINGTON STATE

An act to provide for the sale of Columbia Basin project lands to the State of Washington, and for other purposes. (Act of June 23, 1959, Public Law 86-52, 73 Stat. 87)

[Sale of project lands to State for agricultural research authorized.]—Notwithstanding any provisions of section 2(b) (iii), 2(b) (iv), and 4(b) of the Columbia Basin Project Act, as amended (16 U.S.C., ch. 12D), conformed farm units, or portions of farm units, comprising not more than six hundred and forty acres of irrigable land on the Columbia Basin project may be sold by the Secretary of the Interior and others to the State of Washington for use by the State College of Washington for agricultural research purposes, and water may be delivered from, through, or by means of the project works to or for conformed farm units comprising no more than that acreage, as nonexcess lands, whether so acquired or already held by the State, as long as they are used for those purposes. Except as otherwise provided in this Act, any lands sold to the State under this Act shall be governed by the provisions of the Columbia Basin Project Act, as amended, and regulations of the Secretary issued pursuant thereto. (73 Stat. 87; 16 U.S.C. § 835a, note)

#### EXPLANATORY NOTES

**Reference in the Text.** The Columbia Basin Project Act, as amended (16 U.S.C., ch. 12D), referred to in the text, is the Act of March 10, 1943, as amended. The Act appears herein in chronological order.

**Legislative History.** H.R. 1306, Public Law 86-52 in the 86th Congress. Reported

in House from Interior and Insular Affairs Mar. 5, 1959; H.R. Rept. No. 176. Passed House March 16, 1959. Reported in Senate from Interior and Insular Affairs May 22, 1959; S. Rept. No. 309. Passed Senate June 12, 1959.

## EXTENSION OF BOISE AND PAYETTE NATIONAL FORESTS

An act to add certain lands located in Idaho to the Boise and Payette National Forests.  
(Act of July 17, 1959, Public Law 86-92, 73 Stat. 218)

**[Sec. 1. Exterior boundaries of Boise National Forest extended—Legal description of added lands.]**—The exterior boundaries of the Boise National Forest, located in the State of Idaho, are hereby extended to include the following described lands:

Lots 4, 5, 6, and 7 of section 6; lots 1, 2, 3, and 4, the east half of the northwest quarter, and the east half of the southwest quarter of section 7; the northwest quarter of the southwest quarter, the south half of the southwest quarter, the southwest quarter of the southeast quarter of section 17; lots 1, 2, 3, and 4, the northwest quarter of the northeast quarter, the southwest quarter of the northeast quarter, the east half of the northwest quarter, the northeast quarter of the southwest quarter, the southeast quarter of the southwest quarter, and the southeast quarter of section 18; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the north half of the northwest quarter, the southwest quarter of the northwest quarter, the southeast quarter of the northwest quarter, the west half of the southwest quarter, the east half of the southwest quarter, the northeast quarter of the southeast quarter, the northwest quarter of the southeast quarter, the southwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section 20; the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section 21; the southwest quarter of the northeast quarter, the northwest quarter, the west half of the southwest quarter, the east half of the southwest quarter, the northeast quarter of the southeast quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section 28; the northeast quarter, the west half, the northeast quarter of the southeast quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section 33; and the west half of the southwest quarter of section 34, all in township 14 north, range 3 east of the Boise meridian, in Valley County, State of Idaho.

Lots 3 and 4 of section 31 in township 15 north, range 3 east of the Boise meridian, in Valley County, State of Idaho. (73 Stat. 218; 16 U.S.C. §§ 486a-486w, note)

**Sec. 2. [Exterior boundaries of Payette National Forest extended—Legal description of added lands.]**—The exterior boundaries of the Payette National Forest, located in the State of Idaho, are hereby extended to include the following described lands:

The east half of the southeast quarter of the southwest quarter, the east half of the west half of the southeast quarter of the southwest quarter, the west half of the west half of the southeast quarter of the southwest quarter, and lots 13 and 14 of section 18; lots 2, 3, 4, 5, 8, 9, 10, and 11, the east half of the east half of the northeast quarter of the northwest quarter, the west half of the northeast

quarter of the northwest quarter, the west half of the east half of the northeast quarter of the northwest quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, the northeast quarter of the southwest quarter of the southeast quarter, the west half of the southwest quarter of the southeast quarter, the southeast quarter of the southwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section 19; lots 3 and 4 of section 20; and lot 1, the northeast quarter of the northeast quarter, the northwest quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section 30, all in township 16 north, range 3 east of the Boise meridian, in Valley County, State of Idaho. (73 Stat. 218; 16 U.S.C. §§ 486a-486w, note)

**Sec. 3. [United States lands in described areas are made parts of the respective national forests.]**—Lots 1, 5, and 6 of section 1 in township 14 north, range 2 east of the Boise meridian within the boundaries of the Boise National Forest, in Valley County, State of Idaho and all of those lands described in sections 1 and 2 hereof owned by the United States are hereby, and any of said lands hereafter acquired by the United States in connection with the Cascade Reservoir reclamation project shall be, added to and made parts of the respective national forests and shall be subject to all laws, rules, and regulations applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended. (73 Stat. 219; 16 U.S.C. §§ 486a-486w, note)

**Sec. 4. [Valid existing rights in area not to be diminished—Cascade Reservoir reclamation project needs—Secretaries of Agriculture and Interior to enter into agreement on respective responsibilities.]**—(a) It is hereby declared that the sole purpose of sections 1, 2, and 3 of this Act is to subject the lands referred to therein to 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) 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 Cascade Reservoir reclamation project.

(c) 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 Bureau of Reclamation of the Department of the Interior pursuant to subsection (b) as the Secretary of the Interior finds to be proper in carrying out the purpose of this Act. (73 Stat. 219; 16 U.S.C. §§ 486a-486w, note)

**Sec. 5. [Lands excess to needs of Cascade Reservoir reclamation project to be classified—Means of disposal of such lands—Rights of former owners.]**—(a) The Secretary of the Interior shall prepare lists of lands acquired for the Cascade Reservoir reclamation project which are not described in sections 1, 2, and

July 17, 1959

BOISE AND PAYETTE NATIONAL FORESTS

1487

3 of this Act and which, in his judgment, are excess to the needs of the project. The lands so listed shall be divided into two classes: those which are now or are likely, within ten years, to become chiefly valuable as home, cabin, recreation, or business sites (hereinafter referred to as class A lands), and all other lands (hereinafter referred to as class B lands). Lands of either class shall hereafter be sold or exchanged only in accordance with the provisions of this section.

(b) The Secretary may exchange lands of either class for non-Federal lands of not less than approximately equal value situated within three hundred feet of the shoreline established by the normal water surface elevation of four thousand eight hundred and twenty-eight feet of the Cascade Reservoir and outside the exterior boundaries of the Boise and Payette National Forests as extended by this Act.

(c) The Secretary may sell by competitive bidding, at not less than their appraised fair market value, lands of either class. Class A lands shall be sold in tracts of not more than five acres, with such reservations or dedications to public use of rights-of-way for roads, streets and public utilities and upon such terms and conditions as he may deem appropriate. The former owner of lands so offered for sale shall have a personal nontransferable preference right to reacquire, within thirty days after the highest bid is declared, any class B lands which were formerly owned by him and one tract of class A lands which were formerly owned by him at, in either case, a price equal to the highest bid received for such lands. But in no case shall the former owner be required to pay more than three times the appraised fair market value of the lands. Where the ownership of lands at the time of their acquisition by the Government was in more than one person, and two or more such former owners assert a preference right for the same tract, the preference right applicants shall be given a period of thirty days in which to file a joint purchase application or otherwise to compose their conflict. If they fail to do so, the Secretary shall determine the order of preference among them by lot. Any lands remaining unsold after competitive bids have been solicited may be sold by the Secretary in such manner as he shall deem proper but at not less than their appraised fair market value. The Secretary may at any time withdraw from sale any unsold lands and reoffer them at a reappraised fair market value.

(d) As used in this section, the term "lands" includes interests in land, and the term "former owner" includes the surviving spouse of a deceased former owner. (73 Stat. 219; 16 U.S.C. §§ 486a-486w, note)

EXPLANATORY NOTES

**Background.** In its report on H.R. 2497 (which when approved became this Act), the House Committee on Interior and Insular Affairs stated: "The principal purposes of H.R. 2497, as amended, are (1) to modify the boundaries of the Boise and Payette National Forests, Idaho, to include about 2,400 acres of land acquired for the Cascade Reservoir of the Boise Federal reclamation project, and (2) to provide

that the former owners of other surplus lands which were acquired for this reservoir (also about 2,400 acres) shall have a limited preference right to repurchase them when they are disposed of by the Government. H.R. Rept. No. 273 on H.R. 2497, 86th Cong., 1st Sess.

**Editor's Note, Annotations.** Annotations of opinions are not included because none were found dealing primarily with the ac-

July 17, 1959

1488

BOISE AND PAYETTE NATIONAL FORESTS

tivities of the Bureau of Reclamation under this statute.

**Legislative History.** H.R. 2497, Public Law 86-92 in the 86th Congress. Reported in House from Interior and Insular Affairs

Apr. 15, 1959; H.R. Rept. No. 273. Passed House May 4, 1959. Reported in Senate from Interior and Insular Affairs June 9, 1959; S. Rept. No. 371. Passed Senate July 6, 1959.

## RED RIVER, TEXAS, STUDIES

An act to authorize and direct the Secretary of the Interior to conduct studies and render a report on the feasibility of developing the water resources of the Salt Fork and the Prairie Dog Town Fork of the Red River in the State of Texas. (Act of August 18, 1959, Public Law 86-167, 73 Stat. 383)

**[Studies authorized to determine feasibility of developing water resources of Salt Fork and Prairie Dog Town Fork of the Red River, Texas.]**—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 developing the water resources of that portion of the drainage area of the Salt Fork of the Red River lying in the State of Texas and that portion of the drainage area of the Prairie Dog Town Fork of the Red River lying in the State of Texas for furnishing municipal and industrial water and for other purposes. (73 Stat. 383)

### EXPLANATORY NOTES

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

**Legislative History.** H.R. 4405, Public Law 86-167 in the 86th Congress. Reported in House from Interior and Insular Affairs

Mar. 5, 1959; H.R. Rept. No. 177. Passed House Apr. 8, 1959. Reported in Senate from Interior and Insular Affairs Aug. 4, 1959. S. Rept. No. 611. Passed Senate Aug. 6, 1959.

## PATTERSON LAKE

An act to designate the lake to be formed by the waters impounded by the Dickinson Dam in the State of North Dakota as "Edward Arthur Patterson Lake." (Act of August 25, 1959, Public Law 86-185, 73 Stat. 417)

**[Designation of Edward Arthur Patterson Lake.]**—The lake to be formed by the waters impounded by the Dickinson Dam in the State of North Dakota shall hereafter be known as "Edward Arthur Patterson 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 "Edward Arthur Patterson Lake". (73 Stat. 417)

### EXPLANATORY NOTES

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

**Legislative History.** S.J. Res. 16, Public Law 86-185 in the 86th Congress. Reported

in Senate from Public Works Apr. 13, 1959; S. Rept. No. 183. Passed Senate April 29, 1959. Reported in House from Interior and Insular Affairs July 30, 1959; H.R. Rept. No. 737. Passed House Aug. 17, 1959.

## WAPATO INDIAN WATER SUPPLY COSTS, YAKIMA PROJECT

An act to provide for the apportionment by the Secretary of the Interior of certain costs of the Yakima Federal reclamation project, and for other purposes. (Act of August 25, 1959, Public Law 86-204, 73 Stat. 429)

[**Yakima Federal reclamation project costs assignable to furnishing water to the Wapato Indian irrigation project.**]—The Secretary of the Interior shall determine the portion of the cost of constructing the water supply works of the Yakima Federal reclamation project which is properly assignable to the furnishing of water, as provided by the Acts of August 1, 1914 (38 Stat. 582, 604), and July 1, 1940 (54 Stat. 707), to the Wapato Indian irrigation project. The difference between the amounts previously authorized by such 1914 and 1940 statutes to be appropriated and credited to the reclamation fund and the amount of the cost assigned to the Wapato Indian irrigation project pursuant to this Act is hereby authorized to be appropriated out of any funds in the Treasury not otherwise appropriated, and to be credited to the reclamation fund. Such difference shall be made available in amounts not to exceed \$20,000 annually. If the amount not assigned to the Wapato Indian irrigation project pursuant to this Act is less than the sum of the obligations heretofore undertaken with respect to water supply construction costs by the water users' organizations of the Yakima project, including the obligation of the Bureau of Indian Affairs with respect to two hundred and fifty thousand acre-feet of water for the "B" lands of the Wapato Indian irrigation project, the Secretary shall make such reduction in the obligation of those organizations as he finds to be proper to carry out the provisions of their contracts relating to reductions to conform the obligation to the Secretary's final determination of the cost of constructing said facilities. (73 Stat. 429)

### EXPLANATORY NOTES

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

**Authorization: Yakima Project.** The initial divisions of the Yakima project were authorized by the Secretary of the Interior on December 12, 1905. Additional divisions of the project were approved by the President on January 5, 1911, and November 6, 1935. The last division of the project, Kennewick, was authorized by the Act of June 12, 1948. The 1948 Act appears herein in chronological order.

**References in the Text.** Extracts from the Act of August 1, 1914, (38 Stat. 582, 604)

including the provision found at 38 Stat. 604, and the Act of July 1, 1940 (54 Stat. 707), referred to in the text, appear herein in chronological order.

**Legislative History.** H.R. 3335, Public Law 86-204 in the 86th Congress. Reported in House from Interior and Insular Affairs Apr. 27, 1959; H.R. Rept. No. 302. Passed House May 4, 1959. Reported in Senate from Interior and Insular Affairs Aug. 4, 1959; S. Rept. No. 615. Passed Senate, amended, Aug. 7, 1959. House agrees to Senate amendments Aug. 18, 1959.

### BULLY CREEK EXTENSION, VALE PROJECT

An act to provide for the construction by the Secretary of the Interior of the Bully Creek Dam and other facilities, Vale Federal reclamation project, Oregon. (Act of September 9, 1959, Public Law 86-248, 73 Stat. 478)

**[Sec. 1. Bully Creek Dam and related facilities authorized—Repayment period of 50 years provided.]**—The Secretary of the Interior is authorized to construct, operate, and maintain the Bully Creek Dam, Reservoir, and related minor facilities as features of the Vale Federal reclamation project, Oregon. In so doing, he shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). Said construction, however, shall not be commenced until the Vale Oregon Irrigation District shall have obligated itself to repay such portions of the Federal costs of constructing, operating, and maintaining the facilities herein authorized as the Secretary finds properly allocable to irrigation: *Provided*, That the period provided in subsection (d) of section 9 of the Reclamation Project Act of 1939, as amended, for repayment of the construction costs assigned to be repaid by the irrigators may be extended to fifty years. (73 Stat. 478)

**Sec. 2. (a) [Basic recreation facilities to be constructed and operated by State or local agency or organization.]**—The Secretary is authorized, in connection with the works herein authorized, to construct basic public recreation facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. He is also authorized to acquire approximately ten acres of land near Bully Creek Dam for recreation purposes.

**(b) [Cost allocations—Non-reimbursable and non-returnable costs—Care, operation and maintenance to be transferred to Vale Oregon Irrigation District provided operation is such as to achieve benefits predicated on non-reimbursable allocations.]**—In addition to those costs of constructing the works authorized in this Act which the Secretary finds to be properly allocable to flood control, recreation, and the preservation and propagation of fish and wildlife, those costs of operating and maintaining the works, or the reasonable capitalized value of the equivalent thereof, which are allocated by the Secretary to these purposes shall be nonreimbursable and nonreturnable under the reclamation laws. Before the works are transferred to the Vale Oregon Irrigation District for care, operation, and maintenance, the district shall have agreed to operate them in such fashion, satisfactory to the Secretary, as to achieve the benefits on which these allocations are predicated and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with its requirements to achieve such benefits. (73 Stat. 478)

**Sec. 3. [Appropriations authorization.]**—There is hereby authorized to be appropriated for construction of the Bully Creek extension of the Vale Federal reclamation project the sum of \$3,326,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the costs of construction as indicated by engineering cost indexes 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. (73 Stat. 478)

**Sec. 4. [Modification of the Gulf Intracoastal Waterway Channel to Port Mansfield, Texas, authorized.]**—That the modification of the Gulf Intracoastal Waterway-Channel to Port Mansfield, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers contained in Senate Document 11, of the Eighty-sixth Congress, at an estimated cost of \$3,431,000. (73 Stat. 478)

**Sec. 5. [Appropriations authorization for section 4.]**—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 4 of this Act. (73 Stat. 478)

EXPLANATORY NOTES

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

**Authorization.** The Vale reclamation project, Oregon, was found feasible by the Secretary of the Interior on October 20, 1926, and approved by the President on October 21, 1926, 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).

**Legislative History.** H.R. 968, Public Law 86-248 in the 86th Congress. Reported in House from Interior and Insular Affairs June 16, 1959; H.R. Rept. No. 533. Reported in Senate from Interior and Insular Affairs Aug. 4, 1959; S. Rept. No. 608. Passed Senate, amended, Aug. 21, 1959. House agrees to Senate amendments Aug. 27, 1959.

## PUBLIC BUILDINGS ACT OF 1959

[Extracts from] An act to provide for the construction, alteration, and acquisition of public buildings of the Federal Government, and for other purposes. (Act of September, 9, 1959, Public Law 86-249, 73 Stat. 479)

[Sec. 1. Short title.]—This Act may be cited as the “Public Buildings Act of 1959”. (73 Stat. 479)

Sec. 2. [G.S.A. to construct public buildings.]—No public building shall be constructed except by the Administrator, who shall construct such public building in accordance with this Act. (73 Stat. 479; 40 U.S.C. § 601)

\* \* \* \* \*

Sec. 13. [Definitions—Reclamation projects not included.]—As used in this Act—

(1) The term “public building” means any building, whether for single or multitenant occupancy, its grounds, approaches, and appurtenances, which is generally suitable for office or storage space or both for the use of one or more Federal agencies or mixed ownership corporations, and shall include: (i) Federal office buildings, (ii) post office, (iii) customhouses, (iv) courthouses, (v) appraisers stores, (vi) border inspection facilities, (vii) warehouses, (viii) record centers, (ix) relocation facilities, and (x) similar Federal facilities, and (xi) any other buildings or construction projects the inclusion of which the President may deem, from time to time hereafter, to be justified in the public interest; but shall not include any such buildings and construction projects: (A) on the public domain (including that reserved for national forests and other purposes), (B) on properties of the United States in foreign countries, (C) on Indian and native Eskimo properties held in trust by the United States, (D) on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection therewith, (E) on or used in connection with river, harbor, flood control, reclamation or power projects, or for chemical manufacturing or development projects, or for nuclear production, research, or development projects, (F) on or used in connection with housing and residential projects, (G) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense), (H) on Veterans’ Administration installations used for hospital or domiciliary purposes, and (I) the exclusion of which the President may deem, from time to time hereafter, to be justified in the public interest.

(2) The term “Administrator” means the Administrator of General Services. \* \* \* (73 Stat. 482; 40 U.S.C. § 612)

EXPLANATORY NOTES

**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. 7645, Public Law 86-249 in the 86th Congress. Reported in House from Public Works June

17, 1959; H.R. Rept. No. 557. Passed House July 8, 1959. Passed Senate, amended, Aug. 25, 1959. House agrees to Senate amendments Aug. 26, 1959. Companion bill S. 1654 reported in Senate from Public Works Aug. 13, 1959; S. Rept. No. 694.

**PUBLIC WORKS APPROPRIATION ACT, 1960**

[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, 1960, and for other purposes. (Act of September 10, 1959, Public Law 86-254, 73 Stat. 494)

\* \* \* \* \*

**BUREAU OF RECLAMATION**

\* \* \* \* \*

**LOAN PROGRAM**

[Loans beyond fiscal year contingent upon appropriations.]—For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956 (43 U.S.C. 422a-422k), as amended (71 Stat. 48), including expenses necessary for carrying out the program, § \* \* \* to remain available until expended: *Provided*, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197). (73 Stat. 495)

**EXPLANATORY NOTES**

**References in Text.** Section 12 of the Reclamation Project Act of 1939, referred to in the proviso, authorizes certain construction and other contracts contingent on appropriations being made therefor. The Act of July 4, 1955, cited in text, authorizes loans for construction of local distribution systems. The Act of August 6, 1956, cited in

text, is the Small Reclamation Projects Act of 1956. These Acts appear herein in chronological order.

**Provision Repeated.** The same proviso 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, 1960”. (73 Stat. 499)

**EXPLANATORY NOTES**

**Not codified.** Extracts from 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. 9105, Public

Law 86-254 in the 86th Congress. Reported in House from Appropriations Sept. 4, 1959; H.R. Rept. No. 1152. Passed House Sept. 8, 1959. Passed Senate Sept. 8, 1959. Vetoed Sept. 9, 1959. In House, passed over Presidential veto Sept. 10, 1959. In Senate, passed over Presidential veto Sept. 10, 1959.

## CONVEYANCE OF LANDS, HUNTLEY PROJECT

An act to amend the Acts approved April 16 and June 27, 1906 (34 Stat. 116 and 519), so as to authorize the Secretary of the Interior to convey certain lands on the Huntley reclamation project, Yellowstone County, Montana, to school district numbered 24, Huntley Project Schools, Yellowstone County, Montana. (Act of September 14, 1959, Public Law 86-261, 73 Stat. 548)

[**Sec. 1. Conveyance of lands to Huntley Project Schools—Rights of way and mineral estate reserved.**]—Notwithstanding the provisions, terms, and conditions of any other Act of Congress, the Secretary of the Interior shall, upon payment of \$115 to the United States, cause to be conveyed without restriction, save as hereinafter set forth, to school district numbered 24, Huntley Project Schools, Yellowstone County, Montana, its successors and assigns, the following described land and premises located and situated in Yellowstone County, Montana: Lot 3 of block 3 of the original townsite of Ballantine, Montana, block 14 of the original townsite of Pompeys Pillar, Montana, and block 15 of the original townsite of Huntley, Montana, subject to reservation from said land of a right-of-way thereon for ditches and canals constructed by the authority of the United States in accordance with the provisions of the Act of August 30 1890 (26 Stat. 391), and any and all existing easements on said lands; reserving to the United States, and its assigns, all coal, oil, gas, and other minerals, including, without being limited by enumeration, sand, gravel, stone, clay and similar materials, together with the usual mining rights, powers, and privileges, including the right at any and all times to enter upon said land and use such part of the surface thereof as may be necessary in prospecting for, mining, saving, and removing said minerals and materials, upon payment of damages caused by said surface use to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages. (73 Stat. 548)

**Sec. 2. [Secretary of the Interior authorized to deliver documentary evidence of the conveyance to the school district.]**—The Secretary of the Interior is hereby authorized and empowered to execute and deliver to school district numbered 24, Huntley Project Schools, Yellowstone County, Montana, and documentary evidence which he may determine to be necessary to carry out the intent of this Act. (73 Stat. 548)

### EXPLANATORY NOTES

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

**Authorization.** The Huntley project, Montana, was authorized by the Secretary of the Interior on April 18, 1905, pursuant to the Reclamation Act of 1902.

**Reference in the Text.** The Act of August 30, 1890 (26 Stat. 391), referred to in section 1 of the text, deals with rights-of-way reserved to the United States for

canals and ditches in all patents for land taken up under any of the land laws of the United States. Extracts of the Act appear herein in chronological order.

**References in the Text.** The Acts approved April 16 and June 27, 1906 (34 Stat. 116 and 519), referred to in the statute's title, deal, respectively, with (1) the withdrawal from public entry of lands needed for townsites, and (2) farm unit

September 14, 1959

1498      CONVEYANCE OF LANDS, HUNTLEY PROJECT

sizes, additional entries for relinquished lands, disposal of townsites within irrigation projects, and with desert land entries. Both Acts appear herein in chronological order.

**Legislative History.** S. 53, Public Law 86-261 in the 86th Congress. Reported in Senate from Interior and Insular Affairs

May 22, 1959; S. Rept. No. 311. Passed Senate June 12, 1959. Passed House, amended, Aug. 31, 1959. Senate agrees to House amendments Sept. 3, 1959. Companion bill H.R. 8726 reported in House from Interior and Insular Affairs Aug. 24, 1959; H.R. Rept. No. 979.

## THEODORE ROOSEVELT DAM

An act to change the name of Roosevelt Dam, Reservoir, and Power Plant in Arizona to Theodore Roosevelt Dam, Lake, and Power Plant. (Act of September 14, 1959, Public Law 86-266, 73 Stat. 552)

[**Designation of Theodore Roosevelt Dam, Lake and Power Plant.**]**—**The dam, reservoir, and power plant in Arizona, known as Roosevelt Dam, Reservoir, and Power Plant, shall hereafter be known as Theodore Roosevelt Dam, Lake, and Power Plant, and any law, regulation, document, or record of the United States in which such dam, reservoir, and power plant are designated or referred to under the name Roosevelt Dam, Reservoir, and Power Plant shall be held to refer to such dam, reservoir, and power plant under and by the name of Theodore Roosevelt Dam, Lake, and Power Plant. (73 Stat. 552)

### EXPLANATORY NOTES

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

**Legislative History.** S.J. Res. 25, Public Law 86-266 in the 86th Congress. Reported in Senate from Interior and Insular

Affairs Aug. 6, 1959; S. Rept. No. 623. Passed Senate Aug. 19, 1959. Reported in House from Interior and Insular Affairs Aug. 31, 1959; H.R. Rept. No. 1084. Passed House Sept. 7, 1959.

## EXTRA CAPACITY, CROOKED RIVER PROJECT

An act to amend the Act authorizing the Crooked River Federal reclamation project, Oregon, in order to increase the capacity of certain project features for future irrigation of additional lands. (Act of September 14, 1959, Public Law 86-271, 73 Stat. 554)

**[Sec. 1. Extra capacity authorized.]**—Section 1 of the Act entitled “An Act to authorize construction by the Secretary of the Interior of the Crooked River Federal reclamation project, Oregon,” approved August 6, 1956 (70 Stat. 1058), is amended by adding to that section the following: “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.” (73 Stat. 554; 43 U.S.C. § 615f)

**Sec. 2. [Appropriations.]**—There are hereby authorized to be appropriated such sums, in addition to the sum of \$6,339,000 authorized to be appropriated for the Crooked River Federal reclamation project in section 5 of the Act of August 6, 1956 (70 Stat. 1058), as may be required to carry out the purposes of this Act. (73 Stat. 555; 43 U.S.C. § 615, note)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act authorizing construction of the Crooked River Federal reclamation project, Oregon, approved August 6, 1956.

**Legislative History.** S. 1221, Public Law 86-271 in the 86th Congress. Reported in

Senate from Interior and Insular Affairs Aug. 4, 1959; S. Rept. No. 609. Passed Senate Aug. 21, 1959. Passed House Aug. 31, 1959. Companion bill H.R. 4952 reported in House from Interior and Insular Affairs Aug. 24, 1959; H.R. Rept. No. 973.

## SPOKANE VALLEY PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Spokane Valley project, Washington and Idaho, under Federal reclamation laws. (Act of September 16, 1959, Public Law 86-276, 73 Stat. 561)

[**Sec. 1. Spokane Valley Federal reclamation project authorized.**]—For the purpose of providing water for the irrigation of approximately seven thousand two hundred and fifty acres of land along and near the Spokane River in the eastern part of the State of Washington and the western part of the State of Idaho, and for domestic, municipal, and industrial uses the Secretary of the Interior is authorized to construct, operate, and maintain the Spokane Valley Federal reclamation project. The principal engineering features of said project shall consist of wells, pumps, storage facilities, and distribution systems. (73 Stat. 561; 43 U.S.C. § 615s; Act of Sept. 5, 1962, 76 Stat. 431)

**Sec. 2. [Cost allocation—Interest rate—Repayment.]**—In constructing, operating, and maintaining the Spokane Valley 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) interest on the unpaid balance of the allocation to domestic, municipal, and industrial water supply shall be at a rate 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; and (2) the remaining cost of the project beyond the amount to be reimbursed or returned by the water users shall be accounted for in the same manner as provided in item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568), and power and energy required for irrigation pumping for the Spokane Valley project shall be made available in the same manner as provided for therein. The amount to be repaid by the irrigators shall be collected by the contracting entity through annual assessments based upon combination turnout and acreage charges and through the use of such other methods as it and the Secretary may agree upon. (43 U.S.C. § 615t; Act of Sept. 5, 1962, 76 Stat. 431)

**Sec. 3. [Appropriations authorization.]**—There is hereby authorized to be appropriated for construction of the Spokane Valley project the sum of \$7,232,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the costs of construction as indicated by engineering cost indexes 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. (73 Stat. 562; 43 U.S.C. § 615u; Act of Sept. 5, 1962, 76 Stat. 431)

## SPOKANE VALLEY PROJECT

## EXPLANATORY NOTES

**1962 Amendments.** The Act of September 5, 1962, 76 Stat. 431: (1) reduced from 10,300 to 7,250 the total number of acres authorized to be irrigated, and added domestic, municipal and industrial uses as project purposes; (2) amended section 2 by substituting its present language, which provides for cost allocations and repayment reflecting the addition of new project purposes; and (3) increased the appropriation authorization from \$5,100,000 to \$7,232,000. The 1962 Act appears herein in chronological order.

**Reference in the Text.** Item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568), referred to in the text, provides that the Foster Creek Division, Chief Joseph Dam project, construction costs beyond the ability of irrigators to repay shall be charged

to net revenues derived from the sale of power which are over and beyond those required to amortize the investment in the project and to return interest on the un-amortized balance thereof. The 1954 Act appears herein in chronological order.

**Legislative History.** S. 994, Public Law 86-276 in the 86th Congress. Reported in Senate from Interior and Insular Affairs Apr. 10, 1959; S. Rept. No. 156. Passed Senate Apr. 30, 1959. Passed House, amended, July 20, 1959. Conference report filed Aug. 26, 1959; H.R. Rept. No. 1051. House agrees to conference report Aug. 31, 1959. Senate agrees to conference report Aug. 31, 1959. Companion bill H.R. 804 reported in House from Interior and Insular Affairs July 1, 1959; H.R. Rept. No. 622.

## DEFERMENT OF CONSTRUCTION CHARGES

An act to amend section 17(b) of the Reclamation Project Act of 1939. (Act of September 21, 1959, Public Law 86-308, 73 Stat. 584)

[**Sec. 1. Deferment of construction charges.**]—Section 17, subsection (b), of the Reclamation Project Act of 1939, as amended, is hereby further amended to read as follows:

“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 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 date 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 and that any such amendatory contract must be approved by the Congress unless it does not lengthen the repayment period for the project in question beyond that permitted by the laws applicable to that project, involves no reduction in the total amount payable by the water users, and is not in other respects less advantageous to the Government than the existing contract arrangements. The Secretary shall report to the Congress all deferments granted under this subsection.” (73 Stat. 584; 43 U.S.C. § 485b-1)

**Sec. 2. [1952 Act amended.]**—The Act of March 6, 1952 (66 Stat. 16), as amended, is hereby further amended by deleting therefrom the words “and by section 3 of the Act of April 24, 1945 (59 Stat. 75, 76)”. (73 Stat. 585; 43 U.S.C. § 485b)

**Sec. 3. [Application of section 1 provisions.]**—The provisions of section 17, subsection (b), of the Reclamation Project Act of 1939, as amended by section 1 of this Act, shall apply to any project within the administrative jurisdiction of the Bureau of Reclamation to which, if it had been constructed as a project under the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), these provisions would be applicable. (73 Stat. 585; 43 U.S.C. § 485b-1)

## EXPLANATORY NOTES

**References in the Text.** The Act of March 6, 1952 (66 Stat. 16) and the Act of April 24, 1945 (59 Stat. 75, 76), referred to in the text, are found herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinion, if any, are found under subsection 17(b) of the Reclamation Project Act of August 4, 1939.

**Legislative History.** H.R. 1778, Public Law 86-308 in the 86th Congress. Reported in House from Interior and Insular Affairs Apr. 27, 1959; H.R. Rept. No. 301. Passed House May 4, 1959. Reported in Senate from Interior and Insular Affairs Sept. 2, 1959; S. Rept. No. 873. Passed Senate, amended, Sept. 9, 1959. House agrees to Senate amendments Sept. 10, 1959.

## LA FERIA DIVISION, LOWER RIO GRANDE REHABILITATION PROJECT

An act to authorize the Secretary of the Interior to construct, rehabilitate, operate, and maintain the lower Rio Grande rehabilitation project, Texas, La Feria division. (Act of September 22, 1959, Public Law 86-357, 73 Stat. 641)

**[Sec. 1. Rehabilitation of the works of the La Feria Water Control and Improvement District authorized.]**—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 the last sentence of Section 1 of the Act of October 7, 1949 (63 Stat. 724), but subject to exceptions herein contained) is authorized to undertake the rehabilitation and betterment of the works of the La Feria Water Control and Improvement District, Cameron County numbered 3, Texas, and to operate and maintain the same. Such undertaking which shall be known as the La Feria division of the lower Rio Grande rehabilitation 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 of the capital cost of the La Feria division over a basic period of not more than thirty-five years and shall, in addition, in lieu of the excess-land provisions of the Federal reclamation laws, 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. (73 Stat. 641)

**Sec. 2. [Title to United States lands to pass to District upon payment of obligations arising under this Act.]**—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 La Feria Water Control and Improvement District, Cameron County numbered 3 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. (73 Stat. 642)

**Sec. 3. [Appropriations authorization.]**—There is hereby authorized to be appropriated for the work to be undertaken pursuant to the first section of this Act the sum of \$6,000,000 (January 1959 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. (73 Stat. 642)

## EXPLANATORY NOTES

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

**Reference in the Text.** The last sentence of Section 1 of the Act of October 7, 1949 (63 Stat. 724), referred to in the text, reads as follows: "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 con-

cerned whereby such organization shall perform such work." The Act is an act to provide for the return of rehabilitation and betterment costs of Federal reclamation projects and appears herein in chronological order.

**Legislative History.** H.R. 4279, Public Law 86-357 in the 86th Congress. Reported in House from Interior and Insular Affairs Aug. 24, 1959; H.R. Rept. No. 971. Passed House Sept 2, 1959. Passed Senate Sept. 9, 1959.

## WABASH VALLEY COMPACT

An act granting the consent and approval of Congress to the Wabash Valley Compact, and for related purposes. (Act of September 23, 1959, Public Law 86-375, 73 Stat. 694)

[Sec. 1. Consent of Congress granted.]—The consent of Congress is hereby given to the States of Illinois and Indiana for the compact, known as the Wabash Valley Compact (Laws of Indiana, 1959, chapter 3, approved February 26, 1959, House Enrolled Act No. 22; Laws of Illinois, 1959, approved March 20, 1959, Senate Bill No. 78), in the form as follows:

### “THE WABASH VALLEY COMPACT

#### “ARTICLE I

##### “FINDINGS AND PURPOSE

“The party states find that the Wabash Valley has suffered from a lack of comprehensive planning for the optimal use of its human and natural resources and that underutilization and inadequate benefits from its potential wealth are likely to continue until there is proper organization to encourage and facilitate coordinated development of the Wabash Valley as a region and to relate its agricultural, industrial, commercial, recreational, transportation, development and other problems to the opportunities in the Valley. To this end it is the purpose of the party states to recognize and provide for such development and coordination and to establish an agency of the party states with powers sufficient and appropriate to further regional planning for the Valley.

#### “ARTICLE II

##### “THE VALLEY

“As used in this compact, the term ‘Wabash Valley’ shall mean the Wabash River, its tributaries and all land drained by said river and tributaries, to whatever extent they lie within the party states.

#### “ARTICLE III

##### “THE WABASH VALLEY INTERSTATE COMMISSION

“(a) There is hereby created an agency of the party states to be known as the Wabash Valley Interstate Commission (hereinafter called the Commission). The Commission shall be composed of seven Commissioners from each party state designated and appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with such law. The federal government may be represented without vote if provision is made by federal law for such representation.

“(b) The Commissioners of the party states shall each be entitled to one

## WABASH VALLEY COMPACT

vote in the Commission. No action of the Commission shall be binding unless taken at a meeting in which a majority of the members from each party state are present and unless a majority of those from each state concur, provided that any action not binding for such a reason may be ratified within thirty days by the concurrence of a majority of each state. In the absence of any Commissioner, his vote may be cast by another representative or Commissioner of his state provided that said Commissioner or other representative casting said vote shall have a written proxy in proper form as may be required by the Commission.

“(c) The Commission may sue and be sued, and shall have a seal.

“(d) The Commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The Commission shall appoint an executive director who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the Commission may require.

“(e) The Commission shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

“(f) The Commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old-age and survivors insurance provided that the Commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the Commission terms and conditions of employment similar to those enjoyed by employees of the party states generally.

“(g) The Commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

“(h) The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state of the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize, and dispose of the same.

“(i) The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

“(j) The Commission may adopt, amend, and rescind bylaws, rules, and regulations for the conduct of its business.

“(k) The Commission annually shall make to the Governor of each party state, a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been adopted by the Commission which report shall be transmitted to the legislature of said

state. The Commission may issue such additional reports as it may deem desirable.

#### “ARTICLE IV

##### “FINANCES

“(a) The Commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

“(b) Each of the Commission’s budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Subject to appropriation by the respective legislatures the Commission shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Commission.

“(c) The Commission may meet any of its obligations in whole or in part with funds available to it under Article III(h) of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Commission makes use of funds available to it under Article III(h) hereof, the Commission shall not incur any obligations prior to the allotment of funds by the party jurisdictions adequate to meet the same.

“(d) The expenses and any other costs for each member of the Commission shall be met by the Commission in accordance with such standards and procedures as it may establish under its bylaws.

“(e) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

“(f) The accounts of the Commission shall be open at any reasonable time for inspection.

#### “ARTICLE V

##### “ADVICE AND COOPERATION

“(a) The Commission shall establish a technical advisory committee which shall be composed of representatives of such departments or agencies of the governments of the party states as have significant interest in the subject matter of the Commission’s work: *Provided*, That if pursuant to the laws of a party state a representative of any such department or agency serves as a member of the Commission said department or agency need not be represented on the technical advisory committee. The Commission shall provide under its bylaws for procedures for the reference of questions to such committee.

WABASH VALLEY COMPACT

“(b) The Commission may establish other advisory and technical committees composed of private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, and officials of local, state and federal government, and may cooperate with and use the services of any such committee and the organizations which they represent in furthering any of its activities under this compact. The Commission shall encourage citizen organization and activity for the promotion of the objectives of this compact.

“ARTICLE VI

“FUNCTIONS

“The Commission shall have power to:

“A. Promote the balanced development of the Wabash Valley by

“(1) Correlating and reporting on data significant to such development.

“(2) Recommending the coordination of studies by the agencies of the party states to provide such data.

“(3) Publishing and disseminating materials and studies which will encourage the economic development of the Valley.

“(4) Recommending standards as guides for local and state zoning and other action which will promote balanced development by encouraging the establishing of industrial parks to facilitate industrial development, the reservation of stream bank and lake shore areas for recreation and public access to water, the preservation of marshes and other suitable areas as wild life preserves, the afforestation and sustained yield forest management of submarginal lands, the protection of scenic values and amenities and other appropriate measures.

“(5) Preparing in cooperation with appropriate governmental agencies a master plan for the identification and programming of public works.

“(6) Cooperating with all appropriate governmental agencies in the encouragement of tourist traffic and facilities in the Valley.

“B. Recommend integrated plans and programs for the conservation, development, and proper utilization of the water, land and related natural resources of the Wabash Valley, including but not limited to:

“(1) Encouraging the classification of Valley lands in terms of appropriate uses.

“(2) Cooperating in the development of appropriate plans for flood protection, including but not limited to the construction of protective works and reservoirs.

“(3) Developing public awareness of the need for flood plain zoning and in cooperation with the appropriate agencies of the party states and their political subdivisions evolving standards for the implementation and application of such zoning in the Valley.

“(4) Reviewing the need for and appropriate sources of suitable

water supplies for domestic, municipal, agricultural, power, industrial, recreation and transportation purposes.

“(5) Encouraging a pattern of land use and resource management which will increase the natural wealth of the Valley and promote the welfare of its inhabitants.

“(6) In cooperation with appropriate agencies, analyzing the recreational needs and potential of the Valley and developing a program for the use and maximization of recreational resources.

“C. Secure the necessary research and developmental activities by:

“(1) Correlating such research and developmental activities as are placed within its purview by this compact. The Commission may engage in original investigation and research on its own account or secure the undertaking thereof by a qualified public or private agency.

“(2) Making contracts for studies, investigations and research in any of the fields of its interest.

“(3) Publishing and disseminating reports.

“D. Make recommendations for appropriate action to:

“(1) The legislatures and executive heads of the party states and the federal government.

“(2) The agencies of the party states and the federal government.

“E. Undertake such additional functions as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of a party state concurred in by the legislature of the other.

#### “ARTICLE VII

##### “ENACTMENT AND WITHDRAWAL

“This compact shall become effective when entered into and enacted into law by the States of Illinois and Indiana. The compact shall continue in force and remain binding upon each party state until renounced by legislative action of either party state.

#### “ARTICLE VIII

##### “CONSTRUCTION AND SEVERABILITY

“The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any other state, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed.” (73 Stat. 694-98)

Sec. 2. A Federal representative to the Wabash Valley Interstate Commission shall be appointed by the President, and he shall report to the President either directly or through such agency or official as the President may specify. Such representative shall have no vote on the commission. His compensation shall be

## WABASH VALLEY COMPACT

in such amount, not in excess of \$100 per diem, as the President shall specify, but the total amount of compensation payable in any one calendar year shall not exceed \$10,000: *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 paid hereunder shall not exceed \$12,000 in any one calendar year. The Federal representative shall be entitled to travel expenses, he shall also be provided with office space, stenographic service, and other necessary administrative services. The compensation of the Federal representative shall be paid from available appropriations for the White House Office or from funds available to the President in connection with special projects. Travel expenses, office space, stenographic, and administrative services shall be paid from any available appropriations selected by the head of such agency or agencies as may be designated by the President to provide such expenses. (73 Stat. 698)

**Sec. 3. [Commission to report annually to Congress.]**—The Wabash Valley Interstate Commission constituted by the compact shall make an annual report to Congress not later than sixty days after the beginning of each regular session thereof. (73 Stat. 698)

**Sec. 4. [Reservation clause.]**—The right to alter, amend, or repeal this Act is expressly reserved. (73 Stat. 698)

**Sec. 5. [Authority, rights, or jurisdiction of the United States unimpaired.]**—Nothing contained in this Act or in the compact herein consented to shall be construed as impairing or affecting the authority of the United States of any of its rights or jurisdiction in and over the area or waters which are the subject of the compact. (73 Stat. 698)

**Sec. 6. [Certain State legislative acts not to be effective until approved by Congress.]**—That all future legislation enacted pursuant to article VI, clause E of the compact, requiring concurrent action by the States of Indiana and Illinois, shall be submitted to Congress for approval before such legislation becomes effective. (73 Stat. 698)

**Sec. 7. [Limitation on interpretation and construction of the Act.]**—Nothing contained herein shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any prohibited anti-trust or monopolistic act, action, or conduct. (73 Stat. 699)

**Sec. 8. [Right of Congressional oversight.]**—The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information or data by the Wabash Valley Interstate Commission as is deemed appropriate by the Congress or any such committee. (73 Stat. 699)

EXPLANATORY NOTES

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

**Editor's Note, Annotations.** Annotations of opinion are not included because this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** H.R. 5711, Public

Law 86-375 in the 86th Congress. Reported in House from Judiciary Aug. 19, 1959; H.R. Rept. No. 948. Passed House Aug. 31, 1959. Passed Senate Sept. 14, 1959. Companion bill S. 1257 reported in Senate from Judiciary Aug. 21, 1959; S. Rept. No. 757. Passed Senate Aug. 24, 1959.

**AMENDED CONTRACT WITH CONEJOS WATER CONSERVANCY  
DISTRICT**

An act to approve a contract with the Conejos Water Conservancy District, Colorado, to ratify its execution, and for other purposes. (Act of April 4, 1960, Public Law 86-404 74 Stat. 14)

**[Execution of amendatory contract authorized—Reduction of operation and maintenance reserve fund authorized.]**—The contract between the United States and the Conejos Water Conservancy District, Colorado, dated June 3, 1958, which provides, among other things, for a variable repayment plan based upon the availability of water for use on project lands within the district, is approved and its execution on behalf of the United States by the representative of the Secretary of the Interior is hereby ratified. The Secretary may reduce the amount required in said contract to be maintained in the operation and maintenance reserve fund to not less than \$20,000, in which event the amount of any necessary annual deposits to such fund shall not exceed \$2,000. (74 Stat. 14)

EXPLANATORY NOTES

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

**Legislative History.** H.R. 6516, Public Law 86-404 in the 86th Congress. Reported in House from Interior and Insular

Affairs Feb. 8, 1960; H.R. Rept. No. 1253. Passed House Feb. 15, 1960. Reported in Senate from Interior and Insular Affairs Feb. 24, 1960; S. Rept. No. 1133. Passed Senate Mar. 28, 1960.

## CONVEYANCE TO METROPOLITAN WATER DISTRICT

An act to authorize the Secretary of the Interior to convey to the Metropolitan Water District of Salt Lake City, Utah, all right, title, and interest of the United States in certain lands located in Salt Lake County, Utah. (Act of April 4, 1960, Public Law 86-407, 74 Stat. 15)

[Conveyance of land authorized—Legal description of the land.]—The Secretary of the Interior is authorized and directed to convey to the Metropolitan Water District of Salt Lake City, Utah, without consideration, all the right, title, and interest of the United States in and to the following described land located in Salt Lake County, Utah:

That certain parcel of land located in the southwest quarter of section 25, and in the southeast quarter of section 26, township 1 south, range 1 east, Salt Lake base and meridian, Salt Lake County, State of Utah, more particularly described as follows:

Beginning at a point from which the east quarter corner of said section 26 lies north 1,468.5 feet and east 61.6 feet, more or less, said point being on the north right-of-way boundary line of 33d South Street, and running thence south 89 degrees 58 minutes 45 seconds east 231.75 feet; thence north 25 degrees 20 minutes east 155 feet; thence north 3 degrees 17 minutes 10 seconds east 910.2 feet; thence along a regular curve to the left with a radius of 1,450 feet and a distance of 184.5 feet; thence west 283.4 feet; thence south 3 degrees 03 minutes west 987 feet; thence south 86 degrees 57 minutes east 50 feet; thence south 3 degrees 03 minutes west 40 feet; thence north 86 degrees 57 minutes west 50 feet; thence south 3 degrees 03 minutes west 208 feet, more or less, to the point of beginning, containing 7.7 acres, more or less. (74 Stat. 15)

### EXPLANATORY NOTES

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

**Background.** The 7.7-acre tract originally was acquired by the Metropolitan Water District and conveyed to the United States by a donation warranty deed, dated September 14, 1949, for the Aqueduct division of the Provo River Federal reclamation project. Due to a change in project plans, the land was not so used and is not required for other needs of the Bureau of Reclamation. Department

report of July 22, 1959, on H.R. 5270: reprinted in H.R. Rept. No. 822, 86th Cong., 1st Sess. 2; similar report in S. Rept. No. 1134, 86th Cong., 2nd Sess. 2.

**Legislative History.** H.R. 5270, Public Law 86-407 in the 86th Congress. Reported in House from Interior and Insular Affairs Aug. 10, 1959; H.R. Rept. No. 822. Passed House Aug. 31, 1959. Reported in Senate from Interior and Insular Affairs Feb. 24, 1960; S. Rept. No. 1134. Passed Senate Mar. 28, 1960.

### NOTE OF OPINION

#### 1. Excess property

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 Metro-

April 4, 1960

1516 CONVEYANCE TO METROPOLITAN WATER DISTRICT

politan 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 grantor. 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.

## 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 April 22, 1960, Public Law 86-433, 74 Stat. 74)

[**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 of the lands and interests in land owned by the United States and described in section 2 of this Act, except (1) lands in which the Fort Mohave Indian Tribe holds an interest, (2) lands excluded at the request of the Commission because of conflict with a mining claim or claims, and (3) lands or interests in land reserved to the United States pursuant to section 7 of this Act. (74 Stat. 74)

**Sec. 2. [Legal description of public lands segregated from 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 15,000 acres:

(1) All of sections 1, 12, and 13 and fractional sections 24 and 25, township 33 south, range 65 east.

(2) All of sections 6, 7, and 8, fractional sections 4, 5, 9, 10, and 15, east half, east half northwest quarter, and southwest quarter section 16, west half northeast quarter, west half, and southeast quarter fractional section 17, all of section 18, fractional sections 19, 20, 21, and 30, township 33 south, range 66 east.

(3) East half section 20, all of sections 21, 22, and 23, fractional sections 24 and 26, all of sections 27 and 28, east half section 29, southeast quarter section 31, fractional sections 32, 34, and 35, township 32 south, range 66 east.

(4) Notwithstanding the specific land descriptions in items 1 through 3, the eastern boundary of the transfer area is the centerline of the Colorado River as it exists on the date of approval of this Act, and all range references contained in the foregoing refer to the Mount Diablo base and meridian. (74 Stat. 74; Act of April 26, 1963, 77 Stat. 14)

**Sec. 3. [Option to have lands patented to the State.]**—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 regulations promulgated hereunder, of having patented to the State by the Secretary all 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 the 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. (74 Stat. 74; Act of April 26, 1963, 77 Stat. 14)

**Sec. 4. [Development plan for area to be submitted to Secretary of Interior—Payment by Nevada to the United States—Contracts of sale and conveyance instruments to be submitted to Congress—Waiting period before execution of contracts or instruments.]—**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) The Commission, within eight 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) At any time after submission of a proposed plan, as required by the preceding subsection, the Commission may select for transfer from Federal to State ownership the entire transfer area. The application for transfer of title to the transfer area 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) 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, except for such adjustment as may be required by virtue of the provisions of sections 1 and 6 of this Act, for determining the compensation to be paid to the United States by the Commission for the transfer of the lands to which this Act is applicable.

(d) 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.

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 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. (74 Stat. 75; Act of April 26, 1963, 77 Stat. 14)

**Sec. 5. [Conveyances subject to valid existing rights.]**—Any conveyance authorized by this Act shall be made subject to any existing valid rights pertaining to the lands included within the transfer area (74 Stat. 75)

**Sec. 6. [Validity of mineral leases, permits and licenses unaffected.]**—If any of the lands described in section 2 of this Act are subject 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 patenting of such lands to the State shall neither affect the validity nor modify the terms of such lease, permit, license, or contract in any way, or affect any rights thereunder, except that the patent, unless it contains a mineral reservation made pursuant to a request of the State, shall include the transfer to the State of all right, title, and interest of the United States in and to such lease, permit, license, or contract so far as it pertains to such lands, including any right to rents, royalties, and other payments accruing on or after the date on which the patent is issued, and any right to modify the terms or conditions of such lease, permit, license, or contract so far as it pertains to such lands. (74 Stat. 75)

**Sec. 7. [Provision for future uses by the United States.]**—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, except for such adjustment as may be required by virtue of the provisions of section 1 of this Act, 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. (74 Stat. 76)

#### EXPLANATORY NOTES

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

**1963 Amendment.** The Act of April 26, 1963, 77 Stat. 14, amended: (1) section 2 by striking out "five years" and inserting

in lieu thereof "ten years" (2) section 3 by striking out "five-year period" and inserting in lieu thereof "ten-year period"; and (3) section 4(a) by striking out "three years" and inserting in lieu thereof "eight

April 22, 1960

1520 CONVEYANCE OF CERTAIN LANDS TO NEVADA

years". For legislative history of the 1963 Act see Public Law 88-15 in the 88th Congress; S. Rept. No. 120; H.R. Rept. No. 92.

**Cross Reference, Other Lands Transferred to Nevada.** The Act of March 6, 1958, 72 Stat. 31, segregated approximately 126,775 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.

**Legislative History.** H.R. 7359, Public Law 86-433 in the 86th Congress. Reported in the House from Interior and Insular Affairs February 8, 1960, H.R. Rept. No. 1250. Passed House February 15, 1960. Reported in Senate from Interior and Insular Affairs April 1, 1960, S. Rept. No. 1220. Passed Senate April 11, 1960.

## DELIVER WATER, RIVERTON PROJECT

An act permitting the Secretary of the Interior to continue to deliver water to lands in the Third Division, Riverton Federal reclamation project, Wyoming. (Act of May 5, 1960, Public Law 86-448, 74 Stat. 85)

[Delivery of water authorized pending completion of a repayment contract.]—Pending completion of a repayment contract the Secretary of the Interior is authorized to continue to deliver water to the lands in the Third Division, Riverton Federal reclamation project, Wyoming, during the calendar years 1960 and 1961, 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. (74 Stat. 85)

### EXPLANATORY NOTES

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

**Authorization.** The Riverton project was initially authorized as an Indian reclamation project pursuant to the Indian Appropriation Act of March 2, 1917, 29 Stat. 969, 993. It was placed under the jurisdiction of the Bureau of Reclamation by the Act of June 5, 1920, 41 Stat. 874, 915, the Sundry Civil Expenses Appropriation Act for 1921. The first and second divisions of the project were developed over the next 20 years. The general plan of development of the third division was authorized as the Riverton Extension Unit of the Missouri River Basin project under section 9(a) of the Flood Control Act of 1944, 58 Stat. 887, 891, but was not constructed as a part of that project. Extracts from the 1920 and 1944 Acts, including the provisions referred

to, appear herein in chronological order.

**Cross Reference, Delivery of Water.** Other Acts authorizing the continued delivery of water to the lands of the Third Division, Riverton project are the Act of June 8, 1962, for the calendar year 1962, the Act of April 19, 1963, for the calendar year 1963, and the Act of March 10, 1964, for the calendar years 1964, 1965 and 1966. These Acts appear herein in chronological order.

**Legislative History.** S.J. Res. 150, Public Law 86-448 in the 86th Congress. Reported in Senate from Interior and Insular Affairs Feb. 24, 1960; S. Rept. No. 1132. Passed Senate Mar. 28, 1960. Reported in House from Interior and Insular Affairs Apr. 20, 1960; H.R. Rept. No. 1528. Passed House Apr. 21, 1960.

### RELIEF OF HEIRS OF HENKEL

An act for the relief of the heirs of Caroline Henkel, William Henkel (now deceased), and George Henkel (presently residing at Babb, Montana), and for other purposes. (Act of May 13, 1960, Private Law 86-273, 74 Stat. A18)

[Payment authorized in settlement of claims for damages to lands and crops—and also to secure a permanent easement for seepage and flooding due to percolation—Agent's or attorney's fee limited.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the rightful heirs of Caroline and William Henkel, now deceased, and to George Henkel presently residing at Babb, Montana, the sum of \$16,000. The payment of such sum shall be in full settlement of all claims against the United States for any damage to the lands allotted to Caroline, William, and George Henkel in townships 36 and 37 north, range 14 west, Montana principal meridian, on the Blackfeet Indian Reservation, Montana, or to the crops of said lands, caused by seepage or flooding due to percolation from the Saint Mary's Canal of the Milk River reclamation project, and for any other alleged injuries to said lands or the crops thereon caused by the construction, operation, or maintenance of works of the Milk River reclamation project.

The payment of such sum shall also be in consideration of the granting of a permanent easement for seepage and flooding due to percolation through and over such lands from Saint Mary's Canal or other works of the Milk River reclamation project. The release of such claims and the granting of such easement in a form and manner satisfactory to the Secretary of the Interior shall be a condition precedent to the making of any payment under this Act: *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. (74 Stat. A18)

#### EXPLANATORY NOTE

**Legislative History.** S. 2333, Private Law 86-273 in the 86th Congress. Reported in Senate from Judiciary Mar. 14, 1960; S. Rept. No. 1176. Passed Senate Mar. 28, 1960. Reported in House from Judiciary Apr. 13, 1960; H.R. Rept. No. 1500. Passed House May 3, 1960.

## RELIEF OF ROBERT DOLTON

An act for the relief of Robert Dolton. (Act of May 13, 1960, Private Law 86-283, 74 Stat. A21)

[Payment authorized in settlement of claims arising out of location of high voltage transmission lines—Agent's or attorney's fee limited.]—The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Pearl E. Dolton, executrix of the estate of Clifford Dolton, deceased, of Holdenville, Oklahoma, the sum of \$2,099.54. The payments of such sum shall be in full settlement of all the claims of that estate against the United States for damages heretofore or hereafter sustained because the location of certain high voltage power transmission lines of the Southwestern Power Administration prevents safe performance of necessary repairs to a well on property owned by that estate: *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. (74 Stat. A21)

### EXPLANATORY NOTE

<p><b>Legislative History.</b> H.R. 6493, Private Law 86-283 in the 86th Congress. Reported in House from Judiciary Mar. 3, 1960; H.R. Rept. No. 1319. Passed House Mar.</p>	<p>15, 1960. Reported in Senate from Judiciary Apr. 11, 1960; S. Rept. No. 1256. Passed Senate May 5, 1960.</p>
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### SAN LUIS UNIT, CENTRAL VALLEY PROJECT

An act to authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, to enter into an agreement with the State of California with respect to the construction and operation of such unit, and for other purposes. (Act of June 3, 1960, Public Law 86-488, 74 Stat. 156)

[Sec. 1. (a) **San Luis Unit authorized—Restrictions on construction of Federal electric transmission or distribution facilities—Joint use facilities with State of California—Conditions precedent to construction—State responsibility.**]—For the principal purpose of furnishing water for the irrigation of approximately five hundred thousand acres of land in Merced, Fresno, and Kings Counties, California, hereinafter referred to as the Federal San Luis unit service area, and as incidents thereto of furnishing water for municipal and domestic use and providing recreation and fish and wildlife benefits, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the San Luis unit as an integral part of the Central Valley project. The principal engineering features of said unit shall be a dam and reservoir at or near the San Luis site, a forebay and afterbay, the San Luis Canal, the Pleasant Valley Canal, and necessary pumping plants, distribution systems, drains, channels, levees, flood works, and related facilities, but no facilities shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of an offer of a firm fifty-year contract from a local public or private agency, can through such contract be obtained at less cost to the Federal Government than by construction and operation of Government facilities. The works (hereinafter referred to as joint use facilities) for joint use with the State of California (hereinafter referred to as the State) shall be the dam and reservoir at or near the San Luis site, forebay and afterbay, pumping plants, and the San Luis Canal. The joint-use facilities consisting of the dam and reservoir shall be constructed, and other joint-use facilities may be constructed, so as to permit future expansion; or the joint-use facilities shall be constructed initially to the capacities necessary to serve both the Federal San Luis unit service area and the State's service area, as hereinafter provided. In constructing, operating, and maintaining the San Luis unit, 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). Construction of the San Luis unit shall not be commenced until the Secretary has (1) secured, or has satisfactory assurance of his ability to secure, all rights to the use of water which are necessary to carry out the purposes of the unit and the terms and conditions of this Act, and (2) received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit or has made provision for constructing the San Luis interceptor drain to the delta designed to

meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled "San Luis Unit, Central Valley Project," dated December 17, 1956.

## 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. 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.

## NOTES OF OPINIONS

Application of reclamation laws 2  
Excess land laws 3  
Flood control 4  
State service area 1

## 1. State service area

The term "San Luis unit", as used in section 1, includes the Federal service area but does not include the State service area. Solicitor Barry Opinion, 68 I.D. 412, 419 (1961), in re proposed agreement with the State of California covering construction of the San Luis unit.

The provision of section 1 requiring the application of reclamation law to the "San Luis unit" does not require application of the reclamation law to the State service area. Solicitor Barry Opinion, 68 I.D. 412, 419 (1961), in re proposed agreement with State of California covering construction of the San Luis unit.

## 2. Application of reclamation laws

Where Federal reclamation policy is not imperiled, it will not be presumed that a Federal statute was intended to supersede the exercise of the sovereign power of a State to develop its own resources, unless there is a clear manifestation of an intention to do so. Solicitor Barry Opinion, 68 I.D. 412, 424-6 (1961), in re proposed agreement with the State of California covering construction of the San Luis unit.

Federal reclamation laws would not apply to a State project merely because water from the project is commingled with water from a Federal project. Solicitor Barry Opinion, 68 I.D. 412, 421 (1961), in re proposed agreement with State of California covering construction of San Luis unit.

Use of Federal hydroelectric power does not require compliance with Federal reclamation laws. Solicitor Barry Opinion, 68 I.D. 412, 421 (1961), in re proposed agreement with State of California covering construction of San Luis unit.

## 3. Excess land laws

The acreage limitation provisions of Federal reclamation law do not apply to the State service area. Solicitor Barry Opinion, 68 I.D. 412 (1961), in re proposed agreement with State of California covering construction of San Luis unit; letter of Attorney General, 68 I.D. 370 (1961).

Although section 2 of the Warren Act, standing alone, requires the application of acreage limitations where the United States cooperates with an entity in the construction of irrigation facilities even where no Federal subsidy is extended to the lands served by such non-Federal entity, the legislative history of the San Luis act indicates a Congressional intention that the acreage limitation should only apply where Federal investment is made and because of the Federal investment. Solicitor Barry Opinion, 68 I.D. 412, 426 (1961), in re proposed agreement with State of California, covering construction of San Luis unit.

The contract of November 4, 1960, for the delivery of water from the State of California's Water Resources Development System to the Metropolitan Water District of Southern California, is not invalid because it does not contain the 160-acre limitation provided for in Federal reclamation law, notwithstanding the fact that the State system utilizes certain facilities in the San Luis unit jointly with the Federal government. *Metropolitan Water District of Southern California v. Marquardt*, 59 Cal. 2d 159, 379 P. 2d. 28, 44-47 (1963).

Under the water service contract of June 5, 1963, and the proposed distribution system contract with the Westlands Water District, project distribution facilities may not be used to carry water of any kind (whether project, non-project, or pumped water) to excess lands. The "Tulare formula" (see Solicitor White Opinion, M-36011 (September 23, 1949), in re proposed Tulare Irrigation District contract).

applies only to the use of nonproject facilities. Letter from Solicitor Barry to Senator Frank Moss, July 23, 1964, reprinted in *Hearing on Westlands Water District* [distribution system] *Contract Before the Senate Committee on Interior and Insular Affairs*, 88th Cong., 2d Sess. 157 (1964).

#### 4. Flood control

The facts that section 1(a) of the Act of June 3, 1960, authorizes the San Luis unit as an integral part of the Central Valley project, which includes flood control as one

of its purposes, and that the unit is governed by the Federal reclamation laws, of which section 9(b) of the Reclamation Project Act of 1939 is a part, supports the allocation of a portion of the cost of the Los Banos Detention Reservoir, to be constructed in connection with the San Luis Canal, to flood control as nonreimbursable, notwithstanding the fact that the 1960 act does not specifically mention flood control among the enumerated purposes. Memorandum of Associate Solicitor Hogan, September 18, 1964.

(b) [Water may not be delivered for the production of any "excess" agricultural commodity.]—No water provided by the Federal San Luis unit shall be delivered in the Federal San Luis service area 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 as estimated by the Secretary of Agriculture for the marketing year in which the bulk of the crop would normally be marketed and which will be 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 calls for an increase in production of such commodity in the interest of national security. (74 Stat. 156)

#### 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 "nor-

mal 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.

**Sec. 2. [Agreement with State of California authorized for Federal-State operation of San Luis Unit—Contingencies of such agreement—Alternatives if such agreement is not executed—Future enlargement of facilities by California; conditions.]**—The Secretary is authorized, on behalf of the United States, to negotiate and enter into an agreement with the State of California providing for coordinated operation of the San Luis unit, including the joint-use facilities, in order that the State may, without cost to the United States, deliver water in service areas outside the Federal San Luis unit service area as described in the report of the Department of the Interior, entitled "San Luis Unit, Central Valley Project", dated December 17, 1956. Said agreement shall recite that the liability of the United States thereunder is contingent upon the availability of appropriations to carry out its obligations under the same. No funds shall be appropriated to commence construction of the San Luis unit under any such agreement, except for the preparation of designs and specifications and other preliminary work, prior to ninety calendar days (which ninety 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) after it has been submitted to the Congress, and then only if neither the House nor the Senate Interior and Insular Affairs Committee has disapproved it by committee resolution within said ninety days. If such an agree-

June 3, 1960

SAN LUIS UNIT, CENTRAL VALLEY PROJECT

1527

ment has not been executed by January 1, 1962, and if, after consultation with the Governor of the State, the Secretary determines that the prospects of reaching accord on the terms thereof are not reasonably firm, he may proceed to construct and operate the San Luis unit in accordance with section 1 of this Act: *Provided*, That, if the Secretary so determines, he shall report thereon to the Congress and shall not commence construction for ninety calendar days from the date of his report (which ninety 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). In considering the prospects of reaching accord on the terms of the agreement the Secretary shall give substantial weight to any relevant affirmative action theretofore taken by the State, including the enactment of State legislation authorizing the State to acquire and convey to the United States title to lands to be used for the San Luis unit or assistance given by it in financing Federal design and construction of the unit. The authority conferred upon the Secretary by the first sentence of this section shall not, except as is otherwise provided in this section, be construed as a limitation upon the exercise by him of the authority conferred in section 1 of this Act, but if the State shall agree that, if it later enlarges the joint-use facilities, or any of them, it will pay an equitable share of the cost to the United States of those facilities as initially constructed before utilizing them for the storage or delivery of water and will bear the entire cost of enlarging the same and if, as a part of said equitable share, it makes available to the Secretary sufficient funds to pay the additional cost of designing and constructing the joint-use facilities so as to permit enlargement, it shall have an irrevocable right to enlarge or modify such facilities at any time in the future, and a perpetual right to the use of such additional capacity: *Provided*, That the performance of such work by the State, after approval of its plans by the Secretary, shall be so carried on as not to interfere unduly with the operation of the project for the purposes set forth in section 1 of this Act and the use of the additional capacity for water service shall be limited to service outside of the Federal San Luis unit service area: *And provided further*, That this right may be relinquished by the State at any time at its option. (74 Stat. 157)

**Sec. 3. [Provisions required in Federal-State agreement.]**—The agreement between the United States and the State referred to in section 2 of this Act shall provide, among other things, that—

(a) the joint-use facilities to be constructed by the Secretary shall be so designed and constructed to such capacities and in such manner as to permit either (i) immediate integration and coordinated operation with the State's water projects by providing, among other things, a capacity in San Luis Reservoir of approximately two million one hundred thousand acre-feet and corresponding capacities in the other joint-use facilities or (ii) such subsequent enlargement or other modification as may be required for integration and coordinated operation therewith;

(b) the State shall make available to the Secretary during the construction period sufficient funds to pay an equitable share of the construction costs of any facilities designed and constructed as provided in paragraph

June 3, 1960

1528      SAN LUIS UNIT, CENTRAL VALLEY PROJECT

(a) above. The State contribution shall be made in annual installments, each of which bears approximately the same ratio to total expenditures during that year as the total of the State's share bears to the total cost of the facilities; the State may make advances to the United States in order to maintain a timely construction schedule of the joint-use facilities and the works of the San Luis unit to be used by the State and the United States;

(c) the State may at any time after approval of its plans by the Secretary and at its own expense enlarge or modify San Luis Dam and Reservoir and other facilities to be used jointly by the State and the United States, but the performance of such work shall be so carried on as not to interfere unduly with the operation of the San Luis unit for the purposes set forth in section 1 of this Act;

(d) the United States and the State shall each pay annually an equitable share of the operation, maintenance, and replacement costs of the joint-use facilities;

(e) promptly after execution of this agreement between the Secretary and the State, and for the purpose of said agreement, the State shall convey to the United States title to any lands, easements and rights-of-way which it then owns and which are required for the joint-use facilities. The State shall be given credit for the costs of these lands, easements, and rights-of-way toward its share of the construction cost of the joint-use facilities. The State shall likewise be given credit for any funds advanced by it to the Secretary for preparation of designs and specifications or for any other work in connection with the joint-use facilities;

(f) the rights to the use of capacities of the joint-use facilities of the San Luis unit shall be allocated to the United States and the State, respectively, in such manner as may be mutually agreed upon. The United States shall not be restricted in the exercise of its right so allocated, which shall be sufficient to carry out the purposes of section 1 of this Act and which shall extend throughout the repayment period and so long thereafter as title to the works remains in the United States. The State shall not be restricted in the exercise of its allocated right to the use of the capacities of the joint-use facilities for water service outside the Federal San Luis unit service area;

(g) the Secretary may turn over to the State the care, operation, and maintenance of any works of the San Luis unit which are used jointly by the United States and the State at such time and under such conditions as shall be agreed upon by the Secretary and the State;

(h) notwithstanding transfer of the care, operation, and maintenance of any works to the State, as hereinbefore provided, any organization which has theretofore entered into a contract with the United States under the Reclamation Project Act of 1939, and amendments thereto, for a water supply through the works of the San Luis unit, including joint-use facilities, shall continue to be subject to the same limitations and obligations and to have and to enjoy the same rights which it would have had under its contract with the United States and the provisions of paragraph (4) of section 1 of

June 3, 1960

SAN LUIS UNIT, CENTRAL VALLEY PROJECT

1529

the Act of July 2, 1956 (70 Stat. 483, 43 U.S.C. 485h-1) in the absence of such transfer, and its enjoyment of such rights shall be without added cost or other detriment arising from such transfer;

(i) if a nonreimbursable allocation to the preservation and propagation of fish and wildlife has been made as provided in section 2 of the Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. 662), as amended, the features of the unit to which such allocation is attributable shall, notwithstanding transfer of the care, operation, and maintenance to the State, be operated and maintained in such wise as to retain the bases upon which such allocation is premised and, upon failure so to operate and maintain those features, the amount allocated thereto shall become a reimbursable cost to be paid by the State;

(j) the State shall not serve any lands within the Federal San Luis unit service area except as such service is required as a consequence of its acceptance of the care, operation, and maintenance of works under paragraph (g) of this section. (74 Stat. 158)

NOTE OF OPINION

**1. Reversible turbines**

Installation of reversible turbines in the San Luis pumping plant as an integral part of an engineering decision in the selection of the most economical plan of project con-

struction, is authorized by the Act of June 3, 1960, particularly in view of the Congressional authorization for an enlarged reservoir. Memorandum of Associate Solicitor Weinberg, July 6, 1962.

**Sec. 4. [Restrictions upon operation if constructed solely as a Federal project.]**—If the Secretary proceeds to construct, operate, and maintain the San Luis works under the terms of section 1 of this Act solely as a Federal project, the operation shall be subject to the following restriction: Whenever the chlorides in the water at the head of the Delta-Mendota Canal exceed one hundred and fifty parts per million during the months of July, August, or September, the mean daily diversion from the Sacramento-San Joaquin Delta to San Luis unit via Tracy pumping plant and Delta-Mendota Canal as measured at the San Luis pumping plant shall not exceed the mean daily import to the Sacramento Valley from the Trinity project. (74 Stat. 159)

**Sec. 5. [Drainage system for San Luis Unit may be used by other parties; contract terms.]**—In constructing, operating, and maintaining a drainage system for the San Luis unit, the Secretary is authorized to permit the use thereof by other parties under contracts the terms of which are as nearly similar as is practicable to those required by the Federal reclamation laws in the case of irrigation repayment or service contracts and is further authorized to enter into agreements and participate in construction and operation of drainage facilities designed to serve the general area of which the lands to be served by the San Luis unit are a part, to the extent the works authorized in section 1 of this Act contribute to drainage requirements of said area. The Secretary is also authorized to permit the use of the irrigation facilities of the San Luis unit, including its facilities for supplying pumping energy, under contracts entered into pursuant to section 1 of the Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523). (74 Stat. 159)

## 1530 SAN LUIS UNIT, CENTRAL VALLEY PROJECT

## EXPLANATORY NOTE

**Reference in the Text.** The Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523), referred to in the text, is the Warren Act. The Act appears herein in chronological order.

## NOTES OF OPINIONS

**Contributed funds** 1  
**Excess lands** 2

**1. Contributed funds**

Although there is no authority under the San Luis Act to accept contributed funds from the State of California to expand the capacity of the San Luis Drain from 250 c.f.s. to 1,400 c.f.s., such authority may be found under the Contributed Funds Act, 41 Stat. 1404. The enlargement of the drain to such an extent does not so alter the facility that it would be deemed to be beyond the authority granted to build the drain by the Federal Government. Such contributed funds would have to be furnished in advance of construction. Memorandum of Solicitor Barry, April 10, 1964, to Commissioner of Reclamation in re

legal issues with respect to the construction of the San Luis Drain, Central Valley Project.

**2. Excess lands**

Section 5 of the San Luis Act requires that the standard reclamation land limitations be incorporated into contracts concerning drainage service. However, as a practical matter, it is doubtful that the excess land laws could be applied to an individual not under contract with the United States whose water casually drains into an unlined Federal drainage system. Memorandum of Solicitor Barry, April 10, 1964, to Commissioner of Reclamation in re legal issues with respect to the construction of the San Luis Drain, Central Valley Project.

**Sec. 6. [Works to be planned in such manner as to contemplate future service in other areas.]**—The Secretary is directed to plan the works authorized in this Act in such a manner as to contemplate and make possible the future provision of 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 heretofore anticipated as a possibility by the Acts of October 14, 1949 (63 Stat. 852), and August 27, 1958 (72 Stat. 937). Construction of additional works to provide such service shall not be undertaken until a report demonstrating their physical and economic feasibility has been completed, reviewed by the State, and approved by the Secretary, and the works have been authorized by Act of Congress. (74 Stat. 159)

## EXPLANATORY NOTES

**References in the Text.** The Act of October 14, 1949 (63 Stat. 852), and that of August 27, 1958 (72 Stat. 937), referred to in the text, are, respectively, the Act authorizing development of the American River Basin, California, and the Joint Resolution authorizing studies to extend

Central Valley Project service. Both Acts appear herein in chronological order.

**San Felipe Division.** The facilities contemplated by this section comprise the proposed San Felipe division, Central Valley project.

## NOTES OF OPINIONS

**Application of reclamation laws** 1  
**Excess land laws** 2

**1. Application of reclamation laws**

The United States may contract with the State of California for the carriage of water in a portion of the California Aqueduct to supply the proposed San Felipe division without subjecting the California State

Water Plan to the provisions of the Federal reclamation laws. Memorandum of Deputy Solicitor Weinberg to Commissioner, October 14, 1964.

**2. Excess land laws**

The fact that urbanization is expected to replace irrigation farming within fifty years after project operations start does not sus-

June 3, 1960

SAN LUIS UNIT, CENTRAL VALLEY PROJECT 1531

pend the recordable contract requirements of the excess land laws. Memorandum of Deputy Solicitor Weinberg to Commissioner, October 14, 1964, in re feasibility report in San Felipe division.

**Sec. 7. [Minimum basic public recreational facilities authorized.]**—The Secretary is authorized, in connection with the San Luis unit, to construct minimum basic public recreational facilities and to arrange for the operation and maintenance of the same by the State or an appropriate local agency or organization. The cost of such facilities shall be nonreturnable and nonreimbursable under the Federal reclamation laws. (74 Stat. 160)

**Sec. 8. [Appropriations authorizations.]**—There is hereby authorized to be appropriated for construction of the works of the San Luis unit, including joint-use facilities, authorized by this Act, other than distribution systems and drains, the sum of \$290,430,000, plus such additional amount, if any, as may be required by reason of changes in costs of construction of the types involved in the San Luis unit as shown by engineering indexes. Said base sum of \$290,430,000 shall, however, be diminished to the extent that the State makes funds or lands or interests in land available to the Secretary pursuant to sections 2 or 3 of this Act which decrease the costs which would be incurred if the works authorized in section 1 of this Act (including provision for their subsequent expansion) were constructed solely as a Federal project. There are also authorized to be appropriated, in addition thereto, such amounts as are required (a) for construction of such distribution systems and drains as are not constructed by local interests, but not to exceed in total cost the sum of \$192,650,000, and (b) for operation and maintenance of the unit: *Provided*, That no funds shall be appropriated for construction of distribution systems and drains prior to ninety calendar days (which ninety 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) after a contract has been submitted to the Congress calling for complete repayment of the distribution systems and drains within a period of forty years from the date such works are placed in service. All moneys received by the Secretary from the State under this Act shall be covered into the same accounts as moneys appropriated hereunder and shall be available, without further appropriation, to carry out the purposes of this Act. (74 Stat. 160)

EXPLANATORY NOTES

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

**Legislative History.** S. 44, Public Law 86-488 in the 86th Congress. Reported in Senate from Interior and Insular Affairs Apr. 8, 1959; S. Rept. No. 154. Passed

Senate May 12, 1959. Passed House, amended, May 18, 1960. Senate agrees to House amendments May 19, 1960. Companion bill H.R. 7155 reported in House from Interior and Insular Affairs May 27, 1959; H.R. Rept. No. 399.

## CONSENT TO NEGOTIATE BIG BLUE RIVER COMPACT

An act granting the consent of Congress to the States of Kansas and Nebraska to negotiate and enter into a compact relating to the apportionment of the waters of the Big Blue River and its tributaries as they affect such States. (Act of June 3, 1960, Public Law 86-489, 74 Stat. 160)

[Consent granted to negotiate compact.]—The consent of Congress is hereby given to the States of Kansas and Nebraska to negotiate and enter into a compact relating to the interests of such States in the waters of the Big Blue River and all its tributaries, and providing for an equitable apportionment between said States of the waters of the Big Blue River and its tributaries and for matters incident thereto: *Provided*, 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 on the proceedings and on the compact. The person so appointed shall be chosen from among persons who are regularly employed full time by a department or agency of the United States and shall receive no additional compensation by reason of appointment under this Act. His travel expenses, including per diem in lieu of subsistence, shall be borne by the department or agency from which he is appointed. No compact, the negotiation of which is authorized by this Act, shall be binding upon the parties thereto until it has been ratified by the legislatures of each of the respective States, and approved by the Congress of the United States. (74 Stat. 160)

### EXPLANATORY NOTES

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

**Legislative History.** S. 1605, Public Law 86-489 in the 86th Congress. Reported in Senate from Judiciary Sept. 8, 1959; S.

Rept. No. 929. Passed Senate Sept. 10, 1959. Passed House, amended, May 2, 1960. Senate agrees to House amendments May 24, 1960. Companion bill H.R. 10513 reported in House from Interior and Insular Affairs Apr. 25, 1960; H.R. Rept. No. 1550.

## HISTORICAL AND ARCHEOLOGICAL DATA

An act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam. (Act of June 27, 1960, Public Law 86-523, 74 Stat. 220)

[**Sec. 1. Purpose of the Act.**]—It is the purpose of this Act to further the policy set forth in the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 461-467), by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of flooding, the building of access roads, the erection of workmen’s communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency. (74 Stat. 220; 16 U.S.C. § 469)

**Sec. 2. (a) [Secretary of the Interior to be notified before any agency of the United States undertakes, or issues a license for, the construction of a dam—Contents of the notice—Exceptions.]**—Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any floodwater retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

**(b) [Area proposed to be flooded shall be surveyed to determine existence of historical and archeological data—Collection and preservation of such data.]**—Upon receipt of any notice, as provided in subsection (a), the Secretary of the Interior (hereinafter referred to as the “Secretary”), shall cause a survey to be made of the area proposed to be flooded to ascertain whether such area contains historical and archeological data (including relics and specimens) which should be preserved in the public interest. Any such survey shall be conducted as expeditiously as possible. If, as a result of any such survey, the Secretary shall determine (1) that such data exists in such area, (2) that such data has exceptional historical or archeological significance, and should be collected and preserved in the public interest, and (3) that it is feasible to collect and preserve such data, he shall cause the necessary work to be performed in such area to collect and preserve such data. All such work shall be performed as expeditiously as possible.

**(c) [Agency instigating the project shall be kept apprised of the progress of the survey.]**—The Secretary shall keep the instigating agency notified at all

times of the progress of any survey made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency.

(d) [Survey to be made, as far as practicable, at previously authorized dam sites also.]—A survey similar to that provided for by section (b) of this section and the work required to be performed as a result thereof shall so far as practicable also be undertaken in connection with any dam the construction of which has been heretofore authorized by any agency of the United States, or by any private person or corporation holding a license issued by any such agency.

(e) [The Secretary to consult with other agencies, organizations, etc., to determine proper disposition of relics and specimens.]—The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section. (74 Stat. 220; 16 U.S.C. § 469a)

**Sec. 3. [General administrative authority.]**—In the administration of this Act, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) procure the temporary or intermittent services of experts or consultants or organizations thereof as provided in section 15 of the Act of August 2, 1946 (5 U.S.C. § 55a); and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporations holding a license issued by an agency of the United States for the construction of a dam or other type of water or power control project. (74 Stat. 221; 16 U.S.C. § 469b).

**Sec. 4. [Appropriations authorization.]**—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. (74 Stat. 221; 16 U.S.C. § 469c).

#### 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.

**Reference in the Text.** The Act of August 21, 1935 (16 U.S.C. §§ 461-467), referred to in section 1, authorizes the Secretary of the Interior to investigate, acquire, and manage historic and archaeological sites, buildings, and properties.

**Cross Reference, Antiquities.** The Act of June 8, 1906, 34 Stat. 225, 16 U.S.C. §§ 431-33, among other things, authorizes the Secretaries of the Interior, Agriculture, and the Army to grant permits for the excavation of archaeological sites and the gathering of objects of antiquity upon lands under their respective jurisdictions, and

provides a penalty for engaging in such activities without a permit.

**Cross Reference, Smithsonian Institution.** The Act of August 15, 1949, 63 Stat. 606, 20 U.S.C. §§ 78-78a, authorizes the Secretary of the Smithsonian Institution to cooperate with any State, educational institution, or scientific organization for paleontological excavations in areas which will be flooded by Government dams.

**Legislative History.** S. 1185, Public Law 86-523 in the 86th Congress. Reported in Senate from Interior and Insular Affairs June 9, 1959; S. Rept. No. 383. Passed Senate June 12, 1959. Reported in House from Interior and Insular Affairs Mar. 15, 1960; H.R. Rept. No. 1392. Passed House, amended, Apr. 4, 1960. Senate agrees to House amendments June 9, 1960.

## NORMAN PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Norman project, Oklahoma, and for other purposes. (Act of June 27, 1960, Public Law 86-529, 74 Stat. 225)

**[Sec. 1. Norman project authorized primarily for municipal, domestic, and industrial water uses and flood control—Contracts authorized with municipal and other organizations to undertake with non-Federal financing the construction of pumping plants, etc.]**—The Secretary of the Interior is authorized to construct, operate, and maintain the Norman Federal reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof or supplemental 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 controlling floods, and, as incidents to the foregoing for the additional purposes of regulating the flow of the Little River, providing for the conservation and development of fish and wildlife, and of enhancing recreational opportunities. The Norman project shall consist of the following principal work: A reservoir on Little River near Norman, Oklahoma, pumping plants, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use.

The Secretary may enter into suitable contracts with municipal organizations, or other organizations as defined in section 2, Reclamation Project Act of 1939 (53 Stat. 1187), to undertake with non-Federal financing the construction of pumping plants, pipelines, and other conduits, or of any of such works, for furnishing water for municipal, domestic, and industrial use, and to advance to such organizations during the construction period funds to cover an appropriate share of the costs thereof attributable to furnishing water to Tinker Air Force Base. (74 Stat. 225; 43 U.S.C. § 615aa)

**Sec. 2. [Cost allocations—Repayment, except for water supplied to Tinker Air Force Base—Interest rate—Permanent right to use water allocation after payment of construction cost obligation.]**—In constructing, operating, and maintaining the Norman project, the Secretary shall allocate proper costs thereof in accordance with the following conditions:

(a) Allocations to flood control, recreation, and the conservation and development of fish and wildlife and water supply for Tinker Air Force Base shall be nonreturnable.

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, with the exception of that for Tinker Air Force Base, shall be repayable to the United States by the water users through contracts with municipal corporations, or other organizations as defined by section 2, Reclamation Project Act of 1939 (53 Stat. 1187), under the provisions of the Federal reclamation laws, and to the extent appropriate, under the Water Supply Act of 1958. Such contracts shall be precedent to the commencement of construc-

## NORMAN PROJECT

tion 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 date water is first delivered for that purpose: *Provided*, That the water users' organization be responsible for the disposal and sale of all water surplus to its requirements, and that the revenues therefrom shall be used by the organization for the retirement of project debt payment, payment of interest, and payment of operation and maintenance cost. 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.

(c) Upon the completion of the payment of the water users' construction cost obligation, together with the interest thereon, the water users shall have a permanent right to the use of that portion of the project allocable to municipal water supply purposes, subject, if the project is then operated by the United States, to payment of a reasonable annual charge by the Secretary of the Interior sufficient to pay all operation and maintenance charges and a fair share of the administrative costs applicable to the project. (74 Stat. 225; 43 U.S.C. § 615bb)

**Sec. 3. [Excepted from requirement of irrigation use priority.]**—Contracts may be entered into with the water users' organization pursuant to the provisions of this Act without regard to the last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939. (74 Stat. 226; 43 U.S.C. § 615cc)

**Sec. 4. [Works may be transferred for operation and maintenance to water users—Flood control and fish and wildlife cost allocations—Operating criteria with respect to flood control and fish and wildlife—Tinker Air Force Base water supply costs.]**—The Secretary is authorized to transfer to the project water users the care, operation, and maintenance of the works herein authorized, and, if such transfer is made, to deduct from the obligation of the water users the reasonable capitalized equivalent of that portion of the estimated operation and maintenance cost of the undertaking which, if the United States continues to operate the project, would be allocated to flood control and fish and wildlife purposes. Prior to taking over the care, operation, and maintenance of said works, the water users' organization shall obligate itself to operate them in accordance with criteria specified by the Secretary of the Army with respect to flood control and the Secretary of the Interior with respect to fish and wildlife: *Provided*, That operation and maintenance and replacement cost of furnishing water supply to Tinker Air Force Base, as contemplated in the plan of development, shall be provided by an appropriate agreement between the Secretary of Defense and the water users' organization. (74 Stat. 226; 43 U.S.C. § 615dd)

**Sec. 5. [Construction of project may be in stages or by units—Unit repayment contracts.]**—Construction of the Norman 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 municipal 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. (74 Stat. 226; 43 U.S.C. § 615ee)

**Sec. 6. [Recreational facilities authorized not inconsistent with State fish and game laws.]**—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 Norman 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 and the protection of the public health, safety, and welfare. The Federal costs of constructing the facilities authorized by this section shall be limited to the nonreimbursable costs of the Norman project for minimum basic recreational facilities as determined by the Secretary. (74 Stat. 226; 43 U.S.C. § 615ff)

**Sec. 7. [Soil survey and land classification requirements waived.]**—Expenditures for the Norman Reservoir 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). (74 Stat. 226; 43 U.S.C. § 615gg)

**Sec. 8. [Appropriations authorization.]**—There is hereby authorized to be appropriated for construction of the works authorized by this Act not to exceed \$19,042,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein: *Provided*, That such basic amount shall not exceed \$12,920,000 in the event the aqueduct system is not constructed by the Federal Government. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (74 Stat. 226; 43 U.S.C. § 615hh)

**Sec. 9. [Interest rate provision for Colorado River Storage Project Act amended.]**—Section 5(f) of the Act entitled “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”, approved April 11, 1956 (70 Stat. 109), is amended effective June 1, 1960, to read as follows: “The interest rate applicable to each unit of the storage project and each participating project 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 the date of issue.” (74 Stat. 227; 43 U.S.C. § 620d)

NORMAN PROJECT

EXPLANATORY NOTES

**References in the Text.** Each of the various acts referred to in the text is found herein in chronological order.

**Legislative History.** S. 1892, Public Law 86-529 in the 86th Congress. Reported in Senate from Interior and Insular Affairs

Sept. 2, 1959; S. Rept. No. 872. Passed Senate Sept. 9, 1959. Reported in House from Interior and Insular Affairs May 24, 1960; H.R. Rept. No. 1644. Passed House, amended, June 1, 1960. Senate agrees to House amendments June 2, 1960.

## REPEAL OF REPORTING REQUIREMENTS

[Extracts from] An act to repeal certain provisions of law requiring the submission of certain reports to Congress, and for other purposes. (Act of June 29, 1960, Public Law 86-533, 74 Stat. 245)

[Reporting requirements repealed.]—The following provisions of law, which relate to the submission of certain reports to Congress or other Government authority, are hereby repealed, as follows:

\* \* \* \* \*

(13) That part of section 13 of the Act of June 25, 1910 (36 Stat. 858; 43 U.S.C. 148), relating to the authority of the Secretary of the Interior to reserve certain Indian lands valuable for power or reservoir sites or for irrigation projects and his reports thereon, which reads as follows: “, and he shall report to Congress all reservations made in conformity with this Act”.

(14) Section 3 of the Act entitled “An Act to authorize the President of the United States to make withdrawals of public lands in certain cases”, approved June 25, 1910, as amended (36 Stat. 848; 43 U.S.C. 143), which reads as follows:

“SEC. 3. That the Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals.”.

\* \* \* \* \*

(18) Section 2 of the Act entitled “An Act to authorize appropriations for the Bureau of Reclamation for payments to school districts on certain projects during their construction status”, approved June 29, 1948 (62 Stat. 1108; 43 U.S.C. 385b), which reads as follows:

“SEC. 2. 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.”.

### EXPLANATORY NOTES

**References in the Text.** Extracts from the Act of June 25, 1910 (36 Stat. 858; 43 U.S.C. 148), the Act of June 25, 1910, as amended (36 Stat. 848; 43 U.S.C. 143), and the Act of June 29, 1948 (62 Stat. 1108; 43 U.S.C. 385b), referred to in the text, appear herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions are not included because none were found dealing primarily with the ac-

tivities of the Bureau of Reclamation under this statute.

**Legislative History.** S. 899, Public Law 86-533 in the 86th Congress. Reported in Senate from Government Operations Mar. 25, 1959; S. Rept. No. 146. Passed Senate Apr. 10, 1959. Reported in House from Government Operations Apr. 6, 1960; H.R. Rept. No. 1458. Passed House, amended, Apr. 19, 1960. Senate agrees to House amendments June 18, 1960.

## RELIEF OF HEIRS OF WILHELM

An act directing the Secretary of the Interior to issue a homestead patent to the heirs of Frank L. Wilhelm. (Act of July 5, 1960, Private Law 86-385, 74 Stat. A61)

**[Sec. 1. Patent conveying fee simple title authorized.]**—The Secretary of the Interior is hereby authorized and directed to issue a patent conveying to the heirs of Frank L. Wilhelm, deceased, a fee simple title for the land and minerals included in homestead entry Cheyenne 043849, comprising lots 3, 4, section 7; lot 1, northeast quarter northwest quarter section 18; township 57 north, range 97 west, sixth principal meridian, Wyoming, on the basis of rights earned by compliance with the homestead laws effective January 17, 1929. (74 Stat. A61)

**Sec. 2. [Owners of patent substituted for the United States as lessor of oil and gas lease.]**—Upon issuance of a patent pursuant to section 1 of this Act, the owners of such patent shall be substituted for the United States as lessor under oil and gas lease Cheyenne 067759 issued as of January 1, 1946, to Dorothy Atwood Fox, insofar as said lease covers land included in said patent, effective as of the date of approval of this Act. (74 Stat. A61)

**Sec. 3. [Decision of Court of Claims not prejudiced as to right of owners of patent to moneys accrued under the lease prior to this Act.]**—Nothing contained in section 1 or 2 of this Act shall prejudice determination by the Court of Claims, in accordance with the law in effect prior to enactment of this Act, of any claim of right by the heirs of Frank L. Wilhelm to have paid to them moneys which have heretofore accrued or been paid to the United States under oil and gas lease Cheyenne 067759, and said court is hereby authorized, notwithstanding lapse of time, to hear, determine, and render judgment in any such suit that may be brought within one year from the date of this Act. (74 Stat. A61)

### EXPLANATORY NOTES

**Background.** Homestead entry Cheyenne 043849, the land which is the subject of this act, is a reclamation homestead entry.

**Legislative History.** H.R. 3122, Private Law 86-385 in the 86th Congress. Reported in House from Interior and Insular Affairs

Mar. 17, 1960; H.R. Rept. No. 1407. Passed House Apr. 5, 1960. Reported in Senate from Interior and Insular Affairs June 21, 1960; S. Rept. No. 1627. Passed Senate June 28, 1960.

## AMISTAD DAM, RIO GRANDE

An act to authorize the conclusion of an agreement for the joint construction by the United States and Mexico of a major international storage dam on the Rio Grande in accordance with the provisions of the treaty of February 3, 1944, with Mexico, and for other purposes. (Act of July 7, 1960, Public Law 86-605, 74 Stat. 360)

[**Sec. 1. Agreement for joint construction of dam.**]—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of a major international storage dam on the Rio Grande at the site and having substantially the characteristics described in minute numbered 207 adopted June 19, 1958, by the said Commission, and in the “Rio Grande International Storage Dams Project—Report on Proposed Dam and Reservoir” prepared by the United States Section of the said Commission and dated September 1958. (74 Stat. 360; 22 U.S.C. § 277d-13)

**Sec. 2. [Power facilities.]**—If agreement is concluded pursuant to section 1 of this Act for the construction of a major international storage dam the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude with the appropriate official or officials of Mexico an agreement consistent with article 7 of the treaty of February 3, 1944, for the construction, operation, and maintenance on a self-liquidating basis, for the United States share, of facilities for generating hydroelectric energy at said dam.

If agreement for the construction of separate facilities for generating hydroelectric energy is concluded, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is directed to construct, operate, and maintain such self-liquidating facilities for the United States. (74 Stat. 360; 22 U.S.C. § 277d-14)

**Sec. 3. [Water releases.]**—If a dam is constructed pursuant to an agreement concluded under the authorization granted by section 1 of this Act, its operation for conservation and release of United States share of waters shall be integrated with other United States water conservation activities on the Rio Grande below Fort Quitman, Texas, in such manner as to provide the maximum feasible amount of water for beneficial use in the United States with the understandings that (a) releases of United States share of waters from said dam for domestic, municipal, industrial, and irrigation uses in the United States shall be made pursuant to order by the appropriate authority or authorities of the State of Texas, and (b) the State of Texas having stipulated that the amount of water that will be available for use in the United States below Falcon Dam after the proposed dam is placed in operation will be not less than the amount available under existing conditions of river development, and to carry out such understandings and said

stipulation the conservation storage of said dam shall be used, and it shall be the exclusive responsibility of the appropriate authority or authorities of said State to distribute available United States share of waters of the Rio Grande in such manner as will comply with said stipulation. (74 Stat. 360; 22 U.S.C. § 277d-15)

**Sec. 4. [Appropriation.]**—There is hereby authorized to be appropriated to the Department of State for the use of the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to carry out the provisions of this Act. (74 Stat. 361; 22 U.S.C. § 277d-16)

#### EXPLANATORY NOTES

**Supplementary Provisions: Marketing of Power.** The Act of December 23, 1964, 77 Stat. 475, authorizes the Secretary of the Interior to market power from Amistad Dam. The Act appears herein in chronological order.

**Amistad Dam.** Amistad Dam is located about 600 river miles below Fort Quitman, Texas, about 12 miles above Del Rio, Texas, and about 290 river miles above Falcon Dam. 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. A firm decision to include power facilities has not been made as of 1965. On October 24, 1960, Presidents Eisenhower and Mateos entered into an agreement to proceed with construction of the dam. 11 U.S.C. & O.I.A. 2396.

**Cross Reference, 1944 Treaty.** Article 5 of the Treaty with Mexico of February 3, 1944, deals with the construction of international storage dams on the Rio Grande. The Treaty 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 1944 Treaty.

**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 deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** H.R. 12263, Public Law 86-603 in the 86th Congress. Reported in House from Foreign Affairs May 25, 1960; H.R. Rept. No. 1654. Passed House June 9, 1960. Reported in Senate from Foreign Relations June 23, 1960; S. Rept. No. 1670. Passed Senate, amended, June 24, 1960. House agrees to Senate amendments June 24, 1960.

## POWER REVENUES, GRAND VALLEY PROJECT

An act to provide for the application and disposition of net revenues from the power development on the Grand Valley Federal reclamation project, Colorado. (Act of July 12, 1960, Public Law 86-640, 74 Stat. 472)

[Water Users' Association authorized to contract for sale of power or power privileges in the Grand Valley Power Plant—Disposition of power revenues.]—Upon the expiration of the contract between the United States, the Grand Valley Water Users' Association, and the Public Service Company of Colorado, dated July 2, 1959, the Grand Valley Water Users' Association, with the approval of the Secretary of the Interior, is authorized to enter into a contract or contracts for a cumulative total period of not to exceed twenty-five years for the sale or development of any power or power privileges in the Grand Valley Power Plant, Grand Valley reclamation project: *Provided*, That such sale or development of power or power privileges shall be without expenditure of funds by the United States. Any such contract shall provide, among other things, that annual net power revenues from the plant, minus the annual operation and maintenance cost of delivering the power water, will be applied in the following order and manner: (a) on the aggregate of the annual sums due and payable by the Association to the United States as provided in article 12, paragraphs (c), (d), and (e), and article 22(a) (ii) of contract numbered Ilr-644 between the United States and the Association, dated January 27, 1945, until such time as the obligation under said contract has been paid in full; and (b) in any year in which the net power revenues exceed the aggregate of the annual sums due and payable under said contract between the United States and the Association, and after the obligation under said contract has been paid in full against the total obligations incurred for the rehabilitation of the project works under contracts between the United States and the Association now or hereafter entered into: *Provided*, That such application shall not reduce the annual sums payable under such contracts. (74 Stat. 472)

### EXPLANATORY NOTES

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

**Background.** Inasmuch as the power plant on the Grand Valley project was originally constructed at no cost to the United States under arrangements made by the water users, the Bureau of the Budget had no objection to this legislation, as an exception, with the clear understanding that it would not be a precedent for the application in the future of net power revenues from Federal power plants to the rehabilitation and betterment obligations of associated irrigation works. Letter of

March 29, 1960, of Assistant Director Hughes of the Bureau of the Budget to the Secretary of the Interior in reference to the Department's report on H.R. 5098, 86th Congress. H.R. Rept. No. 1594, p. 7.

**Legislative History.** H.R. 5098, Public Law 86-640 in the 86th Congress. Reported in House from Interior and Insular Affairs May 10, 1960; H.R. Rept. No. 1594. Passed House May 12, 1960. Reported in Senate from Interior and Insular Affairs June 24, 1960; S. Rept. No. 1680. Passed Senate, amended, June 28, 1960. House agrees to Senate amendments June 29, 1960.

FLOOD CONTROL ACT OF 1960

[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 14, 1960, Public Law 86-645, 74 Stat. 480)

\* \* \* \* \*

TITLE II—FLOOD CONTROL

\* \* \* \* \*

Sec. 203. [Projects authorized.]—

\* \* \* \* \*

RIO GRANDE BASIN

The project for improvement of the Rio Grande Basin is hereby authorized substantially as recommended by the Chief of Engineers in Senate Document Numbered 94, Eighty-sixth Congress, at an estimated cost of \$58,300,000.

The approval granted above shall be subject to the following conditions and limitations:

Cochiti Reservoir, Galisteo Reservoir, and all other reservoirs constructed by the Corps of Engineers as a part of the Middle Rio Grande project will be operated solely for flood control and sediment control, as described below:

(a) the outflow from Cochiti Reservoir during each spring flood and thereafter will be at the maximum rate of flow that can be carried at the time in the channel of Rio Grande through the middle valley without causing flooding of areas protected by levees or unreasonable damage to channel protective works: *Provided*, That whenever during the months of July, August, September, and October, there is more than two hundred twelve thousand acre-feet of storage available for regulation of summer floods and the inflow to Cochiti Reservoir (exclusive of that portion of the inflow derived from upstream flood-control storage) is less than one thousand five hundred cubic feet per second, no water will be withdrawn from storage in Cochiti Reservoir and the inflow derived from upstream flood-control storage will be retained in Cochiti Reservoir.

(b) Releases of water from Galisteo Reservoir and Jemez Canyon Reservoir during the months of July, August, September, and October, will be limited to the amounts necessary to provide adequate capacity for control of subsequent summer floods; and such releases when made in these months or thereafter will be at the maximum rate practicable under the conditions at the time.

(c) Subject to the foregoing, the storage of water in and the release of water from all reservoirs constructed by the Corps of Engineers as part of the Middle Rio Grande project will be done as the interests of flood and sediment control may dictate: *Provided*, That the Corps of Engineers will endeavor to avoid encroachment on the upper two hundred and twelve thousand acre-feet of capacity in Cochiti Reservoir, and all reservoirs will be evacuated completely on or before March 31 of each year: *And provided further*, That when estimates

of anticipated streamflow made by appropriate agencies of the Federal Government indicate that the operation of reservoirs constructed as a part of the Middle Rio Grande project may affect the benefits accruing to New Mexico or Colorado, under the provisions of the eighth unnumbered paragraph of article VI of the Rio Grande compact, releases from such reservoirs shall be regulated to produce a flow of ten thousand cubic feet per second at Albuquerque, or such greater or lesser rate as may be determined by the Chief of Engineers at the time to be the maximum safe flow, whenever such operation shall be requested by the Rio Grande compact commissioner for New Mexico or the commissioner for Colorado, or both, in writing prior to commencement of such operation.

(d) All reservoirs of the Middle Rio Grande project will be operated at all times in the manner described above in conformity with the Rio Grande compact, and no departure from the foregoing operation schedule will be made except with the advice and consent of the Rio Grande compact, and no departure from the foregoing operation schedule will be made except with the advice and consent of the Rio Grande Compact Commission: *Provided*, That whenever the Corps of Engineers determines that an emergency exists affecting the safety of major structures or endangering life and shall so advise the Rio Grande Compact Commission in writing these rules of operation may be suspended during the period of and to the extent required by such emergency.

(e) The foregoing regulations shall not apply to storage capacity which may be allocated to permanent pools for recreation and fish and wildlife propagation: *Provided*, That the water required to fill and maintain such pools is obtained from sources entirely outside the drainage basin of the Rio Grande. (74 Stat. 492)

EXPLANATORY NOTE

**Supplementary Provision: Cochiti Reservoir.** The Act of March 26, 1964, 78 Stat. 171, authorizes the Secretary of the Interior to make available, from water diverted into the Rio Grande Basin under the San Juan-Chama project, sufficient water

initially to fill, and thereafter annually to offset evaporation from, a permanent pool for recreation and fish and wildlife purposes at Cochiti Reservoir, New Mexico. The Act appears herein in chronological order.

\* \* \* \* \*

MISSOURI RIVER BASIN

The report of the Chief of Engineers on Wilson Dam and Reservoir, Saline River, Kansas, submitted in compliance with Public Law 505, Eighty-fourth Congress, published as Senate Document Numbered 96, Eighty-sixth Congress, is hereby approved, and construction of the project as a unit of the comprehensive plan of improvement for the Missouri River Basin authorized by the Flood Control Act approved December 22, 1944, is hereby authorized at an estimated cost of \$18,081,000. (74 Stat. 494)

EXPLANATORY NOTE

**Reference in Text.** Public Law 505 of the 84th Congress is the Act of May 2, 1956.

The Act appears herein in chronological order.

\* \* \* \* \*

**Sec. 204. [Federal monetary contribution authorized for the Merced River development—Conditions.]**—In recognition of the flood-control accomplishments of the multiple-purpose Merced River development including the Bagby, New Exchequer, and Snelling Dams and Reservoirs, proposed to be constructed on the Merced River by the Merced Irrigation District of California, there is hereby authorized to be appropriated a monetary contribution toward the construction cost of such development and the amount of such contribution shall be determined by the Secretary of the Army in cooperation with the Merced Irrigation District, subject to a finding by the Secretary of the Army, approved by the President, of economic justification for allocation of the amount of flood control, such funds to be administered by the Secretary of the Army: *Provided*, That prior to making the monetary contribution or any part thereof, the Department of the Army and the Merced Irrigation District shall have entered into an agreement providing for operation of the dams and reservoirs in such manner as will produce the flood-control benefits upon which the monetary contribution is predicated, and such operation of the dams and reservoirs for flood control shall be in accordance with rules prescribed by the Secretary of the Army pursuant to the provisions of section 7 of the Flood Control Act of 1944 (58 Stat. 890): *Provided further*, That the funds appropriated under this authorization shall be administered by the Secretary of the Army in a manner which shall assure that the annual Federal contribution during the project construction period does not exceed the percentage of the annual expenditure for the dams and reservoirs which the total flood control contribution bears to the total cost of the dams and reservoirs: *And provided further*, That, unless construction of the development is undertaken within four years from the date of enactment of this Act, the authority for the monetary contribution contained herein shall expire. (74 Stat. 499)

**Sec. 205. [Federal monetary contribution authorized for the Mokelumne River development—Conditions.]**—In recognition of the flood control accomplishments of the multiple purpose dam and reservoir (or dams and reservoirs) proposed to be constructed on the Mokelumne River by the East Bay Municipal Utility District of Oakland, California, there is hereby authorized to be appropriated a monetary contribution toward the construction cost of such dam and reservoir (or dams and reservoirs) and the amount of such contribution shall be determined by the Secretary of the Army in cooperation with the East Bay Municipal Utility District, and the Secretary of the Interior, subject to a finding by the Secretary of the Army, approved by the President, of economic justification for allocation of the amount of flood control, such funds to be administered by the Secretary of the Army: *Provided*, That the plan of improvement proposed by the East Bay Municipal Utility District will afford a degree of flood control which in the opinion of the Secretary of the Army is adequate for the Mokelumne River as a part of the overall flood control program for the central valley: *Provided further*, That, prior to making the monetary contribution or any part thereof, the Department of the Army and the East Bay Municipal Utility District shall have entered into an agreement providing for operation

of the dam or dams in such manner as will produce the flood control benefits upon which the monetary contribution is predicated, and such operation of the dam or dams for flood control shall be in accordance with rules prescribed by the Secretary of the Army pursuant to the provisions of section 7 of the Flood Control Act of 1944 (54 Stat. 890): *Provided further*, That prior to making the monetary contribution or any part thereof, the Department of the Army and the East Bay Municipal Utility District shall have entered into an agreement to provide adequately for mitigation of damages to fish and wildlife consistent with the other purposes of the project: *And provided further*, That the funds appropriated under this authorization shall be administered by the Secretary of the Army in a manner which shall assure that the annual Federal contribution during the project construction period does not exceed the percentage of the annual expenditure for the dam and reservoir (or dams and reservoirs) which the total flood control contribution bears to the total cost of the dam and reservoir (or dams and reservoirs). (74 Stat. 499)

**Sec. 206. [Chief of Engineers authorized to compile and disseminate information on floods and flood damages—Surveys and guides for State and local interests may be made only at the request of a State or responsible local governmental agency—Expenditures not to exceed \$7 million in any one fiscal year.]—**

(a) In recognition of the increasing use and development of the flood plains of the rivers of the United States and of the need for information on flood hazards to serve as a guide to such development, and as a basis for avoiding future flood hazards by regulation of use by States and political subdivisions thereof, and to assure that Federal departments and agencies may take proper cognizance of flood hazards, the Secretary of the Army, through the Chief of Engineers, is hereby authorized to compile and disseminate information on floods and flood damages, including identification of areas subject to inundation by floods of various magnitudes and frequencies, and general criteria for guidance of Federal and non-Federal interests and agencies in the use of flood plain areas; and to provide advice to other Federal agencies and local interests for their use in planning to ameliorate the flood hazard. Surveys and guides will be made for States and political subdivisions thereof only upon the request of a State or a political subdivision thereof, and upon approval by the Chief of Engineers, and such information and advice provided them only upon such request and approval.

(b) The Secretary of the Army is authorized to expend not to exceed \$7,000,000 per fiscal year for the compilation and dissemination of information under this section. (74 Stat. 500; Act of November 7, 1966, 80 Stat. 1422; 33 U.S.C. § 709a)

#### EXPLANATORY NOTE

**1966 Amendment.** Section 206 of the Act of November 7, 1966, 80 Stat. 1422, amended section 206 to read as it appears above. Besides increasing the annual appropriation authorization from \$1 to \$7 million, the amendment authorized the Chief of Engineers to provide guidance and plan-

ning advice to Federal agencies, as well as to State and local interests, in the use of flood plain areas and to ameliorate flood hazards. While extracts from the 1966 Act appear herein in chronological order, the amending section is not included.

**Sec. 207. [Reconstruction or replacement of roads.]—Amended.**

## EXPLANATORY NOTE

**1962 Amendment.** This section, dealing with the utilization of existing public roads as access roads to authorized flood control, navigation or multi-purpose projects for the development of water resources under the direction of the Chief of Engineers, and

their reconstruction or replacement, was amended in its entirety by section 208 of the Flood Control Act of October 23, 1962, and the authority extended to the Bureau of Reclamation. Section 208 of the 1962 Act appears herein in chronological order.

\* \* \* \* \*

**Sec. 209. [Chief of Engineers in cooperation with appropriate agencies of the State of Texas is authorized to study means of recharging and replenishing Edwards Underground Reservoir—State of Texas to share cost—Findings to be presented in a joint State of Texas-Chief of Engineers report.]—**The Chief of Engineers, under the direction of the Secretary of the Army, is authorized and directed to cause an investigation and study to be made, in cooperation with appropriate agencies of the State of Texas, with a view to devising effective means of accomplishing the recharge and replenishment of the Edwards Underground Reservoir as a part of plans for flood control and water conservation in the Nueces, San Antonio and Guadalupe River Basins of Texas: *Provided*, That the State of Texas or its agencies contribute toward the cost of such study such funds or services as the Secretary of the Army may deem appropriate: *Provided further*, That the findings of such study shall be presented in a joint report signed by the appropriate representatives of the Governor of Texas and of the Chief of Engineers. (74 Stat. 501)

**Sec. 210. [Additional appropriations authorization.]—**In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$60,000,000 for the prosecution of the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law 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. (74 Stat. 502)

\* \* \* \* \*

**Sec. 212. [Short title.]—**Title II of this Act may be cited as the "Flood Control Act of 1960". (74 Stat. 502)

\* \* \* \* \*

## EXPLANATORY NOTES

**Not Codified.** Extracts of this Act shown here, with the exception of section 206, are not codified in the U.S. Code.

**References in the Text.** The Act of December 22, 1944 (Public Law No. 534, 78th Congress, 2nd Session), referred to in sections 201 and 210 of the text, and the Flood Control Act of 1944 (58 Stat. 890), referred to in sections 204 and 205 of the text, are references to the same Act. Extracts from the 1944 Act, including the sec-

tions referred to in the text, appear 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.** H.R. 7634, Public Law 86-645 in the 86th Congress. Reported in House from Public Works June 12, 1959; H.R. Rept. No. 541. Passed House July 16, 1959. Reported in Senate from Public Works

July 14, 1960

FLOOD CONTROL ACT OF 1960

1549

June 6, 1960; S. Rept. No. 1524. Passed Senate, amended, June 17, 1960. Senate asks for a conference June 17, 1960. House agrees to a conference June 21, 1960. Conference report filed June 30, 1960; H.R. Rept. No. 2064. House agrees to conference report July 1, 1960. House recedes and concurs in Senate amendments Nos. 15, 34, 44,

62, 63, 64, 84, 85, 87, 93, 96, 97, 98, 108, 111, 112, 116, 117, 153, and 154, each with an amendment July 1, 1960. Senate agrees to conference report July 1, 1960. Senate agrees to House amendments to Senate Amendments Nos. 15, 34, 44, 62, 63, 64, 84, 85, 87, 93, 96, 97, 98, 108, 111, 112, 116, 117, 153, and 154, July 1, 1960.

## WATER DELIVERY AFTER DEATH OF SPOUSE

An act to provide for continued delivery of water under the Federal reclamation laws to lands held by husband and wife upon the death of either. (Act of September 2, 1960, Public Law 86-684, 74 Stat. 732)

[Water may be delivered to lands that become excess lands due to death of a spouse so long as surviving spouse does not remarry.]—Where the death of a husband or wife causes lands in private ownership to become excess lands, as that term is used in section 46 of the Act of May 25, 1926 (44 Stat. 636; 43 U.S.C. 423e), and those lands had theretofore been eligible to receive water from a project under the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereto) without execution of a recordable contract under section 46 of said Act of May 25, 1926, the Secretary of the Interior is authorized to furnish water to them, without requiring execution of such a contract, so long as they remain in the ownership of the surviving spouse: *Provided*, That in the event of the remarriage of the surviving spouse, such lands shall be governed by applicable law without regard to the provisions of this Act. (74 Stat. 732; 43 U.S.C. § 423h)

### EXPLANATORY NOTES

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636; 43 U.S.C. 423e), referred to in the text, is the Omnibus Adjustment Act and is found herein in chronological order.

**Cross Reference, Involuntary Acquisitions.** Section 3 of the Act of August 9, 1912, and section 46 of the Omnibus Adjustment Act of May 25, 1926, provide for the continued delivery of water to lands which become excess by virtue of certain

involuntary acquisitions. Both acts appear herein in chronological order.

**Legislative History.** S. 68, Public Law 86-684 in the 86th Congress. Reported in Senate from Interior and Insular Affairs Feb. 24, 1960; S. Rept. No. 1131. Passed Senate Mar. 28, 1960. Reported in House from Interior and Insular Affairs June 30, 1960; H.R. Rept. No. 2055. Passed House Aug. 23, 1960.

### NOTE OF OPINION

#### 1. When applies

The act applies if the death of the spouse occurs after the execution of the governing repayment or water service contract with

the district irrespective of whether water had been delivered thereunder. Memorandum of Associate Solicitor Weinberg to Regional Solicitor, Denver, April 18, 1962.

## PUBLIC WORKS APPROPRIATION ACT, 1961

[Extracts from] An act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Tennessee Valley Authority and certain study commissions, for the fiscal year ending June 30, 1961, and for other purposes. (Act of September 2, 1960, Public Law 86-700, 74 Stat. 743)

\* \* \* \* \*

## 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, \* \* \*

[Avondale, Dalton Gardens, and Rathdrum Prairie projects.]—\* \* \* *Provided further*, That not to exceed \$25,000 shall be available toward investigation and the emergency rehabilitation of the Dalton Gardens, Avondale, and Hayden Lake Unit, Rathdrum Prairie Irrigation Projects, Idaho, to be repaid in full under conditions satisfactory to the Secretary of the Interior. (74 Stat. 746)

## EXPLANATORY NOTES

**Popular Name.** The Avondale and Dalton Gardens projects are known as Cordon amendment projects after Senator Guy Cordon of Oregon. The appropriations for these projects constitute their authorization except for the Act of September 22, 1961, 75 Stat. 588, which authorizes additional replacement or improvement work for them.

**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 July 1, 1954, 68 Stat. 365.

**Cross Reference, Dalton Gardens Project.** Another appropriation for the Dalton Gardens project is contained in the Act of July 31, 1953, 67 Stat. 266.

\* \* \* \* \*

[Rainbow Bridge protection denied.]—For payment to the "Upper Colorado River Basin fund," authorized by section 5 of the Act of April 11, 1956 (Public Law 485), § \* \* \*, to remain available until expended: *Provided*, That no part of the funds herein appropriated shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument. (74 Stat. 747)

## EXPLANATORY NOTES

**Provision Repeated.** The same proviso is contained in each subsequent annual Public Works Appropriation Act through the most recent one, the Act of October 15, 1966, 80 Stat. 1006.

**Cross Reference.** Section 1 of the Colo-

rado River Storage Project Act, the Act of April 11, 1956, 70 Stat. 106, directs the Secretary of the Interior to take adequate measures to preclude impairment of the Rainbow Bridge National Monument. The Act appears herein in chronological order.

## 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).

\* \* \* \* \*

[Short title.]—This Act may be cited as the “Public Works Appropriation Act, 1961”. (74 Stat. 753)

## 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. 12326, Public Law 86-700 in the 86th Congress. Reported in House from Appropriations May 20,

1960; H.R. Rept. No. 1634. Passed House May 25, 1960. Reported in Senate from Appropriations June 29, 1960; S. Rept. No. 1768. Passed Senate, amended, Aug. 10, 1960. Senate asks for a conference Aug. 10, 1960. House agrees to a conference Aug. 22, 1960. Conference report filed Aug. 26, 1960; H. R. Rept. No. 2181. House agrees to conference report Aug. 30, 1960. Senate agrees to conference report Aug. 30, 1960.

## FOREST AND CONSERVATION MEASURES AT ARMY RESERVOIRS

An act to provide for the protection of forest cover for reservoir areas under the jurisdiction of the Secretary of the Army and the Chief of Engineers. (Act of September 6, 1960, Public Law 86-717, 74 Stat. 817)

[**Sec. 1. Policy of the United States to conserve and develop resources at Army projects and increase the value of such areas for conservation, recreation, and other beneficial uses.**]—It is hereby declared to be the policy of the United States to provide that reservoir areas of projects for flood control, navigation, hydroelectric power development, and other related purposes owned in fee and under the jurisdiction of the Secretary of the Army and the Chief of Engineers shall be developed and maintained so as to encourage, promote, and assure fully adequate and dependable future resources of readily available timber, through sustained yield programs, reforestation, and accepted conservation practices, and to increase the value of such areas for conservation, recreation, and other beneficial uses: *Provided*, That such development and management shall be accomplished to the extent practicable and compatible with other uses of the project. (74 Stat. 817; 16 U.S.C. § 580m)

**Sec. 2. [Protection and development of forest or other vegetative cover—Other conservation measures—Army to consult with Secretary of Agriculture and State conservation agencies.]**—In order to carry out the national policy declared in the first section of this Act, the Chief of Engineers, under the supervision of the Secretary of the Army, shall provide for the protection and development of forest or other vegetative cover and the establishment and maintenance of other conservation measures on reservoir areas under his jurisdiction, so as to yield the maximum benefit and otherwise improve such areas. Programs and policies developed pursuant to the preceding sentence shall be coordinated with the Secretary of Agriculture, and with appropriate State conservation agencies. (74 Stat. 817; 16 U.S.C. § 580n)

### EXPLANATORY NOTES

**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. 9377, Public

Law 86-717 in the 86th Congress. Reported in House from Public Works Mar. 1, 1960; H.R. Rept. No. 1298. Passed House Mar. 7, 1960. Reported in Senate from Public Works Aug. 18, 1960; S. Rept. No. 1842. Passed Senate Aug. 25, 1960.

## WESTERN DIVISION, THE DALLES PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the western division of The Dalles Federal reclamation project, Oregon, and for other purposes. (Act of September 13, 1960, Public Law 86-745, 74 Stat. 882)

**[Sec. 1. Western Division, The Dalles Federal reclamation project authorized.]**—For the purpose of furnishing water for the irrigation of approximately five thousand five hundred acres of arid land in Wasco County, Oregon, the Secretary of the Interior is authorized to construct, operate, and maintain the western division of The Dalles Federal reclamation project, Oregon. The western division shall consist of the following principal works: a main pumping plant to be located at a site on the Columbia River; a booster and relift pumping plants with reregulating reservoirs; and a distribution system. (74 Stat. 882; 43 U.S.C. § 615v)

**Sec. 2. [Reclamation laws to govern construction, etc.—Repayment period of 50 years exclusive of development period—Bonneville Power Administration revenues to pay costs in excess of irrigators ability to pay—Power for irrigation pumping to be supplied by The Dalles Dam powerplant—Rates—Costs allocated to fish and wildlife conservation and development.]**—(a) In constructing, operating, and maintaining the western division of The Dalles 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).

(b) The period provided in subsection (d) of section 9 of the Reclamation Project Act of 1939, as amended, for repayment of construction costs properly allocable 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 repayment formula as therein provided. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within a fifty-year period shall be returned to the reclamation fund within a fifty-year period from the date of the first delivery of water from the facilities authorized by this legislation from net revenues derived by the Secretary of the Interior from the disposition of power marketed through the Bonneville Power Administration, which are over and above those required to meet any present obligations assigned for repayment from such net revenues. The term "construction costs" used herein 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.

(c) Power and energy required for irrigation pumping for the western division of The Dalles Federal reclamation project shall be made available by the Secretary from The Dalles Dam powerplant and other Federal plants interconnected therewith at rates not to exceed the costs of such power and energy from The Dalles 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.

(d) That portion of the cost of constructing the works authorized by this Act which the Secretary finds to be properly allocable to the conservation and development of fish and wildlife, in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661, and the following), together with the portion of the operation, maintenance, and replacement costs allocated to this function, shall be nonreimbursable and nonreturnable under the reclamation laws. (74 Stat. 882; 43 U.S.C. § 615w)

#### EXPLANATORY NOTE

**Reference in the Text.** The Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661, and the following), referred to in the text, was originally the Act of March 10, 1934. The Act of August 14, 1946, substantially rearranged and expanded the 1934 Act and the Act of

August 12, 1958, gave the statute the short title of the "Fish and Wildlife Coordination Act." The 1946 Act, including all subsequent amendments, is found herein in chronological order, as are the other acts referred to in this note.

**Sec. 3. [Appropriations authorization.]**—There is hereby authorized to be appropriated for construction of the works authorized by this Act not to exceed \$6,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein. (74 Stat. 883; 43 U.S.C. § 615x)

#### EXPLANATORY NOTE

**Legislative History.** S. 2195, Public Law 86-745 in the 86th Congress. Reported in Senate from Interior and Insular Affairs June 28, 1960; S. Rept. No. 1752. Passed Senate July 1, 1960. Reported in House

from Interior and Insular Affairs July 2, 1960; H.R. Rept. No. 2203. Passed House, amended, Aug. 31, 1960. Senate agrees to House amendments Sept. 1, 1960.

## REIMBURSE DISTRICT, MERCEDES DIVISION, LOWER RIO GRANDE REHABILITATION PROJECT

An act providing that certain provisions of Public Law 335 dated October 7, 1949 (63 Stat. 724) shall apply to the Mercedes division of the lower Rio Grande rehabilitation project, Texas. (Act of September 13, 1960, Public Law 86-765, 74 Stat. 905)

[Performance of work by district.]—The Secretary of the Interior, in addition to the authority granted by Public Law 85-370, April 7, 1958 (72 Stat. 82), is authorized to act pursuant to the last sentence of section 1 of the Act of October 7, 1949 (63 Stat. 724), but subject to the exceptions contained in the Act of April 7, 1958, in the construction, rehabilitation, operation, and maintenance of the lower Rio Grande rehabilitation project, Texas, Mercedes division. (74 Stat. 905)

### EXPLANATORY NOTES

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

**References in the Text.** Public Law 85-370, April 7, 1958 (72 Stat. 82), referred to in the text, authorized the rehabilitation and betterment of the works of the Hidalgo and Cameron Counties Water Control and Improvement District Numbered 9, Texas, and designated such works as the Mercedes division of the lower Rio Grande reclamation project. The Act of October 7, 1949 (63 Stat. 724), provides for the return of rehabilitation and betterment costs of Federal reclamation projects. The last sentence of section 1 of the Act, referred to in the text reads as follows: "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." Both the 1949 and the 1958 Acts appear herein in chronological order.

**Legislative History.** H.R. 10311, Public Law 86-765 in the 86th Congress. Reported in House from Interior and Insular Affairs Aug. 30, 1960; H.R. Rept. No. 2201. Passed House Aug. 31, 1960. Passed Senate Sept. 1, 1960.

## CHENEY DIVISION, WICHITA PROJECT

An act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes. (Act of September 14, 1960, Public Law 86-787, 74 Stat. 1026)

[Cheney Division, Wichita project, Kansas, authorized.]—The Secretary of the Interior is hereby authorized to construct, operate, and maintain the Cheney division, Wichita Federal reclamation project, consisting of a dam, reservoir, and related facilities near Cheney, Kansas, on the North Fork of the Ninnescah River, Kansas, for the purposes of furnishing water for municipal uses, controlling floods, facilitating irrigation, enhancing recreational opportunities, preserving and propagating fish and wildlife, and for related purposes. (74 Stat. 1026)

Sec. 2. [Construction, etc., to be governed by the Federal reclamation laws.]—In constructing, operating, and maintaining the works authorized by this Act, 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. (74 Stat. 1026)

Sec. 3. [Repayment contract with city of Wichita required for municipal water supply cost allocations—Interest rate.]—Construction of the project shall not be commenced, and no construction contracts therefor shall be awarded, until a contract or contracts complying with the provisions of this Act have been entered into with the city of Wichita under which it shall have obligated itself to repay to the United States, within a period of not more than forty years from the time water is first made available from said works, those portions of the Federal costs of constructing, operating, and maintaining the works herein authorized which are allocated to municipal water supply, and interest on the unamortized balance of the amount of construction costs so allocated including interest during construction. If any net revenues are derived from temporary water supply contracts, prior to the end of the repayment period for water furnished from, by, or through the works authorized herein, the construction cost obligation of the city may be decreased by that portion of the amount of any such net revenues which bears the same proportion to the total amount of such net revenues as the amount of the project costs allocated to municipal water supply bears to the total Federal costs of constructing the project. 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 and adjusted to the nearest one-eighth of 1 per centum. Upon the completion of the payment of the city's construction cost obligation, together with the interest thereon, the city shall have a permanent right to the use of that portion of the storage space in the project allocable to municipal water supply purposes. (74 Stat. 1026)

Sec. 4. [Excepted from requirement of irrigation use priority.]—Contracts may be entered into with the city of Wichita pursuant to the provisions of this

Act without regard to the last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939. (74 Stat. 1026)

## EXPLANATORY NOTE

**Reference in the Text.** The last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939, referred to in 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 was approved August 4, 1939, and appears herein in chronological order.

**Sec. 5. [Care, operation and maintenance may be transferred to City of Wichita—Adjustment of cost allocations if operation is transferred—Operating criteria.]**—The Secretary is authorized to transfer to the city of Wichita the care, operation, and maintenance of the works herein authorized and, if such transfer is made, to deduct from the obligation of the city the reasonable capitalized equivalent of that portion of the estimated operation and maintenance costs of the undertaking which, if the United States continued to operate the works, would be allocated to flood control and fish and wildlife purposes. Prior to taking over the care, operation, and maintenance of said works, the city shall obligate itself to operate them in accordance with criteria specified by the Secretary of the Army with respect to flood control and by the Secretary of the Interior with respect to fish and wildlife. (74 Stat. 1026)

**Sec. 6. [Preservation and propagation of fish and wildlife—Costs to be non-reimbursable and nonreturnable.]**—The Secretary may make such reasonable provision in connection with the works of the Cheney division, Wichita Federal reclamation project, in accordance with section 2 of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C., sec. 661, and the following), as he finds to be required for the preservation and propagation of fish and wildlife, and to acquire approximately 2,500 acres of land for wildlife management purposes within and adjacent to Cheney Reservoir. A minimum pool of approximately ten thousand acre-feet shall be maintained in said reservoir for fish life. An appropriate portion of the construction cost of the Cheney division 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 equivalent capitalized value thereof, shall be nonreimbursable and nonreturnable under the Federal reclamation laws. Appropriate portions of the project area may be made available by the Secretary of the Interior to the Kansas Forestry, Fish and Game Commission for fish and wildlife management as provided in sections 3 and 4 of said Act. (74 Stat. 1027)

## EXPLANATORY NOTE

**Reference in the Text.** The Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661, and the following), referred to in the text, was originally the Act of March 10, 1934. The Act of August 14, 1946, substantially rearranged and expanded the 1934 Act and the Act of

August 12, 1958, gave the statute the short title of the "Fish and Wildlife Coordination Act." The 1946 Act, including all subsequent amendments, is found herein in chronological order, as are the other acts referred to in this note.

**Sec. 7. [Minimum basic recreational facilities to be administered by the State or a local governmental agency—Cost to be nonreimbursable and nonreturnable.]**—The Secretary may, upon conclusion of a suitable agreement with any qualified agency of the State of Kansas or political subdivision or agency thereof for assumption of the administration, operation, and maintenance thereof at the earliest practicable date, provide minimum basic public recreation facilities at or near Cheney Reservoir and the cost thereof incurred by the United States shall be nonreimbursable and nonreturnable under the Federal reclamation laws. (74 Stat. 1027)

**Sec. 8. [Division exempt from legal requirements of soil survey and land classification.]**—Expenditures for Cheney Reservoir may be made without regard to the soil survey and land classification requirements of the Interior Department Appropriation Act, 1954 (67 Stat. 261, 266–267). (74 Stat. 1027)

EXPLANATORY NOTE

**Reference in the Text.** The Interior Department Appropriation Act, 1954 (67 Stat. 261, 266–267), referred to in the text, was enacted July 31, 1953. Extracts from the Act, including the soil survey and land classification requirements referred to, are found herein in chronological order.

**Sec. 9. [Appropriations authorization.]**—There is hereby authorized to be appropriated for construction of the works authorized by this Act not to exceed \$18,274,000, 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 types of construction involved herein. (74 Stat. 1027)

EXPLANATORY NOTES

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

**Legislative History.** S. 1092, Public Law 86–787 in the 86th Congress. Reported in Senate from Interior and Insular Affairs Apr. 7, 1960; S. Rept. No. 1239. Passed Senate Apr. 11, 1960. Reported in House from Interior and Insular Affairs Aug. 30, 1960; H.R. Rept. No. 2202. Passed House, amended, Aug. 31, 1960. Senate agrees to House amendments Sept. 1, 1960.

## COLUMBIA RIVER TREATY

Treaty with Canada relating to cooperative development of the water resources of the Columbia River basin. (Signed at Washington January 17, 1961; ratification advised by the Senate March 16, 1961; ratification by the President March 23, 1961; effected by exchanges of Notes and Protocol signed at Washington January 22, 1964, and at Ottawa September 16, 1964; proclaimed by the President September 16, 1964; 15 U.S.T. & O.I.A. 1555; T.I.A.S. No. 5638).

The Governments of the United States of America and Canada

Recognizing that their peoples have, for many generations, lived together and cooperated with one another in many aspects of their national enterprises for the greater wealth and happiness of their respective nations, and

Recognizing that the Columbia River basin, as a part of the territory of both countries, contains water resources that are capable of contributing greatly to the economic growth and strength and to the general welfare of the two nations, and

Being desirous of achieving the development of those resources in a manner that will make the largest contribution to the economic progress of both countries and to the welfare of their peoples of which those resources are capable, and

Recognizing that the greatest benefit to each country can be secured by cooperative measures for hydroelectric power generation and flood control, which will make possible other benefits as well,

Have agreed as follows:

### ARTICLE I

#### Interpretation

- (1) In the Treaty, the expression
  - (a) "average critical period load factor" means the average of the monthly load factors during the critical stream flow period;
  - (b) "base system" means the plants, works and facilities listed in the table in Annex B as enlarged from time to time by the installation of additional generating facilities, together with any other plants, works or facilities which may be constructed on the main stem of the Columbia River in the United States of America;
  - (c) "Canadian storage" means the storage provided by Canada under Article II;
  - (d) "critical stream flow period" means the period, beginning with the initial release of stored water from full reservoir conditions and ending with the reservoirs empty, when the water available from reservoir releases plus the natural stream flow is capable of producing the least amount of hydroelectric power in meeting system load requirements;
  - (e) "consumptive use" means use of water for domestic, municipal, stock-water, irrigation, mining or industrial purposes but does not include use for the generation of hydroelectric power;

- (f) "dam" means a structure to impound water, including facilities for controlling the release of the impounded water;
  - (g) "entity" means an entity designated by either the United States of America or Canada under Article XIV and includes its lawful successor;
  - (h) "International Joint Commission" means the Commission established under Article VII of the Boundary Waters Treaty, 1909, or any body designated by the United States of America and Canada to succeed to the functions of the Commission under this Treaty;
  - (i) "maintenance curtailment" means an interruption or curtailment which the entity responsible therefor considers necessary for purposes of repairs, replacements, installations of equipment, performance of other maintenance work, investigations and inspections;
  - (j) "monthly load factor" means the ratio of the average load for a month to the integrated maximum load over one hour during that month;
  - (k) "normal full pool elevation" means the elevation to which water is stored in a reservoir by deliberate impoundment every year, subject to the availability of sufficient flow;
  - (l) "ratification date" means the day on which the instruments of ratification of the Treaty are exchanged;
  - (m) "storage" means the space in a reservoir which is usable for impounding water for flood control or for regulating stream flows for hydroelectric power generation;
  - (n) "Treaty" means this Treaty and its Annexes A and B;
  - (o) "useful life" means the time between the date of commencement of operation of a dam or facility and the date of its permanent retirement from service by reason of obsolescence or wear and tear which occurs notwithstanding good maintenance practices.
- (2) The exercise of any power, or the performance of any duty, under the Treaty does not preclude a subsequent exercise or performance of the power or duty.

## ARTICLE II

### Development by Canada

- (1) Canada shall provide in the Columbia River basin in Canada 15,500,000 acre-feet of storage usable for improving the flow of the Columbia River.
- (2) In order to provide this storage, which in the Treaty is referred to as the Canadian storage, Canada shall construct dams:
  - (a) on the Columbia River near Mica Creek, British Columbia, with approximately 7,000,000 acre-feet of storage;
  - (b) near the outlet of Arrow Lakes, British Columbia, with approximately 7,100,000 acre-feet of storage; and
  - (c) on one or more tributaries of the Kootenay River in British Columbia downstream from the Canada-United States of America boundary

## COLUMBIA RIVER TREATY

with storage equivalent in effect to approximately 1,400,000 acre-feet of storage near Duncan Lake, British Columbia.

(3) Canada shall commence construction of the dams as soon as possible after the ratification date.

## ARTICLE III

## Development by the United States of America Respecting Power

(1) The United States of America shall maintain and operate the hydroelectric facilities included in the base system and any additional hydroelectric facilities constructed on the main stem of the Columbia River in the United States of America in a manner that makes the most effective use of the improvement in stream flow resulting from operation of the Canadian storage for hydroelectric power generation in the United States of America power system.

(2) The obligation in paragraph (1) is discharged by reflecting in the determination of downstream power benefits to which Canada is entitled the assumption that the facilities referred to in paragraph (1) were maintained and operated in accordance therewith.

## ARTICLE IV

## Operation by Canada

(1) For the purpose of increasing hydroelectric power generation in the United States of America and Canada, Canada shall operate the Canadian storage in accordance with Annex A and pursuant to hydroelectric operating plans made thereunder. For the purposes of this obligation an operating plan if it is either the first operating plan or if in the view of either the United States of America or Canada it departs substantially from the immediately preceding operating plan must, in order to be effective, be confirmed by an exchange of notes between the United States of America and Canada.

(2) For the purpose of flood control until the expiration of sixty years from the ratification date, Canada shall

- (a) operate in accordance with Annex A and pursuant to flood control operating plans made thereunder
  - (i) 80,000 acre-feet of the Canadian storage described in Article II(2)(a),
  - (ii) 7,100,000 acre-feet of the Canadian storage described in Article II(2)(b),
  - (iii) 1,270,000 acre-feet of the Canadian storage described in Article II(2)(c),

provided that the Canadian entity may exchange flood control storage under subparagraph (ii) for flood control storage additional to that under subparagraph (i), at the location described in Article II(2)(a), if the entities agree that the exchange would provide the same effectiveness for control of floods on the Columbia River at the Dalles, Oregon;

- (b) operate any additional storage in the Columbia River basin in Canada, when called upon by an entity designated by the United States of America for that purpose, within the limits of existing facilities and as the entity requires to meet flood control needs for the duration of the flood period for which the call is made.
- (3) For the purpose of flood control after the expiration of sixty years from the ratification date, and for so long as the flows in the Columbia River in Canada continue to contribute to potential flood hazard in the United States of America, Canada shall, when called upon by an entity designated by the United States of America for that purpose, operate within the limits of existing facilities any storage in the Columbia River basin in Canada as the entity requires to meet flood control needs for the duration of the flood period for which the call is made.
- (4) The return to Canada for hydroelectric operation and the compensation to Canada for flood control operation shall be set out in Articles V and VI.
- (5) Any water resource development, in addition to the Canadian storage, constructed in Canada after the ratification date shall not be operated in a way that adversely affects the stream flow control in the Columbia River within Canada so as to reduce the flood control and hydroelectric power benefits which the operation of the Canadian storage in accordance with the operating plans in force from time to time would otherwise produce.
- (6) As soon as any Canadian storage becomes operable Canada shall commence operation thereof in accordance with this Article and in any event shall commence full operation of the Canadian storage described in Article II(2)(b) and Article II(2)(c) within five years of the ratification date and shall commence full operation of the balance of the Canadian storage within nine years of the ratification date.

#### ARTICLE V

##### Entitlement to Downstream Power Benefits

- (1) Canada is entitled to one half the downstream power benefits determined under Article VII.
- (2) The United States of America shall deliver to Canada at a point on the Canada-United States of America boundary near Oliver, British Columbia, or at such other place as the entities may agree upon, the downstream power benefits to which Canada is entitled, less
  - (a) transmission loss,
  - (b) the portion of the entitlement disposed of under Article VIII(1), and
  - (c) the energy component described in Article VIII(4).
- (3) The entitlement of Canada to downstream power benefits begins for any portion of Canadian storage upon commencement of its operation in accordance with Annex A and pursuant to a hydroelectric operating plan made thereunder.

## COLUMBIA RIVER TREATY

## ARTICLE VI

## Payment for Flood Control

(1) For the flood control provided by Canada under Article IV(2) (a) the United States of America shall pay Canada in United States funds:

- (a) 1,200,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a) (i) thereof,
- (b) 52,100,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a) (ii) thereof, and
- (c) 11,100,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a) (iii) thereof.

(2) If full operation of any storage is not commenced within the time specified in Article IV, the amount set forth in paragraph (1) of this Article with respect to that storage shall be reduced as follows:

- (a) under paragraph (1) (a), 4,500 dollars for each month beyond the required time,
- (b) under paragraph (1) (b), 192,100 dollars for each month beyond the required time, and
- (c) under paragraph (1) (c), 40,800 dollars for each month beyond the required time.

(3) For the flood control provided by Canada under Article IV(2) (b) the United States of America shall pay Canada in United States funds in respect only of the first four flood periods for which a call is made 1,875,000 dollars and shall deliver to Canada in respect of each and every call made, electric power equal to the hydroelectric power lost by Canada as a result of operating the storage to meet the flood control need for which the call was made, delivery to be made when the loss of hydroelectric power occurs.

(4) For each flood period for which flood control is provided by Canada under Article IV(3) the United States of America shall pay Canada in United States funds:

- (a) the operating cost incurred by Canada in providing the flood control, and
- (b) compensation for the economic loss to Canada arising directly from Canada foregoing alternative uses of the storage used to provide the flood control.

(5) Canada may elect to receive in electric power, the whole or any portion of the compensation under paragraph (4) (b) representing loss of hydroelectric power to Canada.

## ARTICLE VII

## Determination of Downstream Power Benefits

(1) The downstream power benefits shall be the difference in the hydroelectric power capable of being generated in the United States of America with and with-

out the use of Canadian storage, determined in advanced, and is referred to in the Treaty as the downstream power benefits.

- (2) For the purpose of determining the downstream power benefits:
  - (a) the principles and procedures set out in Annex B shall be used and followed;
  - (b) the Canadian storage shall be considered as next added to 13,000,000 acre-feet of the usable storage listed in Column 4 of the table in Annex B;
  - (c) the hydroelectric facilities included in the base system shall be considered as being operated to make the most effective use for hydroelectric power generation of the improvement in stream flow resulting from operation of the Canadian storage.
- (3) The downstream power benefits to which Canada is entitled shall be delivered as follows:
  - (a) dependable hydroelectric capacity as scheduled by the Canadian entity, and
  - (b) average annual usable hydroelectric energy in equal amounts each month, or in accordance with a modification agreed upon under paragraph (4).
- (4) Modification of the obligation in paragraph (3) (b) may be agreed upon by the entities.

#### ARTICLE VIII

##### Disposal of Entitlement to Downstream Power Benefits

- (1) With the authorization of the United States of America and Canada evidenced by exchange of notes, portions of the downstream power benefits to which Canada is entitled may be disposed of within the United States of America. The respective general conditions and limits within which the entities may arrange initial disposals shall be set out in an exchange of notes to be made as soon as possible after the ratification date.
- (2) The entities may arrange and carry out exchanges of dependable hydroelectric capacity and average annual usable hydroelectric energy to which Canada is entitled for average annual usable hydroelectric energy and dependable hydroelectric capacity respectively.
- (3) Energy to which Canada is entitled may not be used in the United States of America except in accordance with paragraphs (1) and (2).
- (4) The bypassing at dams on the main stem of the Columbia River in the United States of America of an amount of water which could produce usable energy equal to the energy component of the downstream power benefits to which Canada is entitled but not delivered to Canada under Article V or disposed of in accordance with paragraphs (1) and (2) at the time the energy component was not so delivered or disposed of, is conclusive evidence that such energy com-

## COLUMBIA RIVER TREATY

ponent was not used in the United States of America and that the entitlement of Canada to such energy component is satisfied.

## ARTICLE IX

## Variation of Entitlement to Downstream Power Benefits

(1) If the United States of America considers with respect to any hydroelectric power project planned on the main stem of the Columbia River between Priest Rapids Dam and McNary Dam that the increase in entitlement of Canada to downstream power benefits resulting from the operation of the project would produce a result which would not justify the United States of America in incurring the costs of construction and operation of the project, the United States of America and Canada at the request of the United States of America shall consider modification of the increase in entitlement.

(2) An agreement reached for the purposes of this Article shall be evidenced by an exchange of notes.

## ARTICLE X

## East-West Standby Transmission

(1) The United States of America shall provide in accordance with good engineering practice east-west standby transmission service adequate to safeguard the transmission from Oliver, British Columbia, to Vancouver, British Columbia, of the downstream power benefits to which Canada is entitled and to improve system stability of the east-west circuits in British Columbia.

(2) In consideration of the standby transmission service, Canada shall pay the United States of America in Canadian funds the equivalent of 1.50 United States dollars a year for each kilowatt of dependable hydroelectric capacity included in the downstream power benefits to which Canada is entitled.

(3) When a mutually satisfactory electrical coordination arrangement is entered into between the entities and confirmed by exchange of notes between the United States of America and Canada the obligation of Canada in paragraph (2) ceases.

## ARTICLE XI

## Use of Improved Stream Flow

(1) Improvements in stream flow in one country brought about by operation of storage constructed under the Treaty in the other country shall not be used directly or indirectly for hydroelectric power purposes except:

- (a) in the case of use within the United States of America with the prior approval of the United States entity, and
- (b) in the case of use within Canada with the prior approval of the authority in Canada having jurisdiction.

(2) The approval required by this Article shall not be given except upon such conditions, consistent with the Treaty, as the entity or authority considers appropriate.

## ARTICLE XII

### Kootenai River Development

(1) The United States of America for a period of five years from the ratification date, has the option to commence construction of a dam on the Kootenai River near Libby, Montana, to provide storage to meet flood control and other purposes in the United States of America. The storage reservoir of the dam shall not raise the level of the Kootenai River at the Canada-United States of America boundary above an elevation consistent with a normal full pool elevation at the dam of 2,459 feet, United States Coast and Geodetic Survey datum, 1929 General Adjustment, 1947 International Supplemental Adjustment.

(2) All benefits which occur in either country from the construction and operation of the storage accrue to the country in which the benefits occur.

(3) The United States of America shall exercise its option by written notice to Canada and shall submit with the notice a schedule of construction which shall include provision for commencement of construction, whether by way of railroad relocation work or otherwise, within five years of the ratification date.

(4) If the United States of America exercises its option, Canada in consideration of the benefits accruing to it under paragraph (2) shall prepare and make available for flooding the land in Canada necessary for the storage reservoir of the dam within a period consistent with the construction schedule.

(5) If a variation in the operation of the storage is considered by Canada to be of advantage to it the United States of America shall, upon request, consult with Canada. If the United States of America determines that the variation would not be to its disadvantage it shall vary the operation accordingly.

(6) The operation of the storage by the United States of America shall be consistent with any order of approval which may be in force from time to time relating to the levels of Kootenay Lake made by the International Joint Commission under the Boundary Waters Treaty, 1909.

(7) Any obligation of Canada under this Article ceases if the United States of America, having exercised the option, does not commence construction of the dam in accordance with the construction schedule.

(8) If the United States of America exercises the option it shall commence full operation of the storage within seven years of the date fixed in the construction schedule for commencement of construction.

(9) If Canada considers that any portion of the land referred to in paragraph (4) is no longer needed for the purpose of this Article the United States of America and Canada, at the request of Canada, shall consider modification of the obligation of Canada in paragraph (4).

(10) If the Treaty is terminated before the end of the useful life of the dam Canada shall for the remainder of the useful life of the dam continue to make available for the storage reservoir of the dam any portion of the land made available under paragraph (4) that is not required by Canada for purposes of diversion of the Kootenay River under Article XIII.

### ARTICLE XIII

#### Diversions

(1) Except as provided in this Article neither the United States of America nor Canada shall, without the consent of the other evidenced by an exchange of notes, divert for any use, other than a consumptive use, any water from its natural channel in a way that alters the flow of any water as it crosses the Canada-United States of America boundary within the Columbia River basin.

(2) Canada has the right, after the expiration of twenty years from the ratification date, to divert not more than 1,500,000 acre-feet of water a year from the Kootenay River in the vicinity of Canal Flats, British Columbia, to the headwaters of the Columbia River, provided that the diversion does not reduce the flow of the Kootenay River immediately downstream from the point of diversion below the lesser of 200 cubic feet per second or the natural flow.

(3) Canada has the right, exercisable at any time during the period commencing sixty years after the ratification date and expiring one hundred years after the ratification date, to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the diversion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary near Newgate, British Columbia, below the lesser of 2,500 cubic feet per second or the natural flow.

(4) During the last twenty years of the period within which Canada may exercise the right to divert described in paragraph (3) the limitation on diversion is the lesser of 1,000 cubic feet per second or the natural flow.

(5) Canada has the right:

- (a) if the United States of America does not exercise the option in Article XII(1), or
- (b) if it is determined that the United States of America, having exercised the option, did not commence construction of the dam referred to in Article XII in accordance therewith or that the United States of America is in breach of the obligation in that Article to commence full operation of the storage,

to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the diversion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary

near Newgate, British Columbia, below the lesser of 1,000 cubic feet per second or the natural flow.

(6) If a variation in the use of the water diverted under paragraph (2) is considered by the United States of America to be of advantage to it Canada shall, upon request, consult with the United States of America. If Canada determines that the variation would not be to its disadvantage it shall vary the use accordingly.

#### ARTICLE XIV

##### Arrangements for Implementation

(1) The United States of America and Canada shall each, as soon as possible after the ratification date, designate entities and when so designated the entities are empowered and charged with the duty to formulate and carry out the operating arrangements necessary to implement the Treaty. Either the United States of America or Canada may designate one or more entities. If more than one is designated the powers and duties conferred upon the entities by the Treaty shall be allocated among them in the designation.

(2) In addition to the powers and duties dealt with specifically elsewhere in the Treaty the powers and duties of the entities include:

- (a) coordination of plans and exchange of information relating to facilities to be used in producing and obtaining the benefits contemplated by the Treaty,
- (b) calculation of and arrangements for delivery of hydroelectric power to which Canada is entitled for providing flood control,
- (c) calculation of the amounts payable to the United States of America for standby transmission services,
- (d) consultation on requests for variations made pursuant to Articles XII(5) and XIII(6),
- (e) the establishment and operation of a hydrometeorological system as required by Annex A,
- (f) assisting and cooperating with the Permanent Engineering Board in the discharge of its functions,
- (g) periodic calculation of accounts,
- (h) preparation of the hydroelectric operating plans and the flood control operating plans for the Canadian storage together with determination of the downstream power benefits to which Canada is entitled,
- (i) preparation of proposals to implement Article VIII and carrying out any disposal authorized or exchange provided for therein,
- (j) making appropriate arrangements for delivery to Canada of the downstream power benefits to which Canada is entitled including such matters as load factors for delivery, times and points of delivery, and calculation of transmission loss,
- (k) preparation and implementation of detailed operating plans that may produce results more advantageous to both countries than those

## COLUMBIA RIVER TREATY

that would arise from operation under the plans referred to in Annexes A and B.

(3) The entities are authorized to make maintenance curtailments. Except in case of emergency, the entity responsible for a maintenance curtailment shall give notice to the corresponding United States or Canadian entity of the curtailment, including the reason therefor and the probable duration thereof and shall both schedule the curtailment with a view to minimizing its impact and exercise due diligence to resume full operation.

(4) The United States of America and Canada may by an exchange of notes empower or charge the entities with any other matter coming within the scope of the Treaty.

## ARTICLE XV

## Permanent Engineering Board

(1) A Permanent Engineering Board is established consisting of four members, two to be appointed by Canada and two by the United States of America. The initial appointments shall be made within three months of the ratification date.

(2) The Permanent Engineering Board shall:

- (a) assemble records of the flows of the Columbia River and the Kootenay River at the Canada-United States of America boundary;
- (b) report to the United States of America and Canada whenever there is substantial deviation from the hydroelectric and flood control operating plans and if appropriate include in the report recommendations for remedial action and compensatory adjustments;
- (c) assist in reconciling differences concerning technical or operational matters that may arise between the entities;
- (d) make periodic inspections and require reports as necessary from the entities with a view to ensuring that the objectives of the Treaty are being met;
- (e) make reports to the United States of America and Canada at least once a year of the results being achieved under the Treaty and make special reports concerning any matter which it considers should be brought to their attention;
- (f) investigate and report with respect to any other matter coming within the scope of the Treaty at the request of either the United States of America or Canada.

(3) Reports of the Permanent Engineering Board made in the course of the performance of its functions under this Article shall be *prima facie* evidence of the facts therein contained and shall be accepted unless rebutted by other evidence.

(4) The Permanent Engineering Board shall comply with directions, relating to its administration and procedures, agreed upon by the United States of America and Canada as evidenced by an exchange of notes.

ARTICLE XVI

Settlement of Differences

(1) Differences arising under the Treaty which the United States of America and Canada cannot resolve may be referred by either to the International Joint Commission for decision.

(2) If the International Joint Commission does not render a decision within three months of the referral or within such other period as may be agreed upon by the United States of America and Canada, either may then submit the difference to arbitration by written notice to the other.

(3) Arbitration shall be by a tribunal composed of a member appointed by Canada, a member appointed by the United States of America and a member appointed jointly by the United States of America and Canada who shall be Chairman. If within six weeks of the delivery of a notice under paragraph (2) either the United States of America or Canada has failed to appoint its member, or they are unable to agree upon the member who is to be Chairman, either the United States of America or Canada may request the President of the International Court of Justice to appoint the member or members. The decision of a majority of the members of an arbitration tribunal shall be the decision of the tribunal.

(4) The United States of America and Canada shall accept as definitive and binding and shall carry out any decision of the International Joint Commission or an arbitration tribunal.

(5) Provision for the administrative support of a tribunal and for remuneration and expenses of its members shall be as agreed in an exchange of notes between the United States of America and Canada.

(6) The United States of America and Canada may agree by an exchange of notes on alternative procedures for settling differences arising under the Treaty, including reference of any difference to the International Court of Justice for decision.

ARTICLE XVII

Restoration of Pre-Treaty Legal Status

(1) Nothing in this Treaty and no action taken or foregone pursuant to its provisions shall be deemed, after its termination or expiration, to have abrogated, or modified any of the rights or obligations of the United States of America or Canada under then existing international law, with respect to the uses of the water resources of the Columbia River basin.

## COLUMBIA RIVER TREATY

(2) Upon termination of this Treaty, the Boundary Waters Treaty, 1909, shall, if it has not been terminated, apply to the Columbia River basin, except insofar as the provisions of that Treaty may be inconsistent with any provision of this Treaty which continues in effect.

(3) Upon termination of this Treaty, if the Boundary Waters Treaty, 1909, has been terminated in accordance with Article XIV of that Treaty, the provisions of Article II of that Treaty shall continue to apply to the waters of the Columbia River basin.

(4) If upon the termination of this Treaty Article II of the Boundary Waters Treaty, 1909, continues in force by virtue of paragraph (3) of this Article the effect of Article II of that Treaty with respect to the Columbia River basin may be terminated by either the United States of America or Canada delivering to the other one year's written notice to that effect; provided however that the notice may be given only after the termination of this Treaty.

(5) If, prior to the termination of this Treaty, Canada undertakes works usable for and relating to a diversion of water from the Columbia River basin, other than works authorized by or undertaken for the purpose of exercising a right under Article XIII or any other provision of this Treaty, paragraph (3) of this Article shall cease to apply one year after delivery by either the United States of America or Canada to the other of written notice to that effect.

## ARTICLE XVIII

## Liability for Damage

(1) The United States of America and Canada shall be liable to the other and shall make appropriate compensation to the other in respect of any act, failure to act, omission or delay amounting to a breach of the Treaty or of any of its provisions other than an act, failure to act, omission or delay occurring by reason of war, strike, major calamity, act of God, uncontrollable force or maintenance curtailment.

(2) Except as provided in paragraph (1) neither the United States of America nor Canada shall be liable to the other or to any person in respect of any injury, damage or loss occurring in the territory of the other caused by any act, failure to act, omission or delay under the Treaty whether the injury, damage or loss results from negligence or otherwise.

(3) The United States of America and Canada, each to the extent possible within its territory, shall exercise due diligence to remove the cause of and to mitigate the effect of any injury, damage or loss occurring in the territory of the other as a result of any act, failure to act, omission or delay under the Treaty.

(4) Failure to commence operation as required under Articles IV and XII is not a breach of the Treaty and does not result in the loss of rights under the Treaty if the failure results from a delay that is not wilful or reasonably avoidable.

- (5) The compensation payable under paragraph (1) :
- (a) in respect of a breach by Canada of the obligation to commence full operation of a storage, shall be forfeiture of entitlement to downstream power benefits resulting from the operation of that storage, after operation commences, for a period equal to the period between the day of commencement of operation and the day when commencement should have occurred;
  - (b) in respect of any other breach by either the United States of America or Canada, causing loss of power benefits, shall not exceed the actual loss in revenue from the sale of hydroelectric power.

#### ARTICLE XIX

##### Period of Treaty

- (1) The Treaty shall come into force on the ratification date.
- (2) Either the United States of America or Canada may terminate the Treaty other than Article XIII (except paragraph (1) thereof), Article XVII and this Article at any time after the Treaty has been in force for sixty years if it has delivered at least ten years written notice to the other of its intention to terminate the Treaty.
- (3) If the Treaty is terminated before the end of the useful life of a dam built under Article XII then, notwithstanding termination, Article XII remains in force until the end of the useful life of the dam.
- (4) If the Treaty is terminated before the end of the useful life of the facilities providing the storage described in Article IV(3) and if the conditions described therein exist then, notwithstanding termination, Articles IV(3) and VI(4) and (5) remain in force until either the end of the useful life of those facilities or until those conditions cease to exist, whichever is the first to occur.

#### ARTICLE XX

##### Ratification

The instruments of ratification of the Treaty shall be exchanged by the United States of America and Canada at Ottawa, Canada.

#### ARTICLE XXI

##### Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, the Treaty shall be registered by Canada with the Secretariat of the United Nations.

This Treaty has been done in duplicate copies in the English language.

January 17, 1961

1574

COLUMBIA RIVER TREATY

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Treaty at Washington, District of Columbia, United States of America, this 17th day of January, 1961.

FOR THE UNITED STATES OF AMERICA:

DWIGHT D. EISENHOWER  
*President*  
*of the United States of America*

CHRISTIAN A. HERTER  
*Secretary of State*

ELMER F. BENNETT  
*Under Secretary of the Interior*

FOR CANADA:

JOHN G. DIEFENBAKER  
*Prime Minister of Canada*

E. D. FULTON  
*Minister of Justice*

A. D. P. HEENEY  
*Ambassador Extraordinary and Plenipotentiary*  
*of Canada to the United States of America*

ANNEX A

PRINCIPLES OF OPERATION

General

1. The Canadian storage provided under Article II will be operated in accordance with the procedures described herein.
2. A hydrometeorological system, including snow courses, precipitation stations and stream flow gauges will be established and operated, as mutually agreed by the entities and in consultation with the Permanent Engineering Board, for use in establishing data for detailed programming of flood control and power operations. Hydrometeorological information will be made available to the entities in both countries for immediate and continuing use in flood control and power operations.
3. Sufficient discharge capacity at each dam to afford the desired regulation for power and flood control will be provided through outlet works and turbine installations as mutually agreed by the entities. The discharge capacity provided for flood control operations will be large enough to pass inflow plus sufficient storage releases during the evacuation period to provide the storage space re-

quired. The discharge capacity will be evaluated on the basis of full use of any conduits provided for that purpose plus one half the hydraulic capacity of the turbine installation at the time of commencement of the operation of storage under the Treaty.

4. The outflows will be in accordance with storage reservation diagrams and associated criteria established for flood control purposes and with reservoir-balance relationships established for power operations. Unless otherwise agreed by the entities the average weekly outflows shall not be less than 3,000 cubic feet per second at the dam described in Article II(2) (a), not less than 5,000 cubic feet per second at the dam described in Article II(2) (b) and not less than 1,000 cubic feet per second at the dam described in Article II(2) (c). These minimum average weekly releases may be scheduled by the Canadian entity as required for power or other purposes.

#### Flood Control

5. For flood control operation, the United States entity will submit flood control operating plans which may consist of or include flood control storage reservation diagrams and associated criteria for each of the dams. The Canadian entity will operate in accordance with these diagrams or any variation which the entities agree will not derogate from the desired aim of the flood control plan. The use of these diagrams will be based on data obtained in accordance with paragraph 2. The diagrams will consist of relationships specifying the flood control storage reservations required at indicated times of the year for volumes of forecast runoff. After consultation with the Canadian entity the United States entity may from time to time as conditions warrant adjust these storage reservation diagrams within the general limitations of flood control operation. Evacuation of the storages listed hereunder will be guided by the flood control storage reservation diagrams and refill will be as requested by the United States entity after consultation with the Canadian entity. The general limitations of flood control operation are as follows:

- (a) The Dam described in Article II(2) (a) - The reservoir will be evacuated to provide up to 80,000 acre-feet of storage, if required, for flood control use by May 1 of each year.
- (b) The Dam described in Article II(2) (b) - The reservoir will be evacuated to provide up to 7,100,000 acre-feet of storage, if required, for flood control use by May 1 of each year.
- (c) The Dam described in Article II(2) (c) - The reservoir will be evacuated to provide up to 700,000 acre-feet of storage, if required, for flood control use by April 1 of each year and up to 1,270,000 acre-feet of storage, if required, for flood control use by May 1 of each year.
- (d) The Canadian entity may exchange flood control storage provided in the reservoir referred to in subparagraph (b) for additional storage provided in the reservoir referred to in subparagraph (a) if the entities agree that the exchange would provide the same effectiveness for control of floods on the Columbia River at The Dalles, Oregon.

## Power

6. For power generating purposes the 15,500,000 acre-feet of Canadian storage will be operated in accordance with operating plans designed to achieve optimum power generation downstream in the United States of America until such time as power generating facilities are installed at the site referred to in paragraph 5(a) or at sites in Canada downstream therefrom.
7. After at-site power is developed at the site referred to in paragraph 5(a) or power generating facilities are placed in operation in Canada downstream from that site, the storage operation will be changed so as to be operated in accordance with operating plans designed to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada, including consideration of any agreed electrical coordination between the two countries. Any reduction in the downstream power benefits in the United States of America resulting from that change in operation of the Canadian storage shall not exceed in any one year the reduction in downstream power benefits in the United States of America which would result from reducing by 500,000 acre-feet the Canadian storage operated to achieve optimum power generation in the United States of America and shall not exceed at any time during the period of the Treaty the reduction in downstream power benefits in the United States of America which would result from similarly reducing the Canadian storage by 3,000,000 acre-feet.
8. After at-site power is developed at the site referred to in paragraph 5(a) or power generating facilities are placed in operation in Canada downstream from that site, storage may be operated to achieve optimum generation of power in the United States of America alone if mutually agreed by the entities in which event the United States of America shall supply power to Canada to offset any reduction in Canadian generation which would be created as a result of such operation as compared to operation to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada. Similarly, the storage may be operated to achieve optimum generation of power in Canada alone if mutually agreed by the entities in which event Canada shall supply power to the United States of America to offset any reduction in United States generation which would be created as a result of such operation as compared to operation to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada.
9. Before the first storage becomes operative, the entities will agree on operating plans and the resulting downstream power benefits for each year until the total of 15,500,000 acre-feet of storage in Canada becomes operative. In addition, commencing five years before the total of 15,500,000 acre-feet of storage is expected to become operative, the entities will agree annually on operating plans and the resulting downstream power benefits for the sixth succeeding year of operation thereafter. This procedure will continue during the life of the Treaty, providing to both the entities, in advance, an assured plan of operation of the Canadian storage and a determination of the resulting downstream power benefits for the next succeeding five years.

## ANNEX B

## DETERMINATION OF DOWNSTREAM POWER BENEFITS

1. The downstream power benefits in the United States of America attributable to operation in accordance with Annex A of the storage provided by Canada under Article II will be determined in advance and will be the estimated increase in dependable hydroelectric capacity in kilowatts for agreed critical stream flow periods and the increase in average annual usable hydroelectric energy output in kilowatt hours on the basis of an agreed period of stream flow record.
2. The dependable hydroelectric capacity to be credited to Canadian storage will be the difference between the average rates of generation in kilowatts during the appropriate critical stream flow periods for the United States of America base system, consisting of the projects listed in the table, with and without the addition of the Canadian storage, divided by the estimated average critical period load factor. The capacity credit shall not exceed the difference between the capability of the base system without Canadian storage and the maximum feasible capability of the base system with Canadian storage, to supply firm load during the critical stream flow periods.
3. The increase in the average annual usable hydroelectric energy will be determined by first computing the difference between the available hydroelectric energy at the United States base system with and without Canadian storage. The entities will then agree upon the part of available energy which is usable with and without Canadian storage, and the difference thus agreed will be the increase in average annual usable hydroelectric energy. Determination of the part of the energy which is usable will include consideration of existing and scheduled transmission facilities and the existence of markets capable of using the energy on a contractual basis similar to the then existing contracts. The part of the available energy which is considered usable shall be the sum of:
  - (a) the firm energy,
  - (b) the energy which can be used for thermal power displacement in the Pacific Northwest Area as defined in Paragraph 7, and
  - (c) the amount of the remaining portion of the available energy which is agreed by the entities to be usable and which shall not exceed in any event 40% of that remainder.
4. An initial determination of the estimated downstream power benefits in the United States of America from Canadian storage added to the United States base system will be made before any of the Canadian storage becomes operative. This determination will include estimates of the downstream power benefits for each year until the total 15,500,000 acre-feet of Canadian storage becomes operative.
5. Commencing five years before the total of 15,500,000 acre-feet of storage is expected to become operative, estimates of downstream power benefits will be calculated annually for the sixth succeeding year on the basis of the assured plan of operation for that year.

6. The critical stream flow period and the details of the assured plan of operation will be agreed upon by the entities at each determination. Unless otherwise agreed upon by the entities, the determination of the downstream power benefits shall be based upon stream flows for the twenty year period beginning with July 1928 as contained in the report entitled Modified Flows at Selected Power Sites—Columbia River Basin, dated June 1957. No retroactive adjustment in downstream power benefits will be made at any time during the period of the Treaty. No reduction in the downstream power benefits credited to Canadian storage will be made as a result of the load estimate in the United States of America, for the year for which the determination is made, being less than the load estimate for the preceding year.

7. In computing the increase in dependable hydroelectric capacity and the increase in average annual hydroelectric energy, the procedure shall be in accordance with the three steps described below and shall encompass the loads of the Pacific Northwest Area. The Pacific Northwest Area for purposes of these determinations shall be Oregon, Washington, Idaho and Montana west of the Continental Divide but shall exclude areas served on the ratification date by the California Oregon Power Company and Utah Power and Light Company.

#### Step I

The system for the period covered by the estimate will consist of the Canadian storage, the United States base system, any thermal installation operated in coordination with the base system, and additional hydroelectric projects which will provide storage releases usable by the base system or which will use storage releases that are usable by the base system. The installations included in this system will be those required, with allowance for adequate reserves, to meet the forecast power load to be served by this system in the United States of America, including the estimated flow of power at points of inter-connection with adjacent areas, subject to paragraph 3, plus the portion of the entitlement of Canada that is expected to be used in Canada. The capability of this system to supply this load will be determined on the basis that the system will be operated in accordance with the established operating procedures of each of the projects involved.

#### Step II

A determination of the energy capability will be made using the same thermal installation as in Step I, the United States base system with the same installed capacity as in Step I and Canadian storage.

#### Step III

A similar determination of the energy capability will be made using the same thermal installation as in Step I and the United States base system with the same installed capacity as in Step I.

8. The downstream power benefits to be credited to Canadian storage will be the differences between the determinations in Step II and Step III in dependable hydroelectric capacity and in average annual usable hydroelectric energy, made in accordance with paragraphs 2 and 3.

ANNEX B - TABLE - BASE SYSTEM

Project	Stream	Stream Mile Above Mouth	Usable Storage Acre-feet	Normal Elevation		Gross Head Feet	Initial No. of Units	Installation Plant Kilowatts (Nameplate)	Estimated Installation	
				Pool Feet	Tailwater Feet				Ultimate No. of Units	Plant Kilowatts (Nameplate)
Hungry Horse	S. Fk. Flathead	5	3,161,000(4)	3560	3083	477	4	285,000	4	285,000
Kerr	Flathead	73	1,219,000	2893	2706	187	3	168,000	3	168,000
Thompson Falls	Clark Fork	209	Pondage	2396	2336	60	6	30,000	8	65,000
Noxon Rapids	Clark Fork	170	Pondage	2331	2179	152	4	336,000	5	420,000
Cabinet Gorge	Clark Fork	150	Pondage	2175	2078	97	4	200,000	6	300,000
Albeni Falls	Pend Oreille	90	1,155,000	2062	2034	28	3	42,600	3	42,600
Box Canyon	Pend Oreille	34	Pondage	2031	1989	42	4	60,000	4	60,000
Grand Coulee	Columbia	597	5,232,000(4)	1290(3)(4)	947	343	18	1,944,000	34	3,672,000
Chief Joseph	Columbia	546	Pondage	946	775	171	16	1,024,000	27	1,728,000
Wells(1)	Columbia	516	Pondage	775	707	68	6	400,000	10	666,700
Rocky Reach	Columbia	474	Pondage	707	614	93	7	711,550	11	1,118,150
Rock Island	Columbia	453	Pondage	608(3)	570	38	10	212,100	10	212,100
Wanapum	Columbia	415	Pondage	570	486	84	10	831,250	16	1,330,000
Priest Rapids	Columbia	397	Pondage	486	406	80	10	788,500	16	1,261,600
Brownlee	Snake	285	974,000	2077	1805	272	4	360,400	6	540,600
Oxbow	Snake	273	Pondage	1805	1683	122	4	190,000	5	237,500
Ice Harbor	Snake	10	Pondage	440	343	97	3	270,000	6	540,000
McNary	Columbia	292	Pondage	340	265	75	14	980,000	20	1,400,000
John Day	Columbia	216	Pondage	265	161	104	8	1,080,000	20	2,700,000
The Dalles	Columbia	192	Pondage	160	74	86	16(2)	1,119,000	24(2)	1,743,000
Bonneville	Columbia	145	Pondage	74	15	59	10	518,400	16	890,400
Kootenay Lake	Kootenay	16	673,000	1745	-	-	-	-	-	-
Chelan	Chelan	0	676,000	1100	707	393	2	48,000	4	96,000
Coeur d'Alene L.	Coeur d'Alene	102	223,000	2128	-	-	-	-	-	-
TOTAL 24 PROJECTS			13,313,000(4)			3128	166	11,598,800	258	19,476,650

- (1) The Wells project is not presently under construction; when this project or any other project on the main stem of the Columbia River is completed, they will be integral components of the base system.
- (2) Includes two 13,500 kilowatt units for fish attraction water.
- (3) With flashboards.
- (4) In determining the base system capabilities with and without Canadian storage the Hungry Horse reservoir storage will be limited to 3,008,000 acre-feet (normal full pool elevation of 3560 feet) and the Grand Coulee project will not include the effect of adding flashboards, limiting the storage to 5,072,000 acre-feet (normal full pool elevation of 1288 feet). The total usable storage of the base system as so adjusted will be 13,000,000 acre-feet.

ANNEX TO EXCHANGE OF NOTES DATED JANUARY 22, 1964  
BETWEEN THE GOVERNMENTS OF CANADA AND THE UNITED  
STATES REGARDING THE COLUMBIA RIVER TREATY

## PROTOCOL

1. If the United States entity should call upon Canada to operate storage in the Columbia River Basin to meet flood control needs of the United States of America pursuant to Article IV(2)(b) or Article IV(3) of the Treaty, such call shall be made only to the extent necessary to meet forecast flood control needs in the territory of the United States of America that cannot adequately be met by flood control facilities in the United States of America in accordance with the following conditions:
  - (1) Unless otherwise agreed by the Permanent Engineering Board, the need to use Canadian flood control facilities under Article IV(2)(b) of the Treaty shall be considered to have arisen only in the case of potential floods which could result in a peak discharge in excess of 600,000 cubic feet per second at The Dalles, Oregon, assuming the use of all related storage in the United States of America existing and under construction in January 1961, storage provided by any dam constructed pursuant to Article XII of the Treaty and the Canadian storage described in Article IV(2)(a) of the Treaty.
  - (2) The United States entity will call upon Canada to operate storage under Article IV(3) of the Treaty only to control potential floods in the United States of America that could not be adequately controlled by all the related storage facilities in the United States of America existing at the expiration of 60 years from the ratification date but in no event shall Canada be required to provide any greater degree of flood control under Article IV(3) of the Treaty than that provided for under Article IV(2) of the Treaty.
  - (3) A call shall be made only if the Canadian entity has been consulted whether the need for flood control is, or is likely to be, such that it cannot be met by the use of flood control facilities in the United States of America in accordance with subparagraphs (1) or (2) of this paragraph. Within ten days of receipt of a call, the Canadian entity will communicate its acceptance, or its rejection or proposals for modification of the call, together with supporting considerations. When the communication indicates rejection or modification of the call the United States entity will review the situation in the light of the communication and subsequent developments and will then withdraw or modify the call if practicable. In the absence of agreement on the call or its terms the United States entity will submit the matter to the Permanent Engineering Board provided for under Article XV of the Treaty for assistance as contemplated in Article XV(2)(c) of the Treaty. The entities will be guided by any instructions issued by the Permanent Engineering Board. If the Permanent Engineering Board does not issue instructions within ten days of receipt of a submission the United States entity may

renew the call for any part or all of the storage covered in the original call and the Canadian entity shall forthwith honour the request.

2. In preparing the flood control operating plans in accordance with paragraph 5 of Annex A of the Treaty, and in making calls to operate for flood control pursuant to Article IV(2)(b) and Article IV(3) of the Treaty, every effort will be made to minimize flood damage both in Canada and the United States of America.

3. The exchange of Notes provided for in Article VIII(1) of the Treaty shall take place contemporaneously with the exchange of the Instruments of Ratification of the Treaty provided for in Article XX of the Treaty.

4.(1) During the period and to the extent that the sale of Canada's entitlement to downstream power benefits within the United States of America as a result of an exchange of Notes pursuant to Article VIII(1) of the Treaty relieves the United States of America of its obligation to provide east-west standby transmission service as called for by Article X(1) of the Treaty, Canada is not required to make payment for the east-west standby transmission service with regard to Canada's entitlement to downstream power benefits sold in the United States of America.

(2) The United States of America is not entitled to any payments of the character set out in subparagraph (1) of this paragraph in respect of that portion of Canada's entitlement to downstream power benefits delivered by the United States of America to Canada at any point on the Canada-United States of America boundary other than at a point near Oliver, British Columbia, and the United States of America is not required to provide the east-west standby transmission service referred to in subparagraph (1) of this paragraph in respect of the portion of Canada's entitlement to downstream power benefits which is so delivered.

5. Inasmuch as control of historic streamflows of the Kootenay River by the dam provided for in Article XII(1) of the Treaty would result in more than 200,000 kilowatt years per annum of energy benefit downstream in Canada, as well as important flood control protection to Canada, and the operation of that dam is therefore of concern to Canada, the entities shall, pursuant to Article XIV(2)(a) of the Treaty, cooperate on a continuing basis to coordinate the operation of that dam with the operation of hydroelectric plants on the Kootenay River and elsewhere in Canada in accordance with the provisions of Article XII(5) and Article XII(6) of the Treaty.

6.(1) Canada and the United States of America are in agreement that Article XIII(1) of the Treaty provides to each of them a right to divert water for a consumptive use.

(2) Any diversion of water from the Kootenay River when once instituted under the provisions of Article XIII of the Treaty is not subject to any limitation as to time.

7. As contemplated by Article IV(1) of the Treaty, Canada shall operate the Canadian storage in accordance with Annex A and hydroelectric operating

## COLUMBIA RIVER TREATY

plans made thereunder. Also, as contemplated by Annexes A and B of the Treaty and Article XIV(2)(k) of the Treaty, these operating plans before they are agreed to by the entities will be conditioned as follows:

- (1) As the downstream power benefits credited to Canadian storage decrease with time, the storage required to be operated by Canada pursuant to paragraphs 6 and 9 of Annex A of the Treaty, will be that required to produce those benefits.
  - (2) The hydroelectric operating plans, which will be based on Step I of the studies referred to in paragraph 7 of Annex B of the Treaty, will provide a reservoir-balance relationship for each month for the whole of the Canadian storage committed rather than a separate relationship for each of the three Canadian storages. Subject to compliance with any detailed operating plan agreed to by the entities as permitted by Article XIV(2)(k) of the Treaty, the manner of operation which will achieve the specific storage or release of storage called for in a hydroelectric operating plan consistent with optimum storage use will be at the discretion of the Canadian entity.
  - (3) Optimum power generation at-site in Canada and downstream in Canada and the United States of America referred to in paragraph 7 of Annex A of the Treaty will include power generation at-site and downstream in Canada of the Canadian storages referred to in Article II(2) of the Treaty, power generation in Canada which is coordinated therewith, downstream power benefits from the Canadian storage which are produced in the United States of America and measured under the terms of Annex B of the Treaty, power generation in the Pacific Northwest Area of the United States of America and power generation coordinated therewith.
8. The determination of downstream power benefits pursuant to Annex B of the Treaty, in respect of each year until the expiration of thirty years from the commencement of full operation in accordance with Article IV of the Treaty of that portion of the Canadian storage described in Article II of the Treaty which is last placed in full operation, and thereafter until otherwise agreed upon by the entities, shall be based upon stream flows for the thirty-year period beginning July 1928 as contained in the report entitled "Extension of Modified Flows Through 1958—Columbia River Basin" and dated June 1960, as amended and supplemented to June 29, 1961, by the Water Management Subcommittee of the Columbia Basin Inter-Agency Committee.
- 9.(1) Each load used in making the determinations required by Steps II and III of paragraph 7 of Annex B of the Treaty shall have the same shape as the load of the Pacific Northwest area as that area is defined in that paragraph.
  - (2) The capacity credit of Canadian storage shall not exceed the difference between the firm load carrying capabilities of the projects and installations included in Step II of paragraph 7 of Annex B of the Treaty and the

January 17, 1961

COLUMBIA RIVER TREATY

1583

project and installations included in Step III of paragraph 7 of Annex B of the Treaty.

10. In making all determinations required by Annex B of the Treaty the loads used shall include the power required for pumping water for consumptive use into the Banks Equalizing Reservoir of the Columbia Basin Federal Reclamation Project but mention of this particular load is not intended in any way to exclude from those loads any use of power that would normally be part of such loads.

11. In the event operation of any of the Canadian storages is commenced at a time which would result in the United States of America receiving flood protection for periods longer than those on which the amounts of flood control payments to Canada set forth in Article VI(1) of the Treaty are based, the United States of America and Canada shall consult as to the adjustments, if any, in the flood control payments that may be equitable in the light of all relevant factors. Any adjustment would be calculated over the longer period or periods on the same basis and in the same manner as the calculation of the amounts set forth in Article VI(1) of the Treaty. The consultations shall begin promptly upon the determination of definite dates for the commencement of operation of the Canadian storages.

12. Canada and the United States of America are in agreement that the Treaty does not establish any general principle or precedent applicable to waters other than those of the Columbia River Basin and does not detract from the application of the Boundary Waters Treaty, 1909, to other waters.

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*The Secretary of State to the Canadian Secretary of State for External Affairs*

DEPARTMENT OF STATE

WASHINGTON

*January 22, 1964*

SIR:

I have the honor to refer to the discussions which have been held between representatives of the Government of Canada and of the Government of the United States of America regarding a sale of Canada's entitlement to downstream power benefits under the Treaty between Canada and the United States of America relating to cooperative development of the water resources of the Columbia River Basin, signed on January 17, 1961.

On the basis of these discussions my Government understands that the two Governments recognize that it would be in the public interest of both countries if Canada's entitlement to downstream power benefits could be disposed of, as contemplated by Article VIII of the Treaty, in accordance with general conditions and limits similar to those set out in detail in the attachment hereto, and further, that before such a disposition can be concluded and confirmed by the two

January 17, 1961

1584

COLUMBIA RIVER TREATY

Governments, additional steps must be taken in each country. Therefore, in furtherance of this aim, it is understood the two Governments are agreed that:

- a) the Government of the United States will use its best efforts to arrange for disposition of Canada's entitlement to downstream power benefits within the United States of America in accordance with the general conditions and limits set forth in the attachment, and
- b) the Government of Canada will use its best efforts to accomplish all those things which are considered necessary and preliminary to ratification of the Treaty as quickly as possible, including any arrangements for implementation and acceptance of the general conditions and limits set forth in the attachment.

I should like to propose that if agreeable to your Government this note together with the attachment and your reply shall constitute an agreement by our Governments relating to the Treaty.

Accept, Sir, the renewed assurances of my highest consideration.

DEAN RUSK

The Honorable

PAUL MARTIN, P.C., Q.C.,

*Secretary of State for External Affairs,  
Ottawa.*

ATTACHMENT RELATING TO TERMS OF SALE

A. The disposition shall consist of the downstream power benefits to which Canada is entitled under the Treaty, other than Canada's entitlement to downstream power benefits resulting from the construction or operation of a project described in Article IX of the Treaty, and shall be by way of a contract of sale authorized in accordance with Article VIII of the Treaty between the British Columbia Hydro and Power Authority and a single Purchaser containing provisions mutually satisfactory to the parties to the contract but shall be subject to and be operative in accordance with the following general conditions and limits:

1. (a) The storages described in Article II of the Treaty shall be fully operative for power purposes in accordance with the following schedule:

Storage described in Article II(2) (c)—approximately 1,400,000 acre feet on April 1, 1968,

Storage described in Article II(2) (b)—approximately 7,100,000 acre feet on April 1, 1969,

Storage described in Article II(2) (a)—approximately 7,000,000 acre feet on April 1, 1973.

- (b) The period of sale of the entitlement allocated to each of the storages shall terminate and expire thirty years from the date

on which that storage is required to be fully operative for power purposes in accordance with the schedule in subparagraph (a) of this paragraph.

- (c) In the event any storage is not fully operative in accordance with the schedule in subparagraph (a) of this paragraph or if, during the period of sale, the storage is not operated as required by the hydroelectric operating plans agreed upon in accordance with the Treaty, as modified by any detailed operating plan agreed upon in accordance with Article XIV(2)(k) of the Treaty, and the Canadian entitlement is thereby reduced, the British Columbia Hydro and Power Authority shall pay the Purchaser an amount equal to the cost it would have to incur to replace that part of the reduction in the Canadian entitlement which the vendees of the Purchaser could have used other than costs that could have been avoided had every reasonable effort to mitigate losses been made by the Purchaser, the United States entity and the owners of non-federal dams on the Columbia River in the United States of America. Alternatively, the British Columbia Hydro and Power Authority may, at its option, supply power to the Purchaser in an amount which assures that the Purchaser receives the capacity and energy which would have constituted that part of the reduction in the Canadian entitlement that the vendees of the Purchaser could have used if there had been no default, together with appropriate adjustments to reflect transmission costs in the United States of America, delivery to be made when the loss of power would otherwise have occurred.

If the assurance described in paragraph B.5. of this attachment is given to the Purchaser, the United States entity may succeed to all the rights of the Purchaser and its vendees to receive the entire Canadian entitlement, or that part that could be used by the vendees, and to be compensated by British Columbia Hydro and Power Authority in the event of non-receipt thereof. The United States entity agrees that before it purchases more costly power from any third party for the purpose of supplying the necessary amount of the Canadian entitlement to the Purchaser; it will first cause to be delivered to the Purchaser, or for its account, any available surplus capacity or energy from the United States Federal Columbia River System and compensation to the United States entity because of such deliveries shall be computed by applying the then applicable rate schedules of the Bonneville Power Administration to the deliveries.

In the event of disagreement, determination of compensation in money or power due under this paragraph shall be resolved by

## COLUMBIA RIVER TREATY

- arbitration and shall be confined to the actual loss incurred in accordance with the principles in this paragraph.
- (d) For the purpose of allocating downstream power benefits among the Treaty storages from April 1, 1998 to April 1, 2003, the percentage of downstream power benefits allocated to each Treaty storage shall be the percentage of the total of the Treaty storages provided by that storage.
2. For the period of the sale the British Columbia Hydro and Power Authority shall operate and maintain the Treaty storages in accordance with the provisions of the Treaty.
  3. (a) The purchase price of the entitlement shall be \$254,400,000, in United States funds as of October 1, 1964, subject to adjustment, in the event of an earlier payment of all or part thereof, to the then present worth, at a discount rate of  $4\frac{1}{2}$  percent per annum.  
(b) The purchase price shall be paid to Canada contemporaneously with the exchange of ratifications of the Treaty and shall be applied towards the cost of constructing the Treaty projects through a transfer of the purchase price by Canada to the Government of British Columbia, pursuant to arrangements deemed satisfactory to Canada, to be entered into between Canada and the Government of British Columbia.
  4. If, during the period of the sale, there is any reduction in Canada's entitlement to downstream power benefits which results from action taken by the Canadian entity pursuant to paragraph 7 of Annex A of the Treaty, the British Columbia Hydro and Power Authority shall, by supplying power to the Purchaser, or otherwise as may be agreed, offset that reduction in a manner so that the Purchaser will be compensated therefor.
  5. The Purchaser shall have and may exercise the rights of the British Columbia Hydro and Power Authority relating to the negotiation and conclusion with the United States entity, of proposals relating to the exchanges authorized by Article VIII(2) of the Treaty with respect to any portion of Canada's entitlement to downstream power benefits sold to the Purchaser.
- B. The Notes to be exchanged pursuant to Article VIII(1) of the Treaty shall contain, inter alia, provisions incorporating the following requirements:
1. As soon as practicable after start of construction of each Treaty project the Canadian and United States entities shall agree upon a program for filling the storage provided by the project. The filling program shall have the objective of having the storages described in Article II(2)(c) and Article II(2)(b) of the Treaty full by September 1 following the date when the storages become fully operative and the storage provided by the dam mentioned in Article II(2)(a) of the Treaty full to 15 million acre-feet by September 1, 1975. This objective shall be reflected

- in the hydroelectric operating plans and shall take into account generating requirements at-site and downstream in Canada and the United States of America to meet loads.
2. In the event the United States of America becomes entitled to compensation in respect of a breach of the obligation under Article IV(6) of the Treaty to commence full operation of a storage, compensation payable to the United States of America under Article XVIII(5) (a) of the Treaty shall be made in an amount equal to 2.70 mills per kilowatt-hour, and 46 cents per kilowatt of dependable capacity for each month or fraction thereof, in United States funds, for and in lieu of the power which would have been forfeited under Article XVIII(5) (a) of the Treaty if Canada's entitlement to downstream power benefits had not been sold in the United States of America. Alternatively, Canada may, at its option, supply capacity and energy to the United States entity in an amount equal to that which would have been forfeited, together with appropriate adjustments to reflect transmission costs in the United States of America, delivery to be made when the loss would otherwise have occurred.
  3. A diminution of Canada's entitlement to downstream power benefits sold in the United States of America which is directly attributable to a failure to comply with paragraph A.1(a) or paragraph A.2 of this attachment, in the absence of compensation therefor by the British Columbia Hydro and Power Authority, constitutes a breach of the Treaty by Canada and Article XVIII(5) of the Treaty and the exculpatory provisions in Article XVIII of the Treaty do not apply to such breach. Compensation or replacement of power as specified in paragraph A.1(c) of this attachment shall be made by Canada and shall be accepted by the United States of America as complete satisfaction of Canada's liability under this paragraph.
  4. For any year in which Canada's entitlement to downstream power benefits is sold in the United States of America, the United States entity may decide the amount of the downstream power benefits for purposes connected with the disposition thereof in the United States of America. This authorization, however, shall not affect the rights or relieve the obligations of the Canadian and United States entities relating to joint activities under the provisions of Article XIV and Annexes A and B of the Treaty; nor shall it apply to determination of compensation provided for in paragraph A.1(c) and paragraph B.2 of this attachment.
  5. If necessary to accomplish the sale of Canada's entitlement to downstream power benefits in accordance with this attachment, the United States entity shall assure unconditionally the delivery to or for the account of the Purchaser, by appropriate exchange contracts, of an amount of power agreed between the United States entity and the

January 17, 1961

1588

COLUMBIA RIVER TREATY

Purchaser to be the equivalent of the entitlement during the period of the sale.

- C. Canada shall designate the British Columbia Hydro and Power Authority as the Canadian entity for the purposes of Article XIV(1) of the Treaty.

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*The Canadian Secretary of State for External Affairs to the American  
Ambassador*

DEPARTMENT OF EXTERNAL AFFAIRS  
CANADA

No. 140

OTTAWA, *September 16, 1964.*

EXCELLENCY,

I have the honour to refer to the Treaty between Canada and the United States of America relating to cooperative development of the water resources of the Columbia River Basin signed at Washington on 17 January 1961, to the Protocol attached to my Note to the Honourable Dean Rusk, Secretary of State of the United States of America, dated 22 January 1964, and to the exchange of instruments of ratification of the Treaty which occurred today.

I also have the honour to refer to the discussions which have been held between representatives of the Government of Canada and of the Government of the United States of America in connection with the Exchange of Notes, dated 22 January 1964, regarding sale in the United States of America of Canada's entitlement under the Treaty to downstream power benefits.

My Government also understands that your Government has designated the Administrator of the Bonneville Power Administration, Department of the Interior, and the Division Engineer, North Pacific Division, Corps of Engineers, Department of the Army, as the United States Entity for the purposes of Article XIV(1) of the Treaty, and I would inform you that the Government of Canada has designated the British Columbia Hydro and Power Authority, a corporation incorporated in the Province of British Columbia by the British Columbia Hydro and Power Authority Act, 1964, as the Canadian Entity for the purposes of that Article. A copy of the designation is attached hereto.

On the basis of those discussions the Government of Canada proposes that the Canadian Entitlement Purchase Agreement regarding the sale in the United States of America of the Canadian Entitlement under the Treaty to downstream power benefits entered into between the British Columbia Hydro and Power Authority and the Columbia Storage Power Exchange, the single purchaser referred to in the attachment to your Note of January 22, 1964, relating to the terms of the sale, a copy of which agreement is attached hereto, be authorized for the purposes of Article VIII(1) of the Treaty as a disposal of the Canadian Entitlement in the United States of America for the period and in accordance with the other terms and provisions set out in the Canadian Entitlement Purchase Agreement.

My Government also understands that your Government pursuant to paragraph E. 5 in the attachment to Mr. Secretary Rusk's Note of January 22, 1964, relating to the terms of the sale, has determined that the United States Entity shall enter into and that it has entered into the Canadian Entitlement Exchange Agreements which agreements assure unconditionally the delivery for the account of the Columbia Storage Power Exchange of an amount of power agreed between the United States Entity and the Columbia Storage Power Exchange to be the equivalent of the Canadian Entitlement being sold under the Canadian Entitlement Purchase Agreement, and that the United States Entity has succeeded to all the rights and obligations of the Columbia Storage Power Exchange under the Canadian Entitlement Purchase Agreement other than the obligation to pay the purchase price, and further that the United States Entity has, pursuant to Article XI of the Treaty, approved the use of the improved stream flow in the United States of America brought about by the Treaty by entering into Canadian Entitlement Allocation Agreements with owners of non-Federal dams on the Columbia River.

My Government also understands that the two Governments are agreed that the Government of the United States of America undertakes that:

- (1) So long as the Canadian Entitlement Exchange Agreements remain in force, the United States Entity will perform all the obligations of the Columbia Storage Power Exchange under the Canadian Entitlement Purchase Agreement other than the obligation to pay the purchase price specified in Section 3 of the Canadian Entitlement Purchase Agreement;
- (2) In the event the Canadian Entitlement is reduced as a result of a failure on the part of the Canadian Entity to comply with Section 4 of the Canadian Entitlement Purchase Agreement and if the failure results other than from wilful omission by the Canadian Entity to fulfill its obligations under that agreement, the United States Entity will, without compensation, offset the effect of that failure by adjusting the operation of the portion of the System described in Step I of paragraph 7 of Annex B of the Treaty which is in the United States of America to the extent that the United States Entity can do so without loss of energy or capacity to that portion of the System; and
- (3) If the procedure described in paragraph (2) above does not fully offset the effect of the failure, then to the extent the entities agree thereon, an additional offsetting adjustment in the operation of the portion of the System described in Step I of Annex B of the Treaty which is in the United States of America and which would result in only an energy loss will be made if the Canadian Entity delivers to the United States Entity energy sufficient to make up one half that energy loss.
- (4) In order to make up any reduction in the Canadian Entitlement, which reduction is to be determined in accordance with Section 6 of the Canadian Entitlement Purchase Agreement, the United States Entity will cause to be delivered the least expensive capacity and energy

## COLUMBIA RIVER TREATY

available and, to the extent that it would be the least expensive available, will deliver, at the then applicable rate schedules of the Bonneville Power Administration, any available surplus capacity and energy from the United States Federal Columbia River System.

The Government of Canada also proposes that:

- (5) Contemporaneously with the exchange of the instruments of ratification CSPE shall have paid to Canada the sum in United States funds of \$253,929,534.25, being the equivalent of the sum of \$254,400,000 in United States funds as of October 1, 1964 adjusted to September 16, 1964 at a discount rate of 4½ percent per annum on the basis set out in the January 22, 1964 Exchange of Notes between our two Governments relating to the terms of sale, which sum shall be applied towards the cost of constructing the Treaty projects through a transfer of the sum by Canada to the Government of British Columbia pursuant to arrangements entered into between Canada and British Columbia.
- (6) No modification or renewal of the Canadian Entitlement Purchase Agreement shall be effective until approved by the Governments of Canada and the United States of America, evidenced by an Exchange of Notes.
- (7) The storages described in Article II of the Treaty shall be considered fully operative when the facilities for such storages are available and outlet facilities are operable for regulating flows in accordance with the flood control and hydroelectric operating plans.
- (8) As soon as practicable, the Canadian and United States Entities shall agree upon a program for filling the storage provided by each of the Treaty projects. The filling program shall have the objective of having the storages described in Article II(2)(a), Article II(2)(b), and Article II(2)(c) of the Treaty filled to the extent that usable storage, in the amounts provided for each storage in Article II of the Treaty is available by September 1 following the date when the storage becomes fully operative, and of having the storage provided by the dam described in Article II(2)(a) filled to 15 million acre-feet by September 1, 1975. This objective shall be reflected in the hydroelectric operating plans and shall take into account generating requirements at-site and downstream in Canada and the United States of America to meet loads and requirements for flood control.
- (9) In the event the United States of America becomes entitled to compensation from Canada for loss of downstream power benefits, other than Canada's entitlement to downstream power benefits, in respect of a breach of the obligation under Article IV(6) of the Treaty to commence full operation of a storage, compensation payable to the United States of America under Article XVIII(5)(a) of the Treaty shall be made in an amount equal to 2.70 mills per kilowatt-hour of energy, and 46 cents per kilowatt of dependable capacity for each month or fraction thereof, in United States Funds, for and in lieu of the power

- which would have been forfeited under Article XVIII(5)(a) of the Treaty if Canada's entitlement to downstream power benefits had not been sold in the United States of America. The power which would have been forfeited shall be Canada's entitlement to downstream power benefits attributable to the particular storage had it commenced full operation in accordance with Article IV(6) of the Treaty and shall consist of (1) dependable capacity for the period of forfeiture and (2) that portion of average annual usable energy which would have been available during the period of forfeiture assuming the energy to be available at a uniform rate throughout the year. Alternatively, Canada may, at its option, offset the power for which compensation is to be made by delivering capacity and energy to the United States Entity, such delivery to be made, unless otherwise agreed by the entities, during the period of breach and at a uniform rate. The option for Canada to provide power in place of paying money shall permit Canada to make compensation partly by supplying power and partly by paying money, as may be mutually agreed by the entities.
- (10) The Canadian Entity shall at reasonable intervals provide current reports to the United States Entity of the progress of construction of the Treaty storages. In the event there is a likelihood of delay in meeting the completion dates set out in Section 4 of the Canadian Entitlement Purchase Agreement or a delay which will give rise to a claim under paragraph (9) hereof the Canadian Entity will advise of the probability of power being available to make the compensation required.
  - (11) To the extent the Canadian Entity does not make compensation for a reduction in the Canadian Entitlement arising as a result of a failure to comply with Section 4 of the Canadian Entitlement Purchase Agreement, Canada shall make such compensation and such compensation shall be accepted in complete satisfaction of all claims arising out of the failure in respect of the reduction in the Canadian Entitlement for which such compensation was made.
  - (12) For any year in which Canada's Entitlement to downstream power benefits is sold to Columbia Storage Power Exchange, the United States Entity may decide the amount of the downstream power benefits for purposes connected with the disposition thereof in the United States of America. This authorization, however, shall neither affect the rights or relieve the obligations of the Canadian and United States Entities relating to joint activities under the provisions of Article XIV and Annexes A and B of the Treaty, nor shall it apply to determination of compensation provided for in the Canadian Entitlement Purchase Agreement or pursuant to paragraph (9) hereof or to determination of the power benefits to which Canada is entitled.
  - (13) Any power delivered by the Canadian Entity or by Canada in accordance with the Canadian Entitlement Purchase Agreement or this Note shall be delivered at points of interconnection on the Canadian-United

January 17, 1961

1592

COLUMBIA RIVER TREATY

States border mutually acceptable to the entities. Appropriate adjustments shall be made to reflect transmission costs and transmission losses in the United States of America.

- (14) Any dispute arising under the Canadian Entitlement Purchase Agreement, including, but without limitation, a dispute whether any event requiring compensation has occurred, the amount of compensation due or the amount of any overdelivery of power is agreed to be a difference under the Treaty to be settled in accordance with the provisions of Article XVI of the Treaty, and the parties to the Canadian Entitlement Purchase Agreement may avail themselves of the jurisdiction hereby conferred.

The Government of Canada therefore proposes that if agreeable to your Government this Note together with your reply thereto constitutes an agreement by our Governments relating to the Treaty with effect from the date of the exchange of instruments of ratification of the Treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

PAUL MARTIN  
*Secretary of State for  
External Affairs.*

His Excellency,

W. WALTON BUTTERWORTH,  
*Ambassador of the United States  
of America,  
Ottawa.*

P.C. 1964-1407

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 4th September, 1964.

CANADA  
PRIVY COUNCIL

The Committee of the Privy Council, on the recommendation of the Right Honourable Lester B. Pearson, the Prime Minister, advise that Your Excellency may be pleased to designate the British Columbia Hydro and Power Authority, a corporation incorporated in the Province of British Columbia by the British Columbia Hydro and Power Authority Act 1964, as the Canadian entity for the purposes of Article XIV of a treaty dated January 17, 1961 at Washington, D.C. U.S.A. between Canada and the United States of America relating to co-operative development of the water resources of the Columbia River Basin, such designation to take effect on the date on which the Instruments of Ratification of the Treaty shall be exchanged.

  
CLERK OF THE PRIVY COUNCIL

## CANADIAN ENTITLEMENT PURCHASE AGREEMENT

This Agreement executed this thirteenth day of August, 1964, by and between COLUMBIA STORAGE POWER EXCHANGE, a nonprofit corporation organized under the laws of the State of Washington, hereinafter referred to as "CSPE",

and

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation incorporated in the Province of British Columbia, Canada, by the British Columbia Hydro and Power Authority Act, 1964, hereinafter referred to as "the Authority".

## WHEREAS:

A. The Governments of the United States of America and Canada are exchanging instruments of ratification of the Treaty Between Canada and the United States of America Relating to the Cooperative Development of the Water Resources of the Columbia River Basin Signed at Washington January 17, 1961. By an Exchange of Notes dated January 22, 1964, the two Governments agreed upon the terms of a Protocol with effect from the date of the exchange of instruments of ratification of the Treaty aforesaid (which Treaty and Protocol are hereinafter referred to as the "Treaty").

B. Under the terms of the Treaty, Canada is entitled to receive from the United States one half of the annual average usable energy and one half of the dependable hydroelectric capacity which can be realized in the United States each year as a result of use of the improved stream flow on the Columbia River created by storage to be constructed in Canada.

C. The Government of Canada and the Government of British Columbia have entered into an agreement dated 8 July, 1963, and a supplementary agreement dated 13 January, 1964, wherein it was agreed that all proprietary rights, title and interests arising under the Treaty, including all rights to downstream power benefits, belong to the Government of British Columbia, and providing that Canada shall designate the Authority as the Canadian Entity as provided for in Article XIV of the Treaty. Pursuant to such agreement Canada is designating the Authority as the Canadian Entity.

D. The Authority is, by virtue of an Order in Council of the Province of British Columbia, dated August 7, 1964, required and authorized to exercise all the rights and powers granted to the Canadian Entity and to perform all the obligations imposed on the Canadian Entity by the Treaty and to enter into this Agreement.

E. CSPE is incorporated with the object of purchasing for a term of years Canada's rights to downstream power benefits under the Treaty and incurring indebtedness to finance such purchase and disposing of such rights under such arrangements as may be necessary to retire the corporate indebtedness and to pay the necessary expenses of CSPE incidental thereto.

F. The Governments of the United States of America and Canada, as contemplated by Article VIII of the Treaty and in pursuance of the Agreement

## COLUMBIA RIVER TREATY

of the two Governments contained in an Exchange of Notes dated January 22, 1964, relating thereto, are by an Exchange of Notes authorizing the disposition for a term of years within the United States of America of Canada's rights to downstream power benefits under the Treaty, which disposition when so authorized is to be effectuated by this Agreement in accordance with the provisions of the Treaty and documents supplementary thereto.

Now, THEREFORE, it is agreed:

## SECTION 1. TERM.

This Agreement shall be effective when authorized by the Governments of Canada and the United States of America by an Exchange of Notes pursuant to the Treaty and shall terminate at midnight on March 31, 2003.

## SECTION 2. CONVEYANCE.

(1) The Authority does hereby sell, assign, and convey unto CSPE, and CSPE does hereby accept, the entitlement of Canada, as described in Article V(1) of the Treaty, to the downstream power benefits determined in accordance with Article VII of the Treaty, save and except the entitlement of Canada to the downstream power benefits resulting from the construction or operation of the project referred to in Article IX of the Treaty, for the following periods of time:

- (a) The benefits resulting from the storage described in Article II(2) (c) of the Treaty (hereinafter referred to as Duncan Lake storage) for a period of 30 years commencing April 1, 1968; and
- (b) The benefits resulting from the storage described in Article II(2) (b) of the Treaty (hereinafter referred to as Arrow Lakes storage) for a period of 30 years commencing April 1, 1969; and
- (c) The benefits resulting from the storage described in Article II(2) (a) of the Treaty (hereinafter referred to as Mica Creek storage) for a period of 30 years commencing April 1, 1973.

(2) All of the entitlement to the downstream power benefits hereby conveyed for the aforementioned periods of time, without the reductions provided for in paragraph 7 of Annex A of the Treaty is hereinafter referred to as "the Canadian Entitlement".

(3) For the purpose of allocating downstream power benefits among the three Canadian storages provided for in the Treaty between April 1, 1998, and March 31, 2003, the percentage of downstream power benefits allocable to each of the said storages shall be the percentage of the total of the Canadian storages provided by that storage as set out in Article II of the Treaty.

## SECTION 3. PAYMENT BY CSPE.

Contemporaneously with the exchange of the instruments of ratification, CSPE is causing to be paid to Canada the sum, in United States funds, of \$254,400,000.00 as of October 1, 1964, subject to adjustment in the event of an earlier payment thereof to the then present worth at a discount rate of 4½ percent per annum, which sum shall be applied towards the cost of constructing the Treaty projects through a transfer of the sum by Canada to the Govern-

ment of British Columbia pursuant to arrangements entered into between Canada and British Columbia. The Authority acknowledges that the receipt by Canada of the said sum is consideration for all the covenants of the authority in this Agreement and particularly the covenants to construct and operate the Treaty projects and is a complete discharge of CSPE for the full purchase price for the sale effected in Section 2 of this Agreement.

#### SECTION 4. COVENANTS.

(1) The Authority covenants and agrees with CSPE that it will undertake all requisite construction work in a good and workmanlike manner and that the storages described in Article II of the Treaty shall be fully operative for power purposes under this Agreement by the following dates:

- (a) The Duncan Lake storage, April 1, 1968.
- (b) The Arrow Lakes storage, April 1, 1969.
- (c) The Mica Creek storage, April 1, 1973.

To be fully operative the facilities for such storages shall be completed to the extent that storages are available and outlet facilities are operable for regulating flows in accordance with flood control and hydroelectric operating plans as contemplated by the Treaty.

(2) The Authority covenants and agrees with CSPE that it will operate and maintain the Treaty storages in a good and workmanlike manner and in accordance with the provisions of the Treaty and any arrangements made pursuant to the Treaty and that it will not take any action prohibited by the Treaty.

#### SECTION 5. FLOOD CONTROL.

Nothing in this Agreement affects or alters the obligations, rights, and privileges of the entities under the Treaty relating to operation and compensation for flood control and without restricting the generality of the foregoing, it is expressly agreed that any reduction in generation in the United States brought about by operation for flood control under the Treaty or any flood control arrangements made pursuant to the Treaty shall not be a reduction in the Canadian Entitlement for which compensation is required under this Agreement.

#### SECTION 6. COMPENSATION.

In the event the Canadian Entitlement is reduced as a result of a failure to comply with Section 4 of this Agreement:

(1) If the failure results other than from wilful omission by the Authority to fulfill its obligations under this Agreement, the United States Entity has agreed that it will, without compensation, offset the effect of that failure by adjusting the operation of the portion of the system described in Step I of paragraph 7 of Annex B of the Treaty which is in the United States to the extent that the United States Entity can do so without loss of energy or capacity to that portion of the System. If the foregoing procedure does not fully offset the effect of the failure, then to the extent the entities agree thereon, an additional offsetting adjustment in the operation of the portion of the system described in Step I of Annex B of the Treaty which is in the United States and which would result in only an

## COLUMBIA RIVER TREATY

energy loss will be made if the Authority delivers to the United States Entity energy sufficient to make up one half of that energy loss.

(2) If the effect of the failure is not entirely offset by the procedure specified in subsection (1) of this section, the reduction in the Canadian Entitlement shall be deemed to be one half of the difference in dependable hydroelectric capacity and average annual usable energy, capable of being produced by:

- (a) the Step II system as specified in Annex B of the Treaty for the year in which the reduction occurs, using the 30 year stream flow record provided for in Section 8 of the Protocol, with allowance in each of the 30 stream flow years for the effect of the Adjustment made in following the procedure specified in subsection (1) of this section and
- (b) the same system for that year with the application of allowance in each of the 30 stream flow years for the effects of the occurrence causing the reduction

and the dependable hydroelectric capacity and average annual usable energy for the purpose of paragraph (b) of this subsection shall be calculated on the basis of an operation for optimum generation in the United States in the light of the offsetting adjustments and in the light of the effects of the occurrence causing the reduction.

(3) If the failure is the result of an occurrence to which the procedure specified in subsection (1) of this section is not applicable, the reduction shall be deemed to be one half of the difference in dependable hydroelectric capacity and average annual usable energy, capable of being produced by:

- (a) the Step II system as specified in Annex B of the Treaty for the year in which the reduction occurs, using the 30 year stream flow record provided for in Section 8 of the Protocol, with no allowance for the effects of the occurrence causing the reduction and
- (b) the same system for that year with the application of allowance in each of the 30 stream flow years for the effects of the occurrence causing the reduction

and the dependable hydroelectric capacity and average annual usable energy for the purposes of paragraph (b) of this subsection shall be calculated on the basis of an operation for optimum generation in the United States in the light of the effects of the occurrence causing the reduction.

(4) The Authority shall make compensation for reductions in the Canadian Entitlement, which reductions are to be determined in accordance with subsections (2) or (3) of this section, in amounts equal to the cost of replacing the reductions in the Canadian Entitlement.

(5) The Authority may at its option, and in lieu of the monetary compensation payable under subsection (4) of this section, make compensation by supplying capacity and energy in an amount equal to the reduction in the Canadian Entitlement determined in accordance with subsections (2) or (3) of this section and adjusted to reflect transmission costs in the United States, delivery to be made when the loss would otherwise have occurred. The Authority may provide

combinations of money, capacity and energy that are mutually acceptable in discharge of its obligation to make compensation under this section.

(6) The Authority shall give notice as soon as possible after it becomes apparent to it that compensation may be due and will at that time indicate the amounts of capacity and energy which it anticipates it will be able to make available.

(7) The United States Entity has agreed that, in order to make up any reduction in the Canadian Entitlement, it will cause to be delivered the least expensive capacity and energy available and, to the extent that it would be the least expensive, will deliver at the then applicable rate schedules of the Bonneville Power Administration any available surplus capacity and energy from the United States Federal Columbia River System. The cost of replacement referred to in subsection (4) of this section shall be determined as if the reduction was in fact made up as contemplated by the agreement referred to in the preceding sentence.

(8) Compensation made in accordance with this section shall be accepted as satisfaction of all claims against the Authority with respect to the reduction in the Canadian Entitlement for which such compensation was made and with respect to the act or omission of the Authority from which the right to such compensation arose.

(9) Any obligation to mitigate damages by the United States Entity, CSPE, the vendees of CSPE, and the owners of the non-Federal dams on the Columbia River in the United States is satisfied by compliance with this section.

(10) If the Canadian Entitlement Exchange Agreements referred to in Section 10 are not in force, compensation for a reduction in the Canadian Entitlement in accordance with subsections (2) and (3) of this section, is required only in respect of that part of the reduction in the Canadian Entitlement which CSPE and its vendees could have used and only in respect of costs that could not have been avoided had every reasonable effort to mitigate been made by CSPE and the owners of non-Federal dams on the Columbia River in the United States.

#### SECTION 7. REDUCTION OF THE CANADIAN ENTITLEMENT IN ACCORDANCE WITH THE TREATY.

Any reduction in the Canadian Entitlement resulting from action taken pursuant to paragraph 7 of Annex A of the Treaty shall be determined in accordance with subsection (3) of Section 6 of this Agreement and unless otherwise agreed, the Authority shall offset the reduction by supplying capacity and energy equal to the reduction, the energy to be supplied in equal monthly amounts.

#### SECTION 8. SETTLEMENT OF DISPUTES.

Any dispute arising under this Agreement, including but without limitation a dispute as to whether any event requiring compensation has occurred, the amount of compensation due or the amount of any overdelivery of power, is agreed to be a difference under the Treaty to be settled in accordance with the provisions of Article XVI of the Treaty. Any determination of compensation

## COLUMBIA RIVER TREATY

in money or power due shall be confined to the actual loss incurred in accordance with the principles contained in Section 6 of this Agreement.

**SECTION 9. EXCHANGES OF CAPACITY AND ENERGY.**

(1) The Authority agrees that CSPE shall have and may exercise the rights of the Authority as the Canadian Entity relating to the negotiation and conclusion with the United States Entity of proposals relating to the exchanges authorized by Article VIII(2) of the Treaty with respect to any portion of the Canadian Entitlement.

(2) It is agreed that no exchange of capacity for energy or of energy for capacity or modification in the delivery of energy in equal amounts each month as provided in the Treaty shall be taken into account in the determination of compensation to be made by the Authority pursuant to this Agreement.

**SECTION 10. EXCHANGE AGREEMENTS.**

The Bonneville Power Administrator acting as the Administrator and for and on behalf of the United States Entity has by entering into Canadian Entitlement Exchange Agreements, assured unconditionally the delivery to the vendees of CSPE by appropriate exchange contracts of an amount of power agreed between the United States Entity and CSPE to be the equivalent of the Canadian Entitlement, and the United States Entity, while those Agreements are in force, will succeed to all the rights of CSPE and its vendees to receive the entire Canadian Entitlement and all other rights of CSPE arising from this Agreement. CSPE therefore instructs the Authority, until otherwise notified, to make any compensation whether in power or money required to be made by the Authority pursuant to Section 6 or Section 7 of this Agreement to the United States Entity. CSPE agrees that any settlement of a claim for compensation or arrangement entered into pursuant to this Agreement by the United States Entity shall be binding on CSPE.

**SECTION 11. PAYMENTS.**

(1) The Authority shall pay any amount in United States funds determined to be due in accordance with the terms hereof within thirty days of receipt of an invoice for such amount.

(2) Should the Authority deliver power in excess of the amount required as compensation, then appropriate adjustments shall be made in kind or in money.

**SECTION 12. APPROVALS.**

No modification or renewal of this Agreement shall be effective until approved by the Governments of Canada and the United States of America, evidenced by an Exchange of Notes.

**SECTION 13. DELIVERIES.**

Any power delivered by the Authority pursuant to this Agreement shall be delivered at mutually acceptable points of interconnection on the Canadian-United States border. Appropriate adjustments shall be made to reflect transmission costs and transmission losses in the United States.

January 17, 1961

COLUMBIA RIVER TREATY

1599

SECTION 14. NOTICES.

Any notices shall be in writing and shall be delivered or mailed prepaid as follows:

Columbia Storage Power Exchange,  
20 N. Main Street  
East Wenatchee, Washington, U.S.A.

United States Entity  
c/o Bonneville Power Administration  
P. O. Box 3621  
Portland, Oregon 97208 U.S.A.

British Columbia Hydro and Power Authority  
970 Burrard Street  
Vancouver 1, British Columbia, Canada,

or such other address as may be signified by notice to the others.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

(SEAL)  
Attest

BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY

By \_\_\_\_\_  
*Chairman.*

By \_\_\_\_\_  
*Secretary.*

COLUMBIA STORAGE POWER  
EXCHANGE

(SEAL)  
Attest

By \_\_\_\_\_

*The American Ambassador to the Canadian Secretary of State for  
External Affairs*

EMBASSY OF THE  
UNITED STATES OF AMERICA  
*Ottawa, September 16, 1964*

No. 75  
SIR,

I have the honor to refer to your note No. 140 of September 16, 1964, regarding the disposal of the Canadian entitlement to downstream power benefits in the United States, in accordance with Article VIII(1) of the Treaty between the United States of America and Canada relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961.

I wish to advise you that the Government of the United States of America has

January 17, 1961

1600

COLUMBIA RIVER TREATY

designated the Administrator of the Bonneville Power Administration, Department of the Interior, and the Division Engineer, North Pacific Division, Corps of Engineers, Department of the Army, as the United States Entity for the purposes of Article XIV(1) of the Treaty. A copy of the designation is attached to this note.

I wish also to advise that the Government of the United States of America confirms the proposals and understandings set forth in your note, and agrees that your note, together with this reply, shall constitute an agreement between our two Governments relating to the implementation of the provisions of the Treaty with effect from the date of the exchange of instruments of ratification of the Treaty.

Accept, Sir, the renewed assurances of my highest consideration.

W. W. BUTTERWORTH

Enclosure:

As stated.

The Honorable

PAUL MARTIN, P.C., Q.C.,  
*Secretary of State for External Affairs,*  
*Ottawa.*

EXECUTIVE ORDER No. 11177.

PROVIDING FOR CERTAIN ARRANGEMENTS UNDER THE COLUMBIA RIVER TREATY

WHEREAS the treaty between the United States and Canada relating to cooperative development of the water resources of the Columbia River Basin (signed at Washington, D.C., on January 17, 1961; Executive C, 87th Congress, 1st Session) has come into force; and

WHEREAS Article XIV of such treaty (hereinafter referred to as the Treaty) provides for the designation of certain entities which are empowered and charged with the duty to formulate and carry out the operating arrangements necessary to implement the Treaty, and authorizes the United States of America to designate one or more of such entities; and

WHEREAS Article XV of the Treaty authorizes the United States of America to appoint two members of the Permanent Engineering Board established by that Article:

Now, THEREFORE, by virtue of the authority vested in me by the Treaty and by the Constitution and statutes, and as President of the United States, it is hereby ordered as follows:

PART I. UNITED STATES ENTITY

SECTION 101. Designation of Entity. The Administrator of the Bonneville Power Administration, Department of the Interior, and the Division Engineer, North Pacific Division, Corps of Engineers, Department of the Army, are hereby designated as an entity under Article XIV of the Treaty, to be known as the United States Entity for the Columbia River Treaty (hereinafter referred to as the Entity). The designated Administrator shall be the Chairman of the Entity.

SECTION 102. Functions of the Entity. The Entity shall have the functions set forth therefor in Article XIV, and in other provisions of the Treaty.

SECTION 103. Departmental responsibilities. This order shall not affect (1) the respective responsibilities of the Department of the Army and the Department of the Interior for project operation and administration, (2) the respective responsibilities of the Secretary of the Army and the Chief of Engineers for the supervision and direction of the Department of the Army and the Office of the Chief of Engineers, or (3) the responsibility of the Secretary of the Interior for the supervision and direction of the Department of the Interior.

## PART II. UNITED STATES SECTION, PERMANENT ENGINEERING BOARD

SECTION 201. Appointment of members of the Permanent Engineering Board. (a) The Secretary of the Interior and the Secretary of the Army shall each appoint one person as a United States member of the Permanent Engineering Board established by Article XV of the Treaty.

(b) Each such person shall be selected from among appropriately qualified individuals, who at the time of appointment may be, but need not necessarily be, officers or employees of the United States, and shall serve as a member of the Board during the pleasure of the appointing Secretary.

SECTION 202. Alternate members. In addition to the two members to be appointed under the provisions of Section 201 of this order, there shall be two alternate United States members of the Permanent Engineering Board. The provisions of Section 201 of this order shall apply to the selection, appointment, and service of the alternate members.

SECTION 203. United States Section. The members and alternate members appointed under the foregoing provisions of this Part shall compose the United States Section, Permanent Engineering Board, Columbia River Treaty, hereinafter referred to as the United States Section. The member appointed by the Secretary of the Army under Section 201(a) of this order shall be the Chairman of the United States Section.

SECTION 204. Assistance to the United States Section. With the consent of the respective heads thereof, departments and agencies of the Federal Government may, upon the request of the United States Section and to the extent not inconsistent with law, furnish assistance needed by the Section in connection with the performance of its functions.

## PART III. GENERAL

SECTION 301. Reservation. There is hereby reserved the right to modify or terminate any or all of the provisions of this order.

LYNDON B. JOHNSON

THE WHITE HOUSE,  
September 16, 1964

### EXPLANATORY NOTE

**Reference in the Text.** Article 102 of the charter of the United Nations (T.S. 993, 59 Stat. 1052), referred to in Article XXI of the text, requires U.N. Members to register every treaty or international agreement with

the U.N. Secretariat. Treaties or international agreements not so registered may not be invoked before any organ of the United Nations.

## ARIZONA-NEVADA BOUNDARY COMPACT

An act giving the consent of Congress to a compact between the State of Arizona and the State of Nevada establishing a boundary between those States. (Act of June 16, 1961, Public Law 87-50, 75 Stat. 93)

**[Sec. 1. Consent of Congress granted to Arizona-Nevada boundary compact.]**—The consent of Congress is hereby given to the compact between the States of Arizona and Nevada as contained in chapter 69, law of the State of Arizona, 1960 (senate bill numbered 203, twenty-fourth legislature assembled, approved by the Governor March 24, 1960), and chapter 119, Nevada Revised Statutes 1960 (senate bill numbered 121, passed by the 1960 legislature of the State of Nevada and approved by the Governor March 9, 1960) establishing a boundary between the States of Arizona and Nevada on the Colorado River between the point where the Nevada-California State line intersects the thirty-fifth degree of latitude north and Davis Dam. (75 Stat. 93)

**Sec. 2. [Reservation.]**—The right to alter, amend, or repeal this Act is expressly reserved. (75 Stat. 93)

### 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.** S. 133, Public Law 87-50 in the 87th Congress. Reported in Senate from Judiciary Apr. 13, 1961; S. Rept. No. 164. Passed Senate Apr. 14, 1961. Reported in House from Judiciary May 24, 1961; H.R. Rept. No. 427. Passed House June 5, 1961.

### INTERSTATE COMPACT DEFINING A PORTION OF THE ARIZONA-NEVADA BOUNDARY ON THE COLORADO RIVER

#### Article I. Purpose

The boundary between the States of Arizona and Nevada on the Colorado River between the point where the Nevada-California state line intersects the 35th degree of latitude north and Davis Dam has become indefinite and uncertain because of meanderings in the main channel of the Colorado River with the result that a state of confusion exists as to the true and correct location of the boundary and the enforcement and administration of the laws of the two states have been rendered difficult.

The purpose of this compact is to fix the location of the boundary line between the States of Arizona and Nevada on the Colorado River between the point where the Nevada-California state line intersects the 35th degree of latitude north and Davis Dam.

#### Article II. Description

The boundary between the States of Arizona and Nevada on the Colorado River between the point where the Nevada-California state line intersects the

June 16, 1961

ARIZONA-NEVADA BOUNDARY COMPACT

1603

35th degree of latitude north and Davis Dam is herewith defined as a line passing through a series of fixed points located in the mid-channel of the Colorado River which are tied by bearing and distance to established monuments and described as follows:

Point No. 1, being the place of beginning where the Nevada-California boundary intersects the 35th degree of latitude north; thence northerly 18,099.91 feet along a curve to the right (with a radius bearing North  $63^{\circ}34'35''$  East, a distance of 13,901.63 feet) to

Point No. 2, which point is North  $51^{\circ}24'59''$  West 2,769.37 feet from the U.S.C. & G.S. Fort Mohave triangulation station; thence North  $48^{\circ}10'31''$  East 1,383.38 feet to

Point No. 3, which point is North  $23^{\circ}05'44''$  West 2,880.52 feet from the U.S.C. & G.S. Fort Mohave triangulation station; thence northeasterly 2,625.09 feet along a curve to the right with a radius of 12,170.00 feet to

Point No. 4, which point is North  $13^{\circ}27'17''$  East 4,294.35 feet from the U.S.C. & G.S. Fort Mohave triangulation station; thence northerly 10,610.88 feet along a curve to the left with a radius of 5,775.00 feet to

Point No. 5, which is North  $9^{\circ}40'04''$  East 13,640.60 feet from the U.S.C. & G.S. Fort Mohave triangulation station; thence North  $44^{\circ}44'23''$  West 1,364.03 feet to

Point No. 6, which point is North  $5^{\circ}13'06''$  East 14,297.57 feet from the U.S.C. & G.S. Fort Mohave triangulation station; thence northwesterly 7,745.77 feet along a curve to the left with a radius of 15,000.00 feet to

Point No. 7, which point is South  $74^{\circ}59'41''$  West 1,077.76 feet from the southeast corner of Section 24, Township 20 North, Range 23 West, G. & S.R. Base & Meridian in Arizona; thence northwesterly 2,687.16 feet along a curve to the right with a radius of 5,250.00 feet to

Point No. 8, which point is North  $72^{\circ}18'49''$  West 3,334.98 feet from the southeast corner of Section 24, Township 20 North, Range 23 West, G. & S.R. Base & Meridian; thence North  $45^{\circ}00'00''$  West 1,251.30 feet to

Point No. 9, which point is North  $65^{\circ}13'02''$  West 4,647.83 feet from the southeast corner of Section 24, Township 20 North, Range 23 West, G. & S.R. Base & Meridian; thence northerly 2,567.51 feet along a curve to the right with a radius of 1,738.94 feet to

Point No. 10, which point is South  $77^{\circ}14'52''$  West 4,476.96 feet from the northeast corner of Section 24, Township 20 North, Range 23 West, G. & S.R. Base & Meridian in Arizona; thence North  $39^{\circ}35'46''$  East 1,896.58 feet to

Point No. 11, which point is North  $81^{\circ}28'29''$  West 3,192.99 feet from the southeast corner of Section 13, Township 20 North, Range 23 West, G. & S.R. Base & Meridian in Arizona; thence North  $50^{\circ}05'20''$  East 1,377.07 feet to

Point No. 12, which point is North  $57^{\circ}09'02''$  West 2,501.42 feet from the southeast corner of Section 13, Township 20 North, Range 23 West, G. & S.R. Base & Meridian in Arizona; thence North  $38^{\circ}39'33''$  East 1,670.68 feet to

Point No. 13, which point is North  $21^{\circ}40'31''$  West 2,863.96 feet from the southeast corner of Section 13, Township 20 North, Range 23 West, G. & S.R.

Base & Meridian in Arizona; thence easterly 6,083.30 feet along a curve to the right with a radius of 6,332.12 feet to

Point No. 14, which point is South  $1^{\circ}45'06''$  East 944.43 feet from the northwest corner of Section 34, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence South  $86^{\circ}17'53''$  East 5,190.37 feet to

Point No. 15, which point is South  $3^{\circ}31'00''$  West 1,233.10 feet from the northeast corner of Section 34, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $74^{\circ}12'01''$  East 3,528.76 feet to

Point No. 16, which point is South  $85^{\circ}21'02''$  East 3,330.79 feet from the northeast corner of Section 34, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $66^{\circ}35'02''$  East 1,383.98 feet to

Point No. 17, which point is North  $86^{\circ}30'32''$  East 4,598.33 feet from the northeast corner of Section 34, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $54^{\circ}25'00''$  East 1,499.93 feet to

Point No. 18, which point is South  $7^{\circ}03'48''$  East 4,297.47 feet from the northwest corner of Section 25, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $29^{\circ}56'02''$  East 1,974.24 feet to

Point No. 19, which point is South  $30^{\circ}39'10''$  East 2,968.79 feet from the northwest corner of Section 25, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $23^{\circ}56'24''$  East 2,404.51 feet to

Point No. 20, which point is South  $64^{\circ}33'16''$  West 3,266.89 feet from the northeast corner of Section 12, Township 20 North, Range 22 West, G. & S.R. Base & Meridian in Arizona; thence North  $6^{\circ}07'27''$  West 1,406.23 feet to

Point No. 21, which point is South  $89^{\circ}54'00''$  West 3,100.00 feet from the northeast corner of Section 12, Township 20 North, Range 22 West, G. & S.R. Base & Meridian in Arizona; thence North  $10^{\circ}55'52''$  West 878.83 feet to

Point No. 22, which point is North  $75^{\circ}17'33''$  West, 3,377.31 feet from the northeast corner of Section 12, Township 20 North, Range 22 West, G. & S.R. Base & Meridian in Arizona; thence North  $6^{\circ}44'28''$  East 1,289.72 feet to

Point No. 23, which point is South  $58^{\circ}26'58''$  West 3,655.64 feet from the northeast corner of Section 1, Township 20 North, Range 22 West, G. & S.R. Base & Meridian in Arizona; thence North  $15^{\circ}26'06''$  East 2,078.24 feet to

Point No. 24, which point is North  $87^{\circ}58'32''$  West 2,563.75 feet from the northeast corner of Section 1, Township 20 North, Range 22 West, G. & S.R. Base & Meridian in Arizona; thence North  $10^{\circ}47'16''$  East 3,339.47 feet to

Point No. 25, which point is South  $57^{\circ}52'49''$  East 3,931.95 feet from the northwest corner of Section 13, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $0^{\circ}37'06''$  East 2,000.00 feet to

Point No. 26, which point is South  $88^{\circ}26'53''$  East 3,352.93 feet from the northwest corner of Section 13, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $0^{\circ}37'06''$  East 5,269.57 feet to

Point No. 27, which point is South  $88^{\circ}42'05''$  East 3,542.59 feet from the southwest corner of Section 1, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $5^{\circ}11'28''$  West 1,401.89 feet to

Point No. 28, which point is North  $68^{\circ}55'18''$  East 3,659.71 feet from the

June 16, 1961

ARIZONA-NEVADA BOUNDARY COMPACT

1605

southwest corner of Section 1, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $20^{\circ}04'51''$  West 1,401.38 feet to

Point No. 29, which point is South  $45^{\circ}32'18''$  East 3,758.25 feet from the northwest corner of Section 1, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $5^{\circ}07'03''$  West 2,570.29 feet to

Point No. 30, which point is South  $88^{\circ}18'29''$  East 2,454.13 feet from the northwest corner of Section 1, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada; thence North  $1^{\circ}49'01''$  East 934.17 feet to

Point No. 31, which point is North  $70^{\circ}51'57''$  East 2,627.86 feet from the northwest corner of Section 1, Township 32 South, Range 66 East, Mt. Diablo Base & Meridian in Nevada and monumented by a brass cap in the roadway of the highway crossing Davis Dam.

Article III. Ratification and Effective Date

This compact shall become operative when it has been ratified and approved by the legislatures of the States of Arizona and Nevada and approved by the Congress of the United States.

Dated this 6th day of February, 1960, at Phoenix, Arizona.

For the State of Arizona

COLORADO RIVER BOUNDARY COMMISSION OF ARIZONA

/s/ Wayne M. Akin

WAYNE M. AKIN, *Chairman*

*Chairman of the Arizona Interstate Stream Commission*

/s/ Wade Church

WADE CHURCH

*Attorney General*

/s/ Obed M. Lassen

OBED M. LASSEN,

*State Land Commissioner*

For the State of Nevada

COLORADO RIVER BOUNDARY COMMISSION OF NEVADA

/s/ Ralph L. Denton

RALPH L. DENTON, *Chairman*

*Appointed Member*

/s/ A. J. Shaver

A. J. SHAVER, *Secretary*

*Chief Engineer, Colorado River Commission of Nevada*

/s/ Hugh A. Shamberger

HUGH A. SHAMBERGER

*Director, State Department of Conservation and Natural Resources*

## CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

[Extracts from] An act to improve and protect farm prices and farm income, to increase farmer participation in the development of farm programs, to adjust supplies of agricultural commodities in line with the requirements therefor, to improve distribution and expand exports of agricultural commodities, to liberalize and extend farm credit services, to protect the interest of consumers, and for other purposes. (Act of August 8, 1961, Public Law 87-128, 75 Stat. 294)

\* \* \* \* \*

### TITLE III—AGRICULTURAL CREDIT

**Sec. 301 (a) [Short title.]**—This title may be cited as the “Consolidated Farmers Home Administration Act of 1961.” (75 Stat. 307; 7 U.S.C. § 1921, note)

\* \* \* \* \*

#### SUBTITLE A—REAL ESTATE LOANS

\* \* \* \* \*

**Sec. 306. (a) (1) [Water facilities loans.]**—The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, and recreational developments, all primarily serving farmers, ranchers, farm tenants, farm laborers, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes.

(2) **[Water facilities grants.]**—The Secretary is authorized to make grants aggregating not to exceed \$50,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas. The amount of any grant made under the authority of this paragraph shall not exceed 50 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

(3) **[Conditions for grants.]**—No grant shall be made under paragraph 2 of this subsection in connection with any facility unless the Secretary determines that the project (i) will serve a rural area which is not likely to decline in population below that for which the facility was designed, (ii) is designed and constructed so that adequate capacity will be or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, or (iii) is necessary for orderly community development consistent with a comprehensive community water or

August 8, 1961

FARMERS HOME ADMINISTRATION ACT OF 1961 1607

sewer development plan of the rural area and not inconsistent with any planned development under State, county or municipal plans approved as official plans by competent authority for the area in which the rural community is located and the Secretary shall establish regulations requiring the submission of all applications for financial assistance under this Act to the county or municipal government in which the proposed project is to be located for review and comment by such agency within a designated period of time. Until October 1, 1968, the Secretary may make grants prior to the completion of the comprehensive plan, if the preparation of such plan has been undertaken for the area.

(4) [Definitions.]—(A) The term “development cost” means the cost of construction of a facility and the land, easements, and rights-of-way, and water rights necessary to the construction and operation of the facility.

(B) The term “project” shall include facilities providing central service or facilities serving individual properties, or both.

(5) [Limitation of indebtedness.]—No loan or grant shall be made under this subsection which would cause the unpaid principal indebtedness of any association under this Act and under the Act of August 28, 1937, as amended, together with the amount of any assistance in the form of a grant to exceed \$4,000,000 at any one time.

(6) [Aggregate annual limit—Grants.]—The Secretary may make grants aggregating not to exceed \$5,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare official comprehensive plans for the development of water or sewer systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) [Rural areas defined.]—Rural areas, for the purposes of water and waste disposal projects shall not include any area in any city or town which has a population in excess of 5,500 inhabitants.

(8) [Priority of applications.]—In each instance where the Secretary receives two or more applications for financial assistance for projects that would serve substantially the same group of residents within a single rural area, and one such application is submitted by a city, town, county or other unit of general local government, he shall, in the absence of substantial reasons to the contrary, provide such assistance to such city, town, county or other unit of general local government.

(9) [Water pollution control.]—No Federal funds shall be authorized for use unless it be certified by the appropriate State water pollution control agency that the water supply system authorized will not result in pollution of waters of the State in excess of standards established by that agency.

(10) [Certificate of water quality.]—In the case of sewers and waste disposal systems, no Federal funds shall be advanced hereunder unless the appropriate State water pollution control agency shall certify that the effluent therefrom shall conform with appropriate State and Federal water pollution control standards when and where established. (75 Stat. 308; § 401(2), Act of September 27, 1962, 76 Stat. 632; Act of October 7, 1965, 79 Stat. 931; 7 U.S.C. § 1926)

(b) [No curtailment because of annexation or competing franchise.]—The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event. (75 Stat. 308; 7 U.S.C. § 1926)

(c) [Disaster relief.]—In areas which have suffered major disasters the Secretary is authorized, without regard to the annual grant limitation in subsection (a) (2), to make or insure loans to associations, including corporations not operated for profit and public and quasi-public agencies, for the acquisition, construction, improvement, replacement, or extension of waste disposal systems and other public facilities damaged or destroyed as a result of a major disaster providing for community services in rural areas, when the Secretary determines that such action is necessary for the rebuilding of a community or a portion thereof damaged by a disaster, and to make grants not to exceed 50 per centum of the cost of repair, reconstruction, or replacement of waste disposal systems, water systems, and other public facilities damaged or destroyed as a result of a major disaster providing for community services in these areas in any case in which repayment of a loan for such purposes from income would require a charge for such service which the Secretary determines to be beyond the ability of a majority of the users who might be served thereby to pay such charges and if such charge would exceed cost of such services in comparable communities in the State. (Added by Act of November 6, 1966, 80 Stat. 1318; 7 U.S.C. § 1926)

#### EXPLANATORY NOTES

**1966 Amendment.** Subsection 2(b) of the Disaster Relief Act of 1966, approved November 6, 1966, amended section 306 by adding subsection "(c)" above. The subsection was new legislation in the 1966 Act. While extracts from the 1966 Act appear herein in chronological order, the amending subsection is not included.

**1965 Amendment.** The Act of October 7, 1965, adds paragraphs (2), (3), (4), (6), (7), (8), (9) and (10) to section 306(a). Section 306(a) (1) and (5) together constituted section 306(a) of the 1961 Act. However, the 1961 Act limited an association's unpaid principal indebtedness to \$500,000 in the case of direct loans or \$1,000,000 in the case of insured loans, while in the 1965 Act such indebtedness together with the amount of any grant as-

sistance cannot exceed \$4,000,000. For legislative history of the 1965 Act see S. 1766, Public Law 89-240 in the 89th Congress; S. Rept. No. 500; H.R. Rept. No. 847 (on H.R. 10232).

**1962 Amendment.** Section 401(2) of the Act of September 27, 1962, added "shifts in land use including the development of recreational facilities" in section 306(a) of the 1961 Act. "Shifts in land use" and "recreational developments" are named as separate purposes in the 1965 Act. For legislative history of the 1962 Act see H.R. 12391, Public Law 87-703 in the 87th Congress.

**Reference in Text.** The Act of August 28, 1937, referred to in the text, is the so-called Water Facilities Act.

**Sec. 307. (a) [Repayment period—Interest rate—Fees and charges.]**—The period for repayment of loans under this subtitle shall not exceed forty years. The Secretary shall from time to time establish the interest rate or rates at which

August 8, 1961

FARMERS HOME ADMINISTRATION ACT OF 1961 1609

loans for various purposes will be made or insured under this subtitle but not in excess of 5 per centum per annum. The borrower shall pay such fees and other charges as the Secretary may require.

(b) [Mortgages, liens, and other security.]—The Secretary shall take as security for the obligations entered into in connection with loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 306, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments shall constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States. (75 Stat. 308; 7 U.S.C. § 1927)

EXPLANATORY NOTES

**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. 1643, Public Law 87-128 in the 87th Congress. Reported in Senate from Agriculture and Forestry, July 17, 1961, S. Rept. No. 556. Passed Senate July 26, 1961. Passed House, amended, July

27, 1961. House asks for a conference July 27, 1961. Senate agrees to a conference July 28, 1961. Conference report filed August 2, 1961, H.R. Rept. No. 839. House agrees to conference report, August 3, 1961. Senate agrees to conference report, August 3, 1961. Companion bill H.R. 8230 reported in House from Agriculture, July 22, 1961, H.R. Rept. No. 754.

## DISPOSAL OF PROPERTY, MINIDOKA AND OTHER PROJECTS

An act to provide for the disposal of certain Federal property on the Minidoka project, Idaho, Shoshone project, Wyoming, and Yakima project, Washington, and for other purposes. (Act of August 17, 1961, Public Law 87-151, 75 Stat. 388)

**[Sec. 1. Sale of project lands authorized—Lands descriptions—Sales shall be at public auction.]**—The Secretary of the Interior is authorized to sell the following described lands, together with any improvements located thereon:

(a) Block 67 of the reclamation townsite of Rupert, Minidoka project, Idaho, containing 1.64 acres, more or less;

(b) Lots 21 and 22, block 48, of the reclamation townsite of Powell, Shoshone project, Wyoming, containing 0.48 acre, more or less; and

(c) Block 23, town of Zillah, Washington, containing 1.65 acres, more or less; a parcel located in the south half northeast quarter southwest quarter southwest quarter of section 25, township 9 north, range 24 east, Willamette meridian, Washington, lying below the Sunnyside main canal, containing 4.36 acres, more or less, and that part of the northwest quarter southeast quarter of section 12, township 8 north, range 22 east, Willamette meridian, Washington, containing 1.16 acres, more or less, beginning at the northwest corner of the southeast quarter of said section 12, township 8 north, range 22 east, Willamette meridian;

thence north 89 degrees 44 minutes east 337.9 feet; thence south 9 degrees 58 minutes west 35 feet; thence south 14 degrees 18 minutes west 25 feet; thence south 19 degrees 23 minutes west 25 feet;

thence south 24 degrees 46 minutes west 25 feet; thence south 34 degrees 46 minutes west 25 feet; thence south 53 degrees 13 minutes west 25 feet; thence south 64 degrees 13 minutes west 20.8 feet;

thence north 87 degrees 22 minutes west 253.3 feet, more or less, to the north-south line of the centerline of said section 12; thence north 00 degrees 22 minutes west along said north-south centerline 136.3 feet, more or less, to the point of beginning, all located on the Yakima project, Washington.

Sales shall be by public auction to the highest qualified bidder, but in no event shall any sale be for less than the appraised valuation, as approved by the Secretary. Any of the lands described above, together with improvements located thereon, which are not sold after being offered for sale at public auction, shall remain available for sale at not less than the appraised valuation, until withdrawn from sale by the Secretary. (75 Stat. 388)

**Sec. 2. [Proceeds of sales to be used for certain improvements at the projects.]**—The proceeds from the sale of the property described in section 1(a) of this Act shall be available for expenditure by the Secretary for the construction of an operation and maintenance headquarters and related facilities, as determined by the Secretary to be necessary for the operation and maintenance of the Gravity division of the Minidoka project, Idaho. The proceeds from the sale of the property described in section 1(b) of this Act shall be available for expenditure by the Secretary for the construction of an operation and maintenance

headquarters and related facilities, as determined by the Secretary to be necessary for the operation and maintenance of the Shoshone project, Wyoming. The proceeds from the sale of the property described in section 1(c) of this Act shall be available for expenditure by the Secretary for the construction of an operation and maintenance headquarters and related facilities, as determined by the Secretary to be necessary for the operation and maintenance of the Sunnyside division, Yakima project, Washington. (75 Stat. 388)

**Sec. 3. [Disposition of unused proceeds after completion of authorized improvements.]**—Any of the proceeds from the sales which are authorized by section 1 of this Act and which are not required for the construction of operation and maintenance headquarters and related facilities, as authorized by section 2 of this Act, shall be applied as provided by subsection I, section 4, Act of December 5, 1924 (43 Stat. 703). (75 Stat. 389)

**Sec. 4. [General 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: *Provided, however,* That nothing in this Act shall be construed as authorizing additional appropriations in carrying out the provisions of this Act. (75 Stat. 389)

#### EXPLANATORY NOTES

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

**Reference in the Text.** The Act of December 5, 1924 (43 Stat. 703), is the Second Deficiency Appropriation Act for 1924 (Fact Finders' Act). Extracts from the Act, including subsection I, section 2, referred to in section 3 of the text, appear herein in chronological order.

**Legislative History.** S. 1085, Public Law 87-151 in the 87th Congress. Reported in Senate from Interior and Insular Affairs July 25, 1961; S. Rept. No. 614. Passed Senate July 27, 1961. Passed House, amended, Aug. 7, 1961. Senate agrees to House amendments Aug. 9, 1961. Companion bill H.R. 7601 reported in House from Interior and Insular Affairs July 27, 1961; H.R. Rept. No. 802.

### TRANSFER OF COLORADO RIVER BRIDGE

An act to authorize the transfer of a Bureau of Reclamation bridge across the Colorado River near Needles, California, to San Bernardino County, California, and Mohave County, Arizona. (Act of August 17, 1961, Public Law 87-156, 75 Stat. 391)

[**Transfer of bridge to local counties authorized.**]—The Secretary of Interior is authorized to negotiate and effect the transfer of a Bureau of Reclamation bridge which crosses the Colorado River approximately one mile east of Needles, California, together with appropriate easements for the approach roads thereto, to the counties of San Bernardino, California, and Mohave, Arizona, subject to such terms and conditions as are specified by the Secretary, including those in connection with the maintenance of the bridge and the maintenance of the approach roads, the transfer to be contingent upon approval of the location and plans of the bridge in accordance with the provisions of the General Bridge Act approved August 2, 1946, as amended (33 U.S.C. 525-533): *Provided, however,* That terms and conditions shall include commitments by the counties that the bridge shall not be operated as a toll bridge. The Secretary is further authorized, if satisfactory terms and conditions are agreed to, to transfer the said bridge and easements without monetary consideration. (75 Stat. 391)

#### EXPLANATORY NOTES

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

**Legislative History.** S. 809, Public Law 87-156 in the 87th Congress. Reported in

Senate from Interior and Insular Affairs July 25, 1961; S. Rept. No. 617. Passed Senate July 28, 1961. Passed House Aug. 7, 1961.

## AMENDED CONTRACT WITH HUNTLEY PROJECT IRRIGATION DISTRICT

An act to approve the amendatory repayment contract negotiated with the Huntley Project Irrigation District, Montana, to authorize its execution, and for other purposes. (Act of August 30, 1961, Public Law 87-168, 75 Stat. 407)

**[Sec. 1. Execution of amendatory repayment contract authorized.]**—The contract with the Huntley Project Irrigation District, which was negotiated by the Secretary of the Interior pursuant to subsection (a) of section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187) and approved as to form by the Department of the Interior on November 20, 1959, is hereby approved for execution, and the Secretary is authorized to execute and perform the same on behalf of the United States. (75 Stat. 407)

**Sec. 2. [Reclassification of lands approved.]**—The 1956 reclassification of lands of the Huntley Project Irrigation District is approved. (75 Stat. 407)

**Sec. 3. [Construction charge obligation reduced.]**—There shall be deducted from the total cost of the Huntley project and from the construction charge obligation of the Huntley Project Irrigation District, contingent upon execution of the contract with the Huntley Project Irrigation District, approved in section 1 hereof, the amount of the unmatured construction charges against the two thousand five hundred and thirty acres found to be permanently unproductive by the 1956 reclassification of lands. (75 Stat. 407)

**Sec. 4. [Contract negotiation expenses to be nonreimbursable and nonreturnable.]**—All costs and expenses incurred by the United States in negotiating and completing the contract approved under section 1 of this Act and in making the investigations in connection therewith shall not exceed the sum of \$13,000, and shall, contingent upon the final confirmation and execution of that contract, be nonreimbursable and nonreturnable under the Federal reclamation laws. (75 Stat. 407)

**Sec. 5. [Act declared to be part of the 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, *supra*. (75 Stat. 407)

### EXPLANATORY NOTES

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

**Legislative History.** S. 1697, Public Law 87-168 in the 87th Congress. Reported in

Senate from Interior and Insular Affairs Aug. 14, 1961; S. Rept. No. 710. Passed Senate Aug. 15, 1961. Passed House Aug. 21, 1961.

**DELIVER WATER, COLUMBIA BASIN PROJECT**

Joint resolution authorizing the Secretary of the Interior during the calendar year 1962 to continue to deliver water to lands in certain irrigation districts in the State of Washington. (Joint resolution of August 30, 1961, Public Law 87-169, 75 Stat. 408)

**[Water delivery authorized pending completion of repayment contract.]—**Pending completion of the amendatory repayment contracts with the Quincy-Columbia Basin Irrigation District, the East Columbia Basin Irrigation District, and the South Columbia Basin Irrigation District, State of Washington, to the extent the Secretary of the Interior during the calendar year 1962 constructs necessary drainage facilities on the Columbia Basin project which are charged as a part of the cost of operation and maintenance as provided in the third sentence of article 7 of the existing repayment contracts with said districts, the Secretary is authorized to the extent of costs thereof to waive the provisions of articles 30(a) and 30(b) of said contracts and to deliver water during the calendar year 1962. (75 Stat. 408)

**EXPLANATORY NOTES**

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

**Legislative History.** S.J. Res. 76, Public Law 87-169 in the 87th Congress. Reported in Senate from Interior and Insular Affairs

July 25, 1961; S. Rept. No. 615. Passed Senate July 27, 1961. Reported in House from Interior and Insular Affairs Aug. 16, 1961; S. Rept. No. 953. Passed House Aug. 21, 1961.

## REHABILITATION WORK, AVONDALE, DALTON GARDENS, AND HAYDEN LAKE DISTRICTS

An act to authorize the Secretary of the Interior to replace lateral pipelines, line discharge pipelines, and to do other work he determines to be required for the Avondale, Dalton Gardens, and Hayden Lake Irrigation Districts in the State of Idaho. (Act of September 22, 1961, Public Law 87-289, 75 Stat. 588)

[**Sec. 1. Rehabilitation work authorized.**]—The Secretary of the Interior is authorized to replace lateral pipelines, perform interior lining of discharge pipelines, and to do other work he determines to be required in replacement, modification, or improvement of the facilities heretofore constructed by the United States for the Avondale, Dalton Gardens, and Hayden Lake Irrigation Districts in the State of Idaho. (75 Stat. 588)

### EXPLANATORY NOTES

**Cross References, Avondale and Dalton Gardens Projects.** The Avondale and Dalton Gardens projects are known as **Cordon amendment projects** after Senator Guy Cordon of Oregon. The appropriations for these projects constitute their authorization except for the Act of September 22, 1961. Appropriations for the Avondale project are contained in the Act of July 31, 1953, 67 Stat. 266, the Act of July 1, 1954, 68 Stat. 365, and the Act of September 2, 1960, 74 Stat. 746. Appropriations for the Dalton

Gardens project are contained in the Act of July 31, 1953, 67 Stat. 266 and the Act of September 2, 1960, 74 Stat. 746. Extracts from these Acts appear herein in chronological order.

**Authorization, Hayden Lake Unit.** The Hayden Lake unit of the Rathdrum Prairie project was found feasible by the Secretary of the Interior on June 9, 1947, under the provisions of the Reclamation Project Act of 1939.

**Sec. 2. [Method of repayment.]**—Each irrigation district, starting with the year following the completion of the work for the district under the authority of this Act, shall repay the United States toward the cost thereof over a forty-year period annual installments which, when added to those payments required by existing repayment contracts between the United States and the district, will be equal to the amortization capacity of the lands of the district as that amortization capacity has been heretofore established by the Secretary. In the event works or capacity are provided hereunder at the request of the district in addition to those heretofore constructed by the United States and being replaced or improved under authority of this Act, such work may be undertaken by the Secretary at a cost not to exceed \$125,000, and payment therefor shall be made concurrently with other annual payments as provided for herein. (75 Stat. 588)

**Sec. 3. [Repayment contract required before construction is begun.]**—Prior to initiating actual construction of any of the work authorized in section 1 of this Act, the district shall be required to enter into a contract with the United States satisfactory to the Secretary to repay the United States toward the cost thereof as provided in section 2 of this Act. (75 Stat. 588)

**Sec. 4. [Bonneville Power Administration revenues to be used to repay part of the construction costs.]**—The remaining costs of the work completed hereunder for each district shall be returned to the reclamation fund within the

September 22, 1961

1616 REHABILITATION WORK, AVONDALE ETC. DISTRICTS

period provided for in section 2 of this Act from revenues derived by the Secretary of the Interior from the disposition of power marketed through the Bonneville Power Administration. (75 Stat. 588)

**Sec. 5. [Appropriation authorization.]**—There are hereby authorized to be appropriated such sums, but not more than \$1,611,000, as are necessary to carry out the provisions of this Act. (75 Stat. 588)

EXPLANATORY NOTES

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

**Legislative History.** H.R. 4458, Public Law 87-289 in the 87th Congress. Reported

in House from Interior and Insular Affairs July 27, 1961; H.R. Rept. No. 794. Passed House Aug. 7, 1961. Passed Senate Sept. 11, 1961.

## EXCHANGE OF LANDS WITH MARY SAUNDERS MOSES

[Extracts from] An act to authorize the Secretary of the Interior to enter into an exchange of certain land in Madera County, California, with Mary Saunders Moses. (Act of September 26, 1961, Private Law 87-220, 75 Stat. 928)

[Sec. 1. Exchange of lands authorized.]—In order to bring about desirable land-use and ownership adjustments relating to certain private and federally owned land adjacent to the Madera equalizing reservoir, a feature of the Central Valley project, California, and in order to facilitate the administration of such reservoir, the Secretary of the Interior is authorized, in his discretion, to exchange lands of approximately equal value as provided in this Act. (75 Stat. 928)

Sec. 2. [Parcels authorized to be conveyed.]—The Secretary of the Interior is authorized to convey to Mary Saunders Moses, on terms and conditions mutually satisfactory, the following-described lands: 4 parcels of land in sections 7, 8 and 18, township 10 south, range 19 east, Mount Diablo meridian, in the county of Madera, State of California, being portions of the 579.2-acre parcel of land described as parcel 5 in the deed from Mary Saunders Moses to the United States of America, dated September 28, 1942, and recorded October 27, 1942, in book 314 of official records at page 219, having a combined area of 161.23 acres, and separately described as follows: . . . (75 Stat. 928)

\* \* \* \* \*

(Legal description omitted, 75 Stat. 928)

\* \* \* \* \*

Sec. 3. [Parcels authorized to be accepted.]—In exchange for the foregoing lands the Secretary of the Interior is authorized to accept on behalf of the United States from Mary Saunders Moses title to the following described lands, situated in sections 7, 8, 17, and 18, township 10 south, 19 east Mount Diablo Meridian, in the County of Madera, State of California, having a combined area of 137.18 acres, more or less, and separately described as follows: . . . (75 Stat. 929)

\* \* \* \* \*

### EXPLANATORY NOTES

**Legal Description Omitted.** The legal description of the fourteen parcels is omitted.

**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.

**Legislative History.** H.R. 1378, Private Law 87-220 in the 87th Congress. Reported in House from Interior and Insular Affairs July 20, 1961; H.R. Rept. No. 749. Passed House Aug. 8, 1961. Reported in Senate from Interior and Insular Affairs Sept. 12, 1961; S. Rept. No. 981. Passed Senate Sept. 15, 1961.

## DELAWARE RIVER BASIN COMPACT

Joint resolution to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency. (Joint resolution of September 27, 1961, Public Law 87-328, 75 Stat. 688)

### PART I

#### COMPACT

- Whereas the signatory parties recognize the water and related resources of the Delaware River Basin as regional assets vested with local, State, and National interests, for which they have a joint responsibility; and
- Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and
- Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and
- Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, Seventy-third Congress, second session) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and
- Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some forty-three State agencies, fourteen interstate agencies, and nineteen Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and
- Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCODEL), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New

Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, and Interior, and the Federal Power Commission; and

Whereas some twenty-two million people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety, and general welfare of its population are and will continue to be vitally affected by the use, conservation, management, and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach thirty million by 1980 and forty million by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex, and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States hereby consents to, and joins the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the following compact:

#### ARTICLE 1

##### SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

Section 1.1 Short Title. This Act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act;

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to

provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.

(d) The water resources of the Delaware River Basin, if properly planned and utilized, are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the 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; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

1.5 Existing Agencies; Construction. It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

#### 1.6 Duration of Compact.

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the determination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100 year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities

## DELAWARE RIVER BASIN COMPACT

transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

## ARTICLE 2

## ORGANIZATION AND AREA

Section 2.1 Commission Created. The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

2.2 Commission Membership. The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

2.3 Alternates. Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

2.4 Compensation. Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

2.5 Voting Power. Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

2.6 Organization and Procedure. The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

2.7 Jurisdiction of the Commission. The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside the basin only upon the consent of the state in which it proposes to act.

## ARTICLE 3

## POWERS AND DUTIES OF THE COMMISSION

Section 3.1 Purpose and Policy. The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall

adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

3.2 Comprehensive Plan, Program and Budgets. The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

3.3 Allocations, Diversions and Releases. The commission shall have the power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the states signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto, subject to the following limitations:

(a) The commission, without the unanimous consent of the parties to the United States Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954), shall not impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations, and provisions for the administration thereof as provided in said decree; provided, however, that after consultation with the river master under said decree the commission may find and declare a state of emergency resulting from a drought or catastrophe and it may thereupon by unanimous consent of its members authorize and direct an increase or decrease in any allocation or diversion permitted or releases required by the decree, in such manner and for such limited time as may be necessary to meet such an emergency condition.

(b) No allocation of waters hereafter made pursuant to this section shall constitute a prior appropriation of the waters of the basin or confer any superiority of right in respect to the use of those waters, nor shall any such action be deemed to constitute an apportionment of the waters of the basin among the parties hereto: *Provided*, That this paragraph shall not be deemed to limit or restrict the power of the commission to enter into covenants with respect to water supply, with a duration not exceeding the life of this compact, as it may deem necessary for a benefit or development of the water resources of the basin.

(c) Any proper party deeming itself aggrieved by action of the commission with respect to an out-of-basin diversion or compensating releases in connection

therewith, notwithstanding the powers delegated to the commission by this compact may invoke the original jurisdiction of the United States Supreme Court within one year after such action for an adjudication and determination thereof de novo. Any other action of the commission pursuant to this section shall be subject to judicial review in any court of competent jurisdiction.

3.4 Supreme Court Decree; Waivers. Each of the signatory states and their respective political subdivisions, in consideration of like action by the others, and in recognition of reciprocal benefits, hereby waives and relinquishes for the duration of this compact any right, privilege or power it may have to apply for any modification of the terms of the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954) which would increase or decrease the diversions authorized or increase or decrease the releases required thereunder, except that a proceeding to modify such decree to increase diversions or compensating releases in connection with such increased diversions may be prosecuted by a proper party to effectuate rights, powers, duties and obligations under Section 3.3 of this compact, and except as may be required to effectuate the provisions of paragraphs IIIB3 and VB of said decree.

3.5 Supreme Court Decree; Specific Limitations on Commission. Except as specifically provided in sections 3.3 and 3.4 of this article, nothing in this compact shall be construed in any way to impair, diminish or otherwise adversely affect the rights, powers, privileges, conditions and obligations contained in the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954). To this end, and without limitation thereto, the commission shall not:

(a) Acquire, construct or operate any project or facility or make any order or take any action which would impede or interfere with the rights, powers, privileges, conditions or obligations contained in said decree;

(b) Impose or collect any fee, charge or assessment with respect to diversions of waters of the basin permitted by said decree;

(c) Exercise any jurisdiction, except upon consent of all the parties to said decree, over the planning, design, construction, operation or control of any projects, structures or facilities constructed or used in connection with withdrawals, diversions and releases of waters of the basin authorized by said decree or of the withdrawals, diversions or releases to be made thereunder; or

(d) Serve as river master under said decree, except upon consent of all the parties thereto.

3.6 General Powers. The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by federal or state law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

3.7 Rates and Charges. The commission may from time to time after public notice and hearing fix, alter and revise rates, rentals, charges and tolls and classifications thereof, for the use of facilities which it may own or operate and for products and services rendered thereby, without regulation or control by any department, office or agency of any signatory party.

3.8 Referral and Review. No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the commission, subject to the provisions of Sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

3.9 Coordination and Cooperation. The commission shall promote and aid

the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin. To this end, but without limitation thereto, the commission may:

(a) Advise, consult, contract, financially assist, or otherwise cooperate with any and all such agencies;

(b) Employ any other agency or instrumentality of any of the signatory parties or of any political subdivision thereof, in the design, construction, operation and maintenance of structures, and the installation and management of river control systems, or for any other purpose;

(c) Develop and adopt plans and specifications for particular water resources projects and facilities which so far as consistent with the comprehensive plan incorporate any separate plans of other public and private organizations operating in the basin, and permit the decentralized administration thereof;

(d) Qualify as a sponsoring agency under any federal legislation heretofore or hereafter enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources.

3.10 Advisory Committees. The commission may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, county and municipal governments, water resources agencies, water-using industries, water-interest groups, labor and agriculture.

#### ARTICLE 4

##### WATER SUPPLY

Section 4.1 Generally. The commission shall have power to develop, implement and effectuate plans and projects for the use of the water of the basin for domestic, municipal, agricultural and industrial water supply. To this end, without limitation thereto, it may provide for, construct, acquire, operate and maintain dams, reservoirs and other facilities for utilization of surface and ground water resources, and all related structures, appurtenances and equipment on the river and its tributaries and at such off-river sites as it may find appropriate, and may regulate and control the use thereof.

##### 4.2 Storage and Release of Waters.

(a) The commission shall have power to acquire, operate and control projects and facilities for the storage and release of waters, for the regulation of flows and supplies of surface and ground waters of the basin, for the protection of public health, stream quality control, economic development, improvement of fisheries, recreation, dilution and abatement of pollution, the prevention of undue salinity and other purposes.

(b) No signatory party shall permit any augmentation of flow to be diminished by the diversion of any water of the basin during any period in which waters are being released from storage under the direction of the commission for the purpose of augmenting such flow, except in cases where such diversion is duly authorized by this compact, or by the commission pursuant thereto, or by the judgment, order or decree of a court of competent jurisdiction.

4.3 Assessable Improvements. The commission may undertake to provide stream regulation in the main stream or any tributary in the basin and may assess on an annual basis or otherwise the cost thereof upon water users or any classification of them specially benefited thereby to a measurable extent, provided that no such assessment shall exceed the actual benefit to any water user. Any such assessment shall follow the procedure prescribed by law for local improvement assessments and shall be subject to judicial review in any court of competent jurisdiction.

4.4 Coordination. Prior to entering upon the execution of any project authorized by this article, the commission shall review and consider all existing rights, plans and programs of the signatory parties, their political subdivisions, private parties, and water users which are pertinent to such project, and shall hold a public hearing on each proposed project.

4.5 Additional Powers. In connection with any project authorized by this article, the commission shall have power to provide storage, treatment, pumping and transmission facilities, but nothing herein shall be construed to authorize the commission to engage in the business of distributing water.

## ARTICLE 5

### POLLUTION CONTROL

Section 5.1 General Powers. The commission may undertake investigations and surveys, and acquire, construct, operate and maintain projects and facilities to control potential pollution and abate or dilute existing pollution of the water resources of the basin. It may invoke as complainant the power and jurisdiction of water pollution abatement agencies of the signatory parties.

5.2 Policy and Standards. The Commission may assume jurisdiction to control future pollution and abate existing pollution in the waters of the basin, whenever it determines after investigation and public hearing upon due notice that the effectuation of the comprehensive plan so requires. The standard of such control shall be that pollution by sewage or industrial or other waste originating within a signatory state shall not injuriously affect waters of the basin as contemplated by the comprehensive plan. The commission, after such public hearing may classify the waters of the basin and establish standards of treatment of sewage, industrial or other waste, according to such classes including allowance for the variable factors of surface and ground waters, such as size of the stream, flow, movement, location, character, self-purification, and usage of the waters affected. After such investigation, notice and hearing the commission may adopt and from time to time amend and repeal rules, regulations and standards to control such future pollution and abate existing pollution, and to require such treatment of sewage, industrial or other waste within a time reasonable for the construction of the necessary works, as may be required to protect the public health or to preserve the waters of the basin for uses in accordance with the comprehensive plan.

5.3 Cooperative Legislation and Administration. Each of the signatory parties covenants and agrees to prohibit and control pollution of the waters of

the basin according to the requirements of this compact and to cooperate faithfully in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the basin which flow through, under, into or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such party to place and maintain the waters of said basin in a satisfactory condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits and adaptable to such other uses as may be provided by the comprehensive plan.

5.4 Enforcement. The commission may, after investigation and hearing, issue an order or orders upon any person or public or private corporation, or other entity, to cease the discharge of sewage, industrial or other waste into waters of the basin which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of pollution. Any such order or orders may prescribe the date, including a reasonable time for the construction of any necessary works, on or before which such discharge shall be wholly or partially discontinued, modified or treated, or otherwise conformed to the requirements of such rules and regulations. Such order shall be reviewable in any court of competent jurisdiction. The courts of the signatory parties shall have jurisdiction to enforce against any person, public or private corporation, or other entity, any and all provisions of this Article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provision of this Article, or any rule or regulation issued pursuant thereto or of any such order, according to the practice and procedure of the court.

5.5 Further Jurisdiction. Nothing in this compact shall be construed to repeal, modify or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.

## ARTICLE 6

### FLOOD PROTECTION

Section 6.1 General Powers. The commission may plan, design, construct and operate and maintain projects and facilities, as it may deem necessary or desirable for flood damage reduction. It shall have power to operate such facilities and to store and release waters on the Delaware River and its tributaries and elsewhere within the basin, in such manner, at such times, and under such regulations as the commission may deem appropriate to meet flood conditions as they may arise.

#### 6.2 Flood Plain Zoning.

(a) The commission shall have power to adopt, amend and repeal recommended standards, in the manner provided by this section, relating to the nature and extent of the uses of land in areas subject to flooding by waters of the Dela-

ware River and its tributaries. Such standards shall not be deemed to impair or restrict the power of the signatory parties or their political subdivisions to adopt zoning and other land use regulations not inconsistent therewith.

(b) The commission may study and determine the nature and extent of the flood plains of the Delaware River and its tributaries. Upon the basis of such studies, it may establish encroachment lines and delineate the areas subject to flood, including a classification of lands with reference to relative risk of flood and the establishment of standards for flood plain use which will safeguard the public health, safety and property. Prior to the adoption of any standards delineating such area or defining such use, the commission shall hold public hearings, in the manner provided by Article 14, with respect to the substance of such standards. At or before such public hearings the proposed standards shall be available, and all interested persons shall be given an opportunity to be heard thereon at the hearing. Upon the adoption and promulgation of such standards, the commission may enter into agreements to provide technical and financial aid to any municipal corporation for the administration and enforcement of any local land use ordinances or regulations giving effect to such standards.

6.3 Flood Lands Acquisition. The commission shall have power to acquire the fee or any lesser interest in lands and improvements thereon within the area of a flood plain for the purpose of restricting the use of such property so as to minimize the flood hazard, converting property to uses appropriate to flood plain conditions, or preventing unwarranted constrictions that reduce the ability of the river channel to carry flood water. Any such action shall be in accord with the standards adopted and promulgated pursuant to Section 6.2.

6.4 Flood and Stream Stage Warnings and Posting. The commission may cause lands particularly subject to flood to be posted with flood hazard warnings, and may from time to time cause flood advisory notices to be published and circulated as conditions may warrant.

## ARTICLE 7

### WATERSHED MANAGEMENT

Section 7.1 Watersheds Generally. The commission shall promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and waterflow and prevent soil erosion.

7.2 Soil Conservation and Forestry. The commission may acquire, sponsor or operate facilities and projects to encourage soil conservation, prevent and control erosion, and to promote land reclamation and sound forestry practices.

7.3 Fish and Wildlife. The commission may acquire, sponsor or operate projects and facilities for the maintenance and improvement of fish and wildlife habitats related to the water resources of the basin.

7.4 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this Article.

## DELAWARE RIVER BASIN COMPACT

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

## ARTICLE 8

## RECREATION

Section 8.1 Development. The commission shall provide for the development of water related public sports and recreational facilities. The commission on its own account or in cooperation with a signatory party, political subdivision or any agency thereof, may provide for the construction, maintenance and administration of such facilities, subject to the provisions of Section 8.2 hereof.

## 8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

8.3 Operation and Maintenance. The commission, within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

8.4 Concessions. The Commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connection with recreational facilities, including any renewal or extension thereof, upon sealed competitive bids after public advertisement therefor.

## ARTICLE 9

## HYDROELECTRIC POWER

Section 9.1 Development. The waters of the Delaware River and its tributaries may be impounded and used by or under authority of the commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan.

9.2 Power Generation. The commission may develop and operate, or authorize to be developed and operated, dams and related facilities and appurte-

nances for the purpose of generating hydroelectric power and hydroelectric energy.

9.3 Transmission. The commission may provide facilities for the transmission of hydroelectric power and hydroelectric energy produced by it where such facilities are not otherwise available upon reasonable terms, for the purpose of wholesale marketing of power and nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers.

9.4 Development Contracts. The commission may after public notice and hearing enter into contracts on reasonable terms, consideration and duration under which public utilities or public agencies may develop hydroelectric power and hydroelectric energy through the use of dams, related facilities and appurtenances.

9.5 Rates and Charges. Rates and charges fixed by the commission for power which is produced by its facilities shall be reasonable, nondiscriminatory, and just.

## ARTICLE 10

### REGULATION OF WITHDRAWALS AND DIVERSIONS

Section 10.1 Power of Regulation. The Commission may regulate and control withdrawals and diversions from surface waters and ground waters of the basin, as provided by this article. The commission may enter into agreements with the signatory parties relating to the exercise of such power or regulation or control and may delegate to any of them such powers of the commission as it may deem necessary or desirable.

10.2 Determination of Protected Areas. The commission may from time to time after public hearing upon due notice determine and delineate such areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements or effectuation of the comprehensive plan, and any such areas may be designated as "protected areas." The commission, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

10.3 Withdrawal Permits. In any protected areas so determined and delineated, no person, firm, corporation or other entity shall divert or withdraw water for domestic, municipal, agricultural or industrial uses in excess of such quantities as the commission may prescribe by general regulation, except (i) pursuant to a permit granted under this article, or (ii) pursuant to a permit or approval heretofore granted under the laws of any of the signatory states.

10.4 Emergency. In the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the basin, or within any part thereof, the commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency as determined by the commission no person, firm, corporation or other public or private entity shall divert or withdraw water for any purpose, in excess of such quantities as the commission

may prescribe by general regulation or authorize by special permit granted hereunder.

10.5 Standards. Permits shall be granted, modified or denied as the case may be so as to avoid such depletion of the natural stream flows and ground waters in the protected area or in an emergency area as will adversely affect the comprehensive plan or the just and equitable interests and rights of other lawful users of the same source, giving due regard to the need to balance and reconcile alternative and conflicting uses in the event of an actual or threatened shortage of water of the quality required.

10.6 Judicial Review. The determinations and delineations of the commission pursuant to Section 10.2 and the granting, modification or denial of permits pursuant to Section 10.3 through 10.5 shall be subject to judicial review in any court of competent jurisdiction.

10.7 Maintenance of Records. Each state shall provide for the maintenance and preservation of such records of authorized diversions and withdrawals and the annual volume thereof as the commission shall prescribe. Such records and supplementary reports shall be furnished to the commission at its request.

10.8 Existing State Systems. Whenever the commission finds it necessary or desirable to exercise the powers conferred by this article any diversion or withdrawal permits authorized or issued under the laws of any of the signatory states shall be superseded to the extent of any conflict with the control and regulation exercised by the commission.

## ARTICLE 11

### INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporations affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3 Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Project Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.

## ARTICLE 12

### CAPITAL FINANCING

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the

commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.4 Funding and Refunding. Whenever the commission deems it expedient, it may fund and refund its bonds and other obligations whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the commission or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the commission or which are payable out of the revenues of any facility acquired by the commission. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the commission. All provisions of this compact applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

12.5 Bonds; Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated bond issues,

in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the commission may determine.

12.6 Bonds; Resolutions and Indentures Generally. The commission may determine and enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the commission authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions other than any restriction on the regulatory powers vested in the commission by this compact as the commission may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys of the commission; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the commission or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this compact into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this compact and is bound thereby.

12.7 Maximum Maturity. No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

12.8 Tax Exemption. All bonds issued by the commission under the provisions of this compact and the interest thereof shall at all times be free and ex-

empt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes.

12.9 Interest. Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semi-annually.

12.10 Place of Payment. The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

12.11 Execution. The commission may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission. If any of the officers whose signatures or counter signatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or counter signatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

12.12 Holding Own Bonds. The Commission shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

12.13 Sale. The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The commission may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semi-annually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this act shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bond notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

12.14 Negotiability. All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

12.15 Legal Investments. Bonds of the commission shall be legal investments for savings banks, fiduciaries and public funds in each of the signatory states.

12.16 Validation Proceedings. Prior to the issuance of any bonds, the com-

mission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

12.17 Recording. No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipts of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.

12.18 Pledged Revenues. Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all such rates, rents, tolls, fees and charges and other revenues and interest thereon received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such rates, rents, tolls, fees, charges and other revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

12.19 Remedies. The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (a) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

12.20 Capital Financing by Signatory Parties; Guarantees.

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

(b) Bonds of the commission, notwithstanding any other provision of this compact, may be executed and delivered to any duly authorized agency of any of the signatory parties without public offering and may be sold and resold with or without the guaranty of such signatory party, subject to and in accordance with the constitutions of the respective signatory parties.

(c) The commission may receive and accept, and the signatory parties may make, loans, grants, appropriations, advances and payments of reimbursable or non-reimbursable funds or property in any form for the capital or operating purposes of the commission.

## ARTICLE 13

### PLAN, PROGRAM AND BUDGETS

Section 13.1 Comprehensive Plan. The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part of the revision thereof.

13.2 Water Resources Program. The commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the commission proposes to be undertaken by the commission and by other authorized governmental and private agencies, organizations and persons during the ensuing six years or such other reasonably foreseeable period as the commission may determine. The water resources program shall include a systematic presentation of:

- 1) the quantity and quality of water resources needs for such period;
- 2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;
- 3) a separate statement of the projects proposed to be undertaken by the commission during such period.

13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period

containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

#### ARTICLE 14

##### GENERAL PROVISIONS

##### Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.

(a) The commission, for the purposes of this compact, may:

1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;

2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

## DELAWARE RIVER BASIN COMPACT

- 5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;
  - 6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.
- (b) The commissioners, subject to the provisions of this compact, shall:
- 1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;
  - 2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;
  - 3) Provide for the internal organization and administration of the commission;
  - 4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;
  - 5) Create and abolish offices, employments and positions as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;
  - 6) Let and execute contracts to carry out the powers of the commission.

14.2 Regulations; Enforcement. The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

14.3 Tax Exemption. The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed

by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

14.4 Meetings; Public Hearing; Records, Minutes.

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydroelectric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

14.5 Officers Generally.

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

14.6 Oath of Office. An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

14.7 Bond. Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

14.8 Prohibited Activities.

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

## DELAWARE RIVER BASIN COMPACT

- 3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.
- (b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.
- (c) Any contract or agreement knowingly made in contravention of this section is void.
- (d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory state in which such misconduct occurs.

14.9 Purchasing. Contract for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

- 1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;
  - 2) the public exigency requires the immediate delivery of the articles or performance of the service;
  - 3) only one source of supply is available;
  - 4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or
  - 5) services are to be provided of a specialized or professional nature.
- 14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any

cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

#### 14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the report shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12 Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

#### 14.13 Grants, Loans, or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:

- 1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water and in the preparation of detailed plans and estimates required for the financing of a project;

## DELAWARE RIVER BASIN COMPACT

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

#### 14.14 Condemnation Proceedings.

(a) The commission shall have the power to acquire by condemnation the fee or any lesser interest in lands, lands lying under water, development rights in land, riparian rights, water rights, waters and other real or personal property within the basin for any project or facility authorized pursuant to this compact. This grant of power of eminent domain includes but is not limited to the power to condemn for the purposes of this compact any property already devoted to a public use, by whomsoever owned or held, other than property of a signatory party and any property held, constructed, operated or maintained in connection with a diversion authorized by a United States Supreme Court decree. Any condemnation of any property or franchises owned or used by a municipal or privately owned public utility, unless the affected public utility facility is to be relocated or replaced, shall be subject to the authority of such state board, commission or other body as may have regulatory jurisdiction over such public utility.

(b) Such power of condemnation shall be exercised in accordance with the provisions of any federal law applicable to the commission; provided that if there is no such applicable federal law, condemnation proceedings shall be in accordance with the provisions of such general state condemnation law as may be in force in the signatory state in which the property is located.

(c) Any award or compensation for the taking of property pursuant to this article shall be paid by the commission, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

#### 14.15 Conveyance of Lands and Relocation of Public Facilities.

(a) The respective officers, agencies, departments, commissions or bodies having jurisdiction and control over real and personal property owned by the signatory parties are authorized and empowered to transfer and convey in accordance with the laws of the respective parties to the commission any such property as may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(b) Each political subdivision of each of the signatory parties is authorized and empowered, notwithstanding any contrary provision of law, to grant and convey to the commission, upon the commission's request, any real property or any interest therein owned by such political subdivisions including lands lying

under water and lands already devoted to public use which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(c) Any highway, public utility or other facility which will be dislocated by reason of a project deemed necessary by the commission to effectuate the authorized purposes of this compact shall be relocated and the cost thereof shall be paid in accordance with the law of the state in which the facility is located; provided that the cost of such relocation payable by the commission shall not in any event exceed the expenditure required to serve the public convenience and necessity.

14.16 Rights of Way. Permission is hereby granted to the commission to locate, construct and maintain any aqueducts, lines, pipes, conduits and auxiliary facilities authorized to be acquired, constructed, owned, operated or maintained by the commission in, over, under or across any streets and highways now or hereafter owned, opened or dedicated to or for public use, subject to such reasonable conditions as the highway department of the signatory party may require.

14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than \$50 nor more than \$1,000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

14.18 Tort Liability. The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

14.19 Effect on Riparian Rights. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

14.20 Amendments and Supplements. Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

#### CONSTRUCTION AND SEVERABILITY

14.21 The provisions of this Act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of the Delaware River Basin Compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance

shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

14.22 Effective Date; Execution. This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

IN WITNESS WHEREOF, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this                      day of                      , 19 .

## PART II

### ARTICLE 15

#### RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose.

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

(b) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the Commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(g) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(h) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.

(i) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each

project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other 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, as amended; 40 U.S.C. 276(c)).

(j) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(k) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(l) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(m) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.

(n) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisers, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.

(o) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(p) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Dela-

ware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(r) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and adviser there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(s) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(t) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however*, That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.

## DELAWARE RIVER BASIN COMPACT

## EFFECTUATION

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately. (75 Stat. 688-716)

## 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.J. Res. 225, Pub-

lic Law 87-328 in the 87th Congress. Reported in House from Judiciary Apr. 26, 1961; H.R. Rpt. No. 310. Passed House June 29, 1961. Reported in Senate from Interior and Insular Affairs Sept. 14, 1961; S. Rept. No. 1032. Passed Senate, amended, Sept. 16, 1961. House agrees to Senate amendments Sept. 16, 1961.

**PUBLIC WORKS APPROPRIATION ACT, 1962**

[Extracts from] An act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Tennessee Valley Authority and certain study commissions, for the fiscal year ending June 30, 1962, and for other purposes. (Act of September 30, 1961, Public Law 87-330, 75 Stat. 722)

\* \* \* \* \*

**BUREAU OF RECLAMATION**

\* \* \* \* \*

[Alaskan investigations.]—For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, including not to exceed \$350,000 for investigations of projects in Alaska, to remain available until expended, \* \* \*. (75 Stat. 725)

**EXPLANATORY NOTE**

Provision Repeated. Appropriations for Alaskan investigations in excess of the \$250,000 authorized by the Act of August 9, 1955, 69 Stat. 618, are contained in subsequent annual Public Works Appropriations Acts through the most recent one, the Act of October 15, 1966, 80 Stat. 1006.

\* \* \* \* \*

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, \* \* \*

[Yellowtail Unit—Access roads nonreimbursable.]—\* \* \* *Provided further,* That not to exceed \$192,000 of funds made available for construction and maintenance of access roads in the Yellowtail Unit area shall be nonreimbursable: \* \* \* (75 Stat. 725)

\* \* \* \* \*

[Upper Colorado River Storage project—Recreational and fish and wildlife expenditures through State and Federal agencies.]—For the Upper Colorado River Storage Project, as authorized by the Act of April 11, 1956 (43 U.S.C. 620d), to remain available until expended, \$ \* \* \* of which \$ \* \* \* shall be available for the “Upper Colorado River Basin Fund” authorized by section 5 of said Act of April 11, 1956, and \$ \* \* \* shall be available for construction of recreational and fish and wildlife facilities authorized by section 8 thereof, and may be expended by bureaus of the Department through or in cooperation with State or other Federal agencies, and advances to such Federal agencies are hereby authorized: \* \* \* (75 Stat. 726)

## EXPLANATORY NOTES

**Provision Repeated.** The same provision relating to expenditure of section 8 funds is contained in each subsequent annual Public Works Appropriation Act through the most recent one, the Act of October 15, 1966, 80 Stat. 1006.

**Reference in the Text.** The Act of April 11, 1956 (43 U.S.C. 620d), referred to in the text, is the Colorado River Storage Project and Participating Projects Act. The Act appears herein in chronological order.

**CRSP Transmission Lines.** The con-

ference report states in part: "The conferees on the part of both Houses are in agreement that the planning and construction of the transmission lines for the Colorado River storage project shall proceed as provided for in the budget presentation and in the bill as it passed the House, unless the Secretary of the Interior finds it practicable and in the national interest to enter into wheeling agreements with private power interests." H.R. Rept. No. 1268, 87th Cong., 1st Sess. (1961).

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Public Works Appropriation Act, 1962". (75 Stat. 731)

## 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. 9076, Public Law 87-330 in the 87th Congress. Reported in House from Appropriations Sept. 6,

1961; H.R. Rept. No. 1125. Passed House Sept. 13, 1961. Reported in Senate from Appropriations; S. Rept. No. 1097. Passed Senate, amended, Sept. 23, 1961. Senate asks for a conference Sept. 23, 1961. House agrees to a conference Sept. 23, 1961. Conference report filed Sept. 25, 1961; H.R. Rept. No. 1268. House agrees to conference report Sept. 26, 1961. Senate agrees to conference report Sept. 26, 1961.

**CONVEY PROPERTY, SWEETWATER COUNTY**

An act to authorize and direct the Secretary of Agriculture to convey to the State of Wyoming for agricultural purposes certain real property in Sweetwater County, Wyoming. (Act of March 20, 1962, Public Law 87-422, 76 Stat. 44)

[Property conveyed—Oil and gas in the land reserved to the United States.]—The Secretary of Agriculture is authorized and directed to convey by quitclaim deed to the State of Wyoming, without cost, the real property constituting the Farson Pilot Farm land and known as farm unit numbered W-18, Eden Valley project, Sweetwater County, Wyoming, more particularly described as follows:

\*   \*   \*   \*   \*

(Legal description omitted, 76 Stat. 44-45)

\*   \*   \*   \*   \*

Such property shall be conveyed under such conditions as in the opinion of the Secretary of Agriculture will assure the use of such property in the cooperative agricultural demonstrational work of the Department of Agriculture and the State of Wyoming. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine and remove the same under such regulations as the Secretary of the Interior may prescribe. (76 Stat. 45)

**EXPLANATORY NOTES**

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

**Supplementary Provision.** Reimbursement for Improvements. The Act of November 5, 1966, 80 Stat. 1308, authorizes the Secretary of the Interior to reimburse the State of Wyoming for any permanent improvements made on the Farson Pilot Farm should it revert to the United States under the terms of the deed executed by the Secretary of Agriculture pursuant to this Act. The deed provides that the lands shall revert to the United States if they cease to be used in the cooperative agricultural demonstration work being carried on by the Department of Agriculture and the State of Wyoming. The Act appears herein in chronological order.

**Background.** The Farson Pilot Farm, which was authorized by this Act to be conveyed to the State of Wyoming, was "being used by the State under a memorandum of agreement with the Department

of Agriculture, as a demonstration farm. Its purpose is to provide information and guidance to settlers on the Eden irrigation project by actual operation of crop and livestock enterprises adapted to the conditions of high altitude and short growing seasons existing on the project. It will also provide similar guidance to settlers on other irrigation projects now authorized in the Upper Colorado River Basin in Wyoming where comparable climatic conditions prevail." S. Rept. No. 906 on H.R. 3879, 87th Cong., 1st Sess. (1961).

**Legislative History.** H.R. 3879, Public Law 87-422 in the 87th Congress. Reported in House from Agriculture Aug. 10, 1961; H.R. Rept. No. 883. Passed House Aug. 21, 1961. Reported in Senate from Agriculture and Forestry Sept. 8, 1961; S. Rept. No. 906. Passed Senate Mar. 8, 1962. Companion bill S. 875 reported in Senate from Agriculture and Forestry Feb. 8, 1962; S. Rept. No. 1206.

## DEFER CHARGES, ANGOSTURA UNIT, MISSOURI RIVER BASIN PROJECT

An act to defer the collection of irrigation maintenance and operation charges for calendar year 1962 on lands within the Angostura unit, Missouri River Basin project. (Act of April 27, 1962, Public Law 87-440, 76 Stat. 58)

**[Charges deferred subject to repayment contract.]**—The Secretary of the Interior is authorized and directed to defer, without interest, the collection of irrigation maintenance and operation charges due in the calendar year 1962 as shown in the March 14, 1961, notice of 1962 water charges to the Angostura Irrigation District: *Provided*, That the Secretary and the district enter into a contract prior to May 1, 1962, for the payment by the district of such deferred charges during the forty-year period commencing January 1, 1966. (76 Stat. 58)

### EXPLANATORY NOTES

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

**Authorization.** The Angostura Unit, Missouri River Basin project, was found feasible by the Secretary of the Interior on February 19, 1941, pursuant to the provisions of the Water Conservation and Utilization Act of August 11, 1939, as amended, and approved by the President on March 6, 1941. It was reauthorized as a unit of the Missouri River Basin project by the Flood

Control Acts of December 22, 1944. The 1939 Act and extracts from the 1944 Act appear herein in chronological order.

**Legislative History.** S. 2522, Public Law 87-440 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Apr. 10, 1962; S. Rept. No. 1326. Passed Senate Apr. 11, 1962. Passed House Apr. 16, 1962. Companion bill H.R. 9252 reported in House from Interior and Insular Affairs Apr. 11, 1962; H.R. Rept. No. 1591.

## AMENDED CONTRACTS, MINIDOKA PROJECT

An act to authorize the Secretary of the Interior to enter into an amendatory contract with the Burley Irrigation District, and for other purposes. (Act of May 31, 1962, Public Law 87-472, 76 Stat. 90)

**[Sec. 1. Execution of Burley Irrigation District amendatory contract authorized.]**—The Secretary of the Interior is authorized to execute on behalf of the United States the amendatory contract with the Burley Irrigation District negotiated pursuant to section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U.S.C., 1958 edition, sec. 485f) and approved by the district's electors on April 18, 1961. (76 Stat. 90)

**Sec. 2. [Negotiation of Minidoka Irrigation District amendatory contract authorized.]**—The Secretary is further authorized to negotiate with and enter into an amendatory contract with the Minidoka Irrigation District on a similar basis as set out in section 1, to coordinate his operation of the power facilities on the Minidoka project with the power facilities of other reclamation project installations in the Snake River Basin, and to account for the return of the reimbursable allocations of these installations in accordance with the Federal reclamation laws. (76 Stat. 90)

**Sec. 3. [Provisions of law repealed.]**—The provisos appearing in the portion of the "Interior Department Appropriation Act, 1940" (Act of May 10, 1939) (53 Stat. 685 at page 716), relating to the Minidoka project and the portion of the Act of May 10, 1926 (44 Stat. 453 at page 480), relating to the Minidoka project are hereby repealed. (76 Stat. 90)

**Sec. 4. [Act declared to be part of the 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, *supra*. (76 Stat. 90)

### EXPLANATORY NOTES

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

**Cross Reference, Provisions Repealed.** Extracts from the Interior Department Appropriation Act, 1940, and the Act of May 10, 1926, referred to in the text of section 3, appear herein in chronological order. Explanatory notes following the items relating to the Minidoka project in these Acts set forth the provisions repealed by section 3.

**Legislative History.** H.R. 9647, Public Law 87-472 in the 87th Congress. Reported in House from Interior and Insular Affairs Apr. 17, 1962; H.R. Rept. No. 1615. Passed House May 7, 1962. Passed Senate, amended, May 17, 1962. House agrees to Senate amendments May 21, 1962. Companion bill S. 2665 reported in Senate from Interior and Insular Affairs May 1, 1962; S. Rept. No. 1378.

## LAND RECLASSIFICATION, SUN RIVER PROJECT

An act to approve the revised June 1957 reclassification of land of the Fort Shaw division of the Sun River project, Montana, and to authorize the modification of the repayment contract with Fort Shaw Irrigation District. (Act of June 8, 1962; Public Law 87-477, 76 Stat. 93)

[**Sec. 1. Land reclassification approved.**]—The June 1957 reclassification of land of the Fort Shaw division of the Sun River project, Montana, as revised in September 1959, is approved. (76 Stat. 93)

[**Sec. 2. [Fort Shaw Irrigation District's contractual obligation modified.]**]—The Secretary of the Interior is authorized, pursuant to section 8(i) of the Act of August 4, 1939 (53 Stat. 1187), to modify the contractual obligation of the Fort Shaw Irrigation District by deducting from such obligation the amount of the unmatured construction charges as of the date of this Act against five hundred thirty-one and seventy-seven one-hundredths acres classified in a paying class under the Act of May 25, 1926 (44 Stat. 636), and found to be permanently unproductive; and the contractual obligation of the Fort Shaw Irrigation District shall, by reason of a finding that thirty-four and seventy-four one-hundredths acres of land, previously classed as permanently unproductive, possess sufficient productivity to be placed in a paying class, be increased in the sum of \$1,193.67. (76 Stat. 93)

### 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, under the Reclamation Act of 1902, and approved by the President on January 5, 1911.

**Reference in the Text.** The Act of May 25, 1926 (44 Stat. 636), referred to in section 2 of the text, appears herein in chrono-

logical order.

**Legislative History.** S. 2132, Public Law 87-477 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Aug. 29, 1961; S. Rept. No. 808. Passed Senate Sept. 1, 1961. Reported in House from Interior and Insular Affairs Apr. 17, 1962; H.R. Rept. No. 1614. Passed House, amended, May 7, 1962. Senate agrees to House amendments May 25, 1962.

## DELIVER WATER, RIVERTON PROJECT

A joint resolution permitting the Secretary of the Interior to continue to deliver water to lands in the Third Division, Riverton Federal reclamation project, Wyoming. (Act of June 8, 1962, Public Law 87-479, 76 Stat. 94)

[Water delivery continued pending completion of repayment contract.]— Pending completion of a repayment contract the Secretary of the Interior is authorized to continue to deliver water to the lands in the Third Division, Riverton Federal reclamation project, Wyoming, during the calendar year 1962, 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. Water shall be furnished upon individual applications accompanied by payments of an amount per acre to be irrigated equal to the estimated average per irrigable acre cost of operation and maintenance of the Third Division, whether or not all of the irrigable area is irrigated. Rates of charge for water delivery shall be \$4 per acre for the first three acre-feet per acre with water in excess of that amount at \$2 per acre-foot. The portion of the operation and maintenance costs applicable to lands for which water service is not requested is hereby declared to be nonreimbursable and nonreturnable. (76 Stat. 94)

### EXPLANATORY NOTES

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

**Authorization.** The Riverton project was initially authorized as an Indian reclamation project pursuant to the Indian Appropriation Act of March 2, 1917, 29 Stat. 969, 993. It was placed under the jurisdiction of the Bureau of Reclamation by the Act of June 5, 1920, 41 Stat. 874, 915, the Sundry Civil Expenses Appropriation Act for 1921. The first and second divisions of the project were developed over the next 20 years. The general plan of development of the third division was authorized as the Riverton Extension Unit of the Missouri River Basin project under section 9(a) of the Flood Control Act of 1944, 58 Stat. 887, 891, but was not constructed as a part of that project. Extracts from the 1920 and 1944 Acts, including the provisions referred to, appear herein in chronological order.

**Cross Reference, Delivery of Water.** Other Acts authorizing the continued delivery of water to the lands of the Third Division, Riverton project are the Act of May 5, 1960, for the calendar years 1960 and 1961, the Act of April 19, 1963, for the calendar year 1963, and the Act of March 10, 1964 for the calendar years 1964, 1965 and 1966. These Acts appear herein in chronological order.

**Legislative History.** S.J. Res. 151, Public Law 87-479 in the 87th Congress. Reported in Senate from Interior and Insular Affairs May 3, 1962; S. Rept. No. 1382. Passed Senate May 4, 1962. Reported in House from Interior and Insular Affairs May 23, 1962; H.R. Rept. No. 1728. Passed House, amended, May 24, 1962. Senate agrees to House Amendments, May 25, 1962.

## NAVAJO INDIAN IRRIGATION PROJECT AND SAN JUAN-CHAMA PROJECT, INITIAL STAGE

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Navajo Indian irrigation project and the initial stage of the San Juan-Chama project as participating projects of the Colorado River storage project, and for other purposes. (Act of June 13, 1962, Public Law 87-483, 76 Stat. 96)

[**Sec. 1. Navajo Indian irrigation project and San Juan-Chama project initial stage approved as participating projects of Colorado River storage project.**]—For the purposes of furnishing water for the irrigation of irrigable and arable lands and for municipal, domestic, and industrial uses, providing recreation and fish and wildlife benefits, and controlling silt, and for other beneficial purposes, the Congress approves as participating projects of the Colorado River storage project (Act of April 11, 1956, 70 Stat. 105, as amended, 43 U.S.C. 620-620o) the Navajo Indian irrigation project, New Mexico, and the initial stage of the San Juan-Chama project, Colorado-New Mexico. The Navajo Indian irrigation project and the initial stage of the San Juan-Chama project herein approved are substantially those described in the proposed coordinated report of the Acting Commissioner of Reclamation and the Commissioner of Indian Affairs, approved and adopted by the Secretary of the Interior on October 16, 1957, as conditioned, modified, and limited herein. (76 Stat. 96; 43 U.S.C. § 615ii)

### NOTE OF OPINION

#### 1. 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.

### NAVAJO INDIAN IRRIGATION PROJECT

**Sec. 2. [Navajo Indian irrigation project.]**—Pursuant to the provisions of the Act of April 11, 1956, as amended, the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian irrigation project for the principal purpose of furnishing irrigation water to approximately one hundred and ten thousand six hundred and thirty acres of land, said project to have an average annual diversion of five hundred and eight thousand acre-feet of water and the repayment of the costs of construction thereof to be in accordance with the provisions of said Act of April 11, 1956, as amended, including, but not limited to, section 4(d) thereof. (76 Stat. 96; 43 U.S.C. § 615jj)

### NOTE OF OPINION

#### 1. Nonreimbursable costs

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

June 13, 1962

NAVAJO AND SAN JUAN-CHAMA PROJECTS

1659

River Storage Project Act, which latter section makes nonreimbursable all Navajo project construction costs above the pay- able-but-deferred 4(d) construction costs. Memorandum of Acting Associate Solicitor Lanning, July 31, 1964.

**Sec. 3. (a) [Trust status of certain irrigable lands—Publication in Federal Register—Mineral leasing.]**—In order to provide for the most economical development of the Navajo Indian irrigation project, the Secretary shall declare by publication in the Federal Register that the United States of America holds in trust for the Navajo Tribe of Indians any legal subdivisions or unsurveyed tracts of federally owned land outside the present boundary of the Navajo Indian Reservation in New Mexico in townships 28 and 29 north, ranges 10 and 11 west, and townships 27 and 28 north, ranges 12 and 13 west, New Mexico principal meridian, susceptible to irrigation as part of the project or necessary for location of any of the works or canals of such project: *Provided, however,* That no such legal subdivision or unsurveyed tract shall be so declared to be held in trust by the United States for the Navajo Tribe until the Navajo Tribe shall have paid the United States the full appraised value thereof: *And provided further,* That in making appraisals of such lands the Secretary shall consider their values as of the date of approval of this Act, excluding therefrom the value of minerals subject to leasing under the Act of February 25, 1920, as amended (30 U.S.C. 181–286), and such leasable minerals shall not be held in trust for the Navajo Tribe but shall continue to be subject to leasing under the Act of February 25, 1920, as amended, after the lands containing them have been declared to be held in trust by the United States for the Navajo Tribe.

**(b) [Lands acquired by Tribe.]**—The Navajo Tribe is authorized to convey to the United States, and the Secretary shall accept on behalf of the United States, title to any land or interest in land within the above-described townships, susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project, acquired in fee simple by the Navajo Tribe, and after such conveyance said land or interest in land shall be held in trust by the United States for the Navajo Tribe as a part of the project.

**(c) [Land acquisition by Secretary.]**—The Secretary is authorized to acquire by purchase, exchange, or condemnation any other land or interest in land within the townships above described susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project. After such acquisition, said lands or interest in lands shall be held by the United States in trust for the Navajo Tribe of Indians. (76 Stat. 96; 43 U.S.C. § 615kk)

**Sec. 4. [Additional capacity.]**—In developing the Navajo Indian irrigation project, the Secretary is authorized to provide capacity for municipal and industrial water supplies or miscellaneous purposes over and above the diversion requirements for irrigation stated in section 2 of this Act, but such additional capacity shall not be constructed and no appropriation of funds for such construction shall be made until contracts have been executed which, in the judgment of the Secretary, provide satisfactory assurance of repayment of all costs properly

allocated to the purposes aforesaid with interest as provided by law. (76 Stat. 97; 43 U.S.C. § 615ll)

**Sec. 5. [Operation and maintenance charges.]**—Payment of operation and maintenance charges of the irrigation features of the Navajo Indian irrigation project shall be in accordance with the provisions of the Act of August 1, 1914 (38 Stat. 582, 583), as amended (25 U.S.C. 385): *Provided*, That the Secretary may transfer to the Navajo Tribe of Indians the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe and, in such event, the Secretary may transfer to the Navajo Tribe title to movable property necessary to the operation and maintenance of those works. (76 Stat. 97; 43 U.S.C. § 615mm)

**Sec. 6. [Surplus crops.]**—For the period ending ten years after completion of construction of the Navajo Indian irrigation project 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 section 408(c) of the Agricultural Act of 1949 (63 Stat. 1056, 7 U.S.C. 1428), 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 (52 Stat. 41), as amended (7 U.S.C. 1281), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (76 Stat. 97; 43 U.S.C. § 615nn)

**Sec. 7. [Appropriation.]**—There are hereby authorized to be appropriated to the Bureau of Indian Affairs such sums as may be required to construct the Navajo Indian irrigation project, including the purchase of lands under section 3, subsection (c), of this Act, but not more than \$135,000,000 (June 1961 prices) plus or minus 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. (76 Stat. 97; 43 U.S.C. § 615oo)

#### SAN JUAN-CHAMA RECLAMATION PROJECT (INITIAL STAGE)

**Sec. 8. [Purposes—Compliance with Upper Colorado River Basin compact and Rio Grande compact—Minimum flow of Navajo River and Blanco River—Capacity for future diversion.]**—Pursuant to the provisions of the Act of April 11, 1956, as amended, the Secretary is authorized to construct, operate, and maintain the initial stage of the San Juan-Chama project, Colorado-New Mexico, for the principal purposes of furnishing water supplies to approximately thirty-nine thousand three hundred acres of land in the Cerro, Taos, Llano, and Pojoaque tributary irrigation units in the Rio Grande Basin and approximately eighty-one thousand six hundred acres of land in the existing Middle Rio Grande Conservancy District and for municipal, domestic, and industrial uses, and providing recreation and fish and wildlife benefits. The diversion facilities of the initial stage authorized herein shall be so constructed and operated as to divert only natural flow of the Navajo, Little Navajo, and Blanco Rivers in Colorado as set forth in the supplemental project report dated May 1957. The principal engineering works of the initial stage development, involving three major

elements, shall include diversion dams and conduits, storage and regulation facilities at the Heron Numbered 4 Reservoir site, enlarged outlet works of the existing El Vado Dam, and water use facilities consisting of reservoirs, dams, canals, lateral and drainage systems, and associated works and appurtenances. The construction of recreation facilities at the Nambe Reservoir shall be contingent upon the Secretary's making appropriate arrangements with the governing body of the Nambe Pueblo for the operation and maintenance of such facilities, and the construction of recreation facilities at the Heron Numbered 4, Valdez, and Indian Camp Reservoirs shall be contingent upon his making appropriate arrangements with a State or local agency or organization for the operation and maintenance of those facilities: *Provided, That—*

(a) the Secretary shall so operate the initial stage of the project authorized herein that diversions to the Rio Grande Valley shall not exceed one million three hundred and fifty thousand acre-feet of water in any period of ten consecutive years, reckoned in continuing progressive series starting with the first day of October after the project shall have commenced operation: *Provided, however,* That not more than two hundred and seventy thousand acre-feet shall be diverted in any one year;

(b) the Secretary shall operate the project so that there shall be no injury, impairment, or depletion of existing or future beneficial uses of water within the State of Colorado, the use of which is within the apportionment made to the State of Colorado by article III of the Upper Colorado River Basin compact, as provided by article IX of the Upper Colorado River Basin compact and article IX of the Rio Grande compact;

(c) all works of the project shall be constructed so as to permit compliance physically with all provisions of the Rio Grande compact, and all such works shall be operated at all times in conformity with said compact;

(d) the amount of water diverted in the Rio Grande Basin for uses served by the San Juan-Chama project shall be limited in any calendar year to the amount of imported water available to such uses from importation to and storage in the Rio Grande Basin in that year;

(e) details of project operation essential to accounting for diverted San Juan and Rio Grande flows shall be developed through the joint efforts of the Rio Grande Compact Commission, the Upper Colorado River Commission, the appropriate agencies of the United States and of the States of Colorado, New Mexico, and Texas, and the various project entities. In this connection the States of Texas and New Mexico shall agree, within a reasonable time, on a system of gaging devices and measurements to secure data necessary to determine the present effects of tributary irrigation, as well as present river channel losses: *Provided, That* if the State of Texas shall require, as a condition precedent to such agreement, gaging devices and measurements in addition to or different from those considered by the Department of the Interior and the State of New Mexico to be necessary to this determination, the State of Texas shall pay one-half of all costs of constructing and operating such additional or different devices and making such additional or different measurements which are not borne by the United States. The results of the action required by this subsection

## 1662 NAVAJO AND SAN JUAN-CHAMA PROJECTS

shall be incorporated in a written report transmitted to the States of Colorado, Texas, and New Mexico for comment in the manner provided in the Flood Control Act of 1944 before any appropriation shall be made for project construction;

(f) the Secretary shall operate the project so that for the preservation of fish and aquatic life the flow of the Navajo River and the flow of the Blanco River shall not be depleted at the project diversion points below the values set forth at page D2-7 of appendix D of the United States Bureau of Reclamation report entitled "San Juan-Chama Project, Colorado-New Mexico", dated November 1955;

(g) the Secretary is hereby authorized to construct the tunnel and conduit works of the initial stage of the San Juan-Chama project with sufficient capacity for future diversion of an average of two hundred and thirty-five thousand acre-feet per annum: *Provided, however,* That nothing contained in this Act shall be construed as committing the Congress of the United States to future authorization of any additional stage of the San Juan-Chama project. (76 Stat. 97; 43 U.S.C. § 615pp)

## EXPLANATORY NOTE

**Supplementary Provision: Cochiti Reservoir.** The Act of March 26, 1964, 78 Stat. 171, authorizes the Secretary of the Interior to make available, from water diverted into the Rio Grande Basin under the San Juan-Chama project, sufficient water

initially to fill, and thereafter annually to offset evaporation from, a permanent pool for recreation and fish and wildlife purposes at Cochiti Reservoir, New Mexico. The 1964 Act appears herein in chronological order.

## NOTE OF OPINION

## 1. Leavitt Act

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.

**Sec. 9. [Surplus crops].**—For the period ending ten years after completion of construction of the initial stage of the San Juan-Chama project no water from the project shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in section 408(c) of the Agricultural Act of 1949 (63 Stat. 1056, 7 U.S.C. 1428), 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 (52 Stat. 41), as amended (7 U.S.C. 1281), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. (76 Stat. 99; 43 U.S.C. § 615qq)

**Sec. 10. [Appropriation].**—The amount which section 12 of the Act of April 11, 1956, authorizes to be appropriated is hereby increased by \$85,828,000 (June 1961 prices) plus or minus such amounts, if any, as may be required by reason of

June 13, 1962

NAVAJO AND SAN JUAN-CHAMA PROJECTS

1663

changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved, which increase shall be available solely for construction of the San Juan-Chama project and shall not be used for any other purpose. (76 Stat. 99; 43 U.S.C. § 615rr)

EXPLANATORY NOTE

**Cross Reference, Section 17.** Section 17 of this act reads as follows: "Section 12 of the Act of April 11, 1956, shall not apply to the works authorized by this Act except as otherwise provided by section 10 of this Act."

GENERAL

**Sec. 11. [Contracts to provide apportionment in event of shortages—Determination of sufficient water for use in New Mexico.]—**(a) No person shall have or be entitled to have the use for any purpose, including uses under the Navajo Indian irrigation project and the San Juan-Chama project authorized by sections 2 and 8 of this Act, of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries originating above Navajo Reservoir to the use of which the United States is entitled under these projects except under contract satisfactory to the Secretary and conforming to the provisions of this Act. Such contracts, which, in the case of water for Indian uses, shall be executed with the Navajo Tribe, shall make provision, in any year in which the Secretary anticipates a shortage, taking into account both prospective runoff originating above Navajo Reservoir and the available water in storage in Navajo Reservoir, for a sharing of the available water in the following manner: The prospective runoff shall be apportioned between the contractors diverting above and those diverting at or below Navajo Reservoir in the proportion that the total normal diversion requirement of each group bears to the total of all normal diversion requirements. In the case of contractors diverting above Navajo Reservoir, each such contract shall provide for a sharing of the runoff apportioned to said group in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements of all such contracts that have been made hereunder: *Provided*, That for any year in which the foregoing sharing procedure either would apportion to any contractor diverting above Navajo Reservoir an amount in excess of the runoff anticipated to be physically available at the point of his diversion, or would result in no water being available to one or more such contractors, the runoff apportioned to said group shall be reapportioned, as near as may be, among the contractors diverting above Navajo Reservoir in the proportion that the normal diversion requirements of each bears to the total normal diversion requirements of the group. In the case of contractors diverting from or below Navajo Reservoir, each such contract shall provide for a sharing of the remaining runoff together with the available storage in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements under all such contracts that have been made hereunder.

The Secretary shall not enter into contracts for a total amount of water beyond that which, in his judgment, in the event of shortage, will result in a reasonable amount being available for the diversion requirements for the Navajo

Indian irrigation project and the initial stage of the San Juan-Chama project as specified in sections 2 and 8 of this Act.

No long-term contract, except contracts for the benefit of the lands and for the purposes specified in sections 2 and 8 of this Act, shall be entered into for the delivery of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries, as aforesaid, until the Secretary has determined by hydrologic investigations that sufficient water to fulfill said contract is reasonably likely to be available for use in the State of New Mexico during the term thereof under the allocations made in articles III and XIV of the Upper Colorado River Basin compact, and has submitted such determination to the Congress of the United States and the Congress has approved such contracts: *Provided*, That nothing contained in the foregoing shall be construed to forbid the Secretary from entering into temporary water supply contracts in the San Juan River Basin for any year in which he determines that water legally available for use in the upper basin of the Colorado River system would otherwise not be used there and is not needed to fulfill the obligations of the upper division States with respect to delivery of water at Lee Ferry.

(b) If contracts are entered into for delivery from storage in Navajo Reservoir of water not covered by subsection (a) of this section, such contracts shall be subject to the same provision for sharing of available water supply in the event of shortage as in the case of contracts required to be made pursuant to subparagraph (a) of this section.

(c) This section shall not be applicable to the water requirements of the existing Fruitland, Hogback, Cudai, and Cambridge Indian irrigation projects, nor to the water required in connection with the extension of the irrigated acreages of the Fruitland and Hogback Indian irrigation projects in a total amount of approximately eleven thousand acres. (76 Stat. 99; U.S.C. § 615ss)

**Sec. 12. [Water rights and use limited by Arizona and New Mexico entitlements under Upper Basin Compact.]—**(a) None of the project works or structures authorized by this Act shall be so operated as to create, implement, or satisfy any preferential right in the United States or any Indian tribe to the waters impounded, diverted, or used by means of such project works or structures, other than contained in those rights to the uses of water granted to the States of New Mexico or Arizona pursuant to the provisions of the Upper Colorado River Basin compact.

(b) The projects authorized by this Act shall be so operated that no waters shall be diverted or used by means of the project works, which, together with all other waters used in or diverted from the San Juan River Basin in New Mexico, will exceed the water available to the States of New Mexico and Arizona under the allocation contained in article III of the Upper Colorado River Basin compact for any water year. (76 Stat. 100; 43 U.S.C. § 615tt)

**Sec. 13. [Rights to and use of Colorado River water subject to compacts, project acts and treaty.]—**(a) The use of water, including that diverted from the Colorado River system to the Rio Grande Basin, through works constructed under authority of this Act, shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon

Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of New Mexico is entitled and limited under said compacts, statutes, and treaty, and every contract entered into under this Act for the storage, use, and delivery of such water shall so recite.

(b) All works constructed under authority of this Act, and all officers, employees, permittees, licensees, and contractees of the United States and of the State of New Mexico acting pursuant thereto and all users and appropriators of water of the Colorado River system diverted or delivered through the works constructed under authority of this Act and any enlargements or additions thereto shall observe and be subject to said compacts, statutes, and treaty, as hereinbefore provided, in the diversion, delivery, and use of water of the Colorado River system, and such condition 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 system.

(c) No right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by this Act, and Congress does not, by its enactment, construe or interpret any provision of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, or the Mexican Water Treaty or subject the United States to, or approve or disapprove any interpretation of, said compacts, statutes, or treaty, anything in this Act to the contrary notwithstanding. (76 Stat. 101; 43 U.S.C. § 615uu)

**Sec. 14. [Secretary shall comply with compacts, project acts and treaty—Consent to suits.]**—In the operation and maintenance of all facilities under the jurisdiction and supervision of the Secretary of the Interior authorized by this Act, the Secretary 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, the Colorado River Storage Project 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. (76 Stat. 101; 43 U.S.C. § 615vv)

**Sec. 15. [Studies of quality of water of Colorado River system—Reports to Congress.]**—The Secretary of the Interior is directed to continue his studies of the quality of water of the Colorado River system, to appraise its suitability for municipal, domestic, and industrial use and for irrigation in the various areas

in the United States in which it is used or proposed to be used, to estimate the effect of additional developments involving its storage and use (whether heretofore authorized or contemplated for authorization) on the remaining water available for use in the United States, to study all possible means of improving the quality of such water and of alleviating the ill effects of water of poor quality, and to report the results of his studies and estimates to the Eighty-seventh Congress and every two years thereafter. (76 Stat. 102; 43 U.S.C. § 615ww)

**Sec. 16. (a) [Upper basin obligation for minimum flow at Lee Ferry and Mexican Treaty burden.]**—The diversion of water for either or both of the projects authorized in this Act shall in no way impair or diminish the obligation of the “States of the upper division” as provided in article III(d) of the Colorado River compact “not to cause the flow of the river at Lee Ferry to be depleted below an aggregate of seventy-five million 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 of this compact”.

(b) The diversion of water for either or both of the projects authorized in this Act shall in no way impair or diminish the obligation of the “States of the upper division” to meet their share of the Mexican Treaty burden as provided in article III(c) of the Colorado River compact. (76 Stat. 102; 43 U.S.C. § 615xx)

**Sec. 17. [Appropriations.]**—Section 12 of the Act of April 11, 1956, shall not apply to the works authorized by this Act except as otherwise provided by section 10 of this Act. (76 Stat. 102; 43 U.S.C. § 615yy)

**Sec. 18. [Amendments.]**—The Act of April 11, 1956, as amended, is hereby further amended as follows: (i) In section 1, subsection (2), after the words “Central Utah (initial phase)” delete the colon and insert in lieu thereof a comma and the words “San Juan-Chama (initial stage),” and after the word “Lyman” insert the words “Navajo Indian,”; (ii) in section 2 delete the words “San Juan-Chama, Navajo,” from the first sentence; (iii) in section 5, subsection (e), in the phrase “herein or hereinafter authorized” delete the word “hereinafter” and insert in lieu thereof the word “hereafter”; (iv) in section 7 in the phrase “and any contract lawfully entered unto under said compacts and Acts” delete the word “unto” and insert in lieu thereof the word “into”. (76 Stat. 102; 43 U.S.C. §§ 620, 620a, 620d, 620f)

#### EXPLANATORY NOTE

**Legislative History.** S. 107, Public Law 87-483 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Mar. 22, 1961; S. Rept. No. 83. Passed Senate Mar. 28, 1961. Passed House,

amended, May 23, 1962. Senate agrees to House amendments May 29, 1962. Companion bill H.R. 7596 reported in House from Interior and Insular Affairs July 10, 1961; H.R. Rept. No. 685.

## RECREATION FACILITIES, ELEPHANT BUTTE AND CABALLO RESERVOIRS

An act to provide for the establishment and administration of basic public recreation facilities at the Elephant Butte and Caballo Reservoir areas, New Mexico, and for other purposes. (Act of July 25, 1962, Public Law 87-542, 76 Stat. 171)

**[Sec. 1. Recreation facilities authorized.]**—The Secretary of the Interior is authorized and directed to investigate, plan, construct, operate, and maintain basic recreation facilities at Elephant Butte and Caballo Reservoirs, Rio Grande Federal reclamation project, New Mexico (including access roads and facilities for the safety, health, and protection of the visiting public), and to provide for the public use and enjoyment of such recreation facilities and the water areas of such reservoirs in such manner as is consistent with the primary purpose of such project. The cost of such recreation facilities shall be nonreimbursable and nonreturnable. (75 Stat. 171)

**[Sec. 2. [Water not to be allocated for recreation.]**—The construction of recreation facilities at or near Elephant Butte and Caballo Reservoirs, as herein authorized, shall not provide in any manner whatsoever a basis for the allocation of water for recreation use or for the allocation of reservoir capacity for recreation use; and the priority for irrigation use of water stored in Elephant Butte and Caballo Reservoirs and the priority of use for irrigation purposes of the capacities of such reservoirs shall not be affected in any manner by the provision for recreation facilities as authorized herein. (75 Stat. 171)

**[Sec. 3. [Rules and regulations authorized—State or local administration authorized.]**—The Secretary of the Interior may issue such rules and regulations as are necessary to carry out the provisions of this Act and may enter into an agreement with the State of New Mexico, or a political subdivision thereof, for the administration, operation, and maintenance of the facilities herein authorized. (75 Stat. 171)

**[Sec. 4. [Appropriation authorized.]**—There are authorized to be appropriated such amounts, but no more than \$607,000, as may be necessary to carry out the provisions of this Act. (75 Stat. 171)

### EXPLANATORY NOTES

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

**Authorization.** The Rio Grande Federal Reclamation Project was authorized by the Secretary of the Interior December 2, 1905, under the provisions of the Reclamation Act. The project serves lands in New Mexico and Texas. The Reclamation Act was extended to the entire State of Texas June 12, 1906, following a partial extension by the Act of February 25, 1905, which also authorized construction of the Elephant Butte Dam.

Both the 1905 and 1906 Acts appear herein in chronological order.

**Legislative History.** S. 46, Public Law 87-542 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Aug. 24, 1961; S. Rept. No. 775. Passed Senate Aug. 29, 1961. Reported in House from Interior and Insular Affairs June 18, 1962; H.R. Rept. No. 1832. Passed House, amended, July 2, 1962. Senate agrees to House amendments July 19, 1962.

## MANN CREEK PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Mann Creek Federal reclamation project, Idaho, and for other purposes. (Act of August 16, 1962, Public Law 87-589, 76 Stat. 388)

**[Sec. 1. Mann Creek project authorized.]**—For the purposes of providing irrigation water for approximately fifty-one hundred acres, conserving and developing fish and wildlife, and providing recreational benefits, 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 facilities of the Mann Creek Federal reclamation project, Idaho. The principal works of the project shall consist of a dam and reservoir, diversion facilities from the reservoir, and drainage facilities. (76 Stat. 388; 43 U.S.C. § 616g)

**Sec. 2. [Construction costs—Repayment.]**—The base period provided in subsection (d), section 9, of the Reclamation Project Act of 1939, as amended, for repayment of the construction costs properly chargeable to any block of lands and assigned to be repaid by irrigators shall be forty years, exclusive of any development period, from the time water is first delivered to that block. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within the repayment period or periods herein specified, shall be returned to the reclamation fund within such period or periods from revenues derived by the Secretary of the Interior from the disposition of power marketed through the Federal power system in southern Idaho. (76 Stat. 388; 43 U.S.C. § 616h)

**Sec. 3. [Recreation and fish and wildlife—State and local participation—Costs nonreimbursable and nonreturnable.]**—(a) The Secretary of the Interior is authorized, in connection with the Mann Creek project, to construct minimum basic public recreation facilities, and to acquire such lands as may be necessary for that purpose, substantially in accordance with the plan in the report of the Secretary of the Interior, but such facilities (other than those necessary to protect the project works and the visiting public) shall not be constructed until an agreement has been executed by the State of Idaho, an agency or political subdivision thereof, or an appropriate local agency or organization to assume the management and operation of the facilities. The cost of constructing such facilities shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) The Secretary may make such reasonable provision in the works authorized by this Act as he finds to be required for the conservation and development of fish and wildlife in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661, and the following), and the portion of the construction costs allocated to these purposes, together with an appropriate share of the operation, maintenance, and replacement costs therefor, shall be nonreimbursable and nonreturnable. Before the works are transferred to an irrigation water users' organization for care, opera-

tion, and maintenance, the organization shall have agreed to operate them in such fashion, satisfactory to the Secretary, as to achieve the benefits to fish and wildlife on which the allocation of costs therefor is predicated, and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with his requirements to achieve such benefits. (71 Stat. 389; 43 U.S.C. § 616i)

**Sec. 4. [Appropriations.]**—There is hereby authorized to be appropriated for construction of the works herein authorized the sum of \$4,180,000 (January 1965 prices) including \$120,000 heretofore appropriated for preauthorization investigations, plus or minus such amounts, if any, as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (76 Stat. 389; Act of June 30, 1965, 79 Stat. 207; 43 U.S.C. § 616j)

#### EXPLANATORY NOTES

**1965 Amendment.** The Act of June 30, 1965, amended section 4 of the 1962 Act by striking out "\$3,490,000 (April 1961 prices)" and inserting in lieu thereof "\$4,180,000 (January 1965 prices) including \$120,000 heretofore appropriated for preauthorization investigations, plus or minus such amounts, if any, as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by engineering cost

indexes." The 1965 Act appears herein in chronological order.

**Legislative History.** S. 405, Public Law 87-589 in the 87th Congress. Reported in Senate from Interior and Insular Affairs June 25, 1962; S. Rept. No. 1620. Passed Senate June 26, 1962. Passed House, amended, July 26, 1962. Senate agrees to House amendments Aug. 2, 1962. Companion bill H.R. 529 reported in House from Interior and Insular Affairs May 1, 1962; H.R. Rept. No. 1643.

## FRYINGPAN-ARKANSAS PROJECT

An act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Fryingpan-Arkansas project, Colorado. (Act of August 16, 1962, Public Law 87-590, 76 Stat. 389)

[Sec. 1. (a) **Fryingpan-Arkansas project authorized—Not to include Gunnison-Arkansas project—Limitations on use of Colorado River water.**]—For the purposes of supplying water for irrigation, municipal, domestic, and industrial uses, generating and transmitting hydroelectric power and energy, and controlling floods, and for other useful and beneficial purposes incidental thereto, including recreation and the conservation and development of fish and wildlife, the Secretary of the Interior is authorized to construct, operate, and maintain the Fryingpan-Arkansas project, Colorado, in substantial accordance with the engineering plans therefor set forth in House Document Numbered 187, Eighty-third Congress, modified as proposed in the September 1959 report of the Bureau of Reclamation entitled "Ruedi Dam and Reservoir, Colorado", with such minor modifications of, omissions from, or additions to the works described in those reports as he may find necessary or proper for accomplishing the objectives of the project. Such modifications or additions as may be required in connection therewith shall not, however, extend to or contemplate the so-called Gunnison-Arkansas project; and nothing in this Act shall constitute a commitment, real or implied, to exportations of water from the Colorado River system in Colorado beyond those required for projects heretofore or herein authorized. In constructing, operating, and maintaining the Fryingpan-Arkansas 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).

(b) [**Reservoir at Ruedi site on Fryingpan River in lieu of Aspen site on Roaring Fork River—Feasibility report to be made on Ashcroft on Castle Creek—Report on Basalt project, Colorado, to be expedited.**]—A reservoir at the Ruedi site on the Fryingpan River with an active capacity of approximately one hundred thousand acre-feet shall be constructed in lieu of the reservoir on the Roaring Fork River at the Aspen site contemplated in House Document Numbered 187, Eighty-third Congress. The Secretary shall investigate and prepare a report on the feasibility of a replacement reservoir at or near the Ashcroft site on Castle Creek, a tributary of the Roaring Fork River above its confluence with the Fryingpan River with a capacity of approximately five thousand acre-feet, but construction thereof shall not be commenced unless said report, which shall be submitted to the President and the Congress, demonstrates the feasibility of said reservoir and is approved by the Congress. The Secretary shall expedite completion of his planning report on the Basalt project, Colorado, as a participating project under the Act of April 11, 1956 (70 Stat. 105), and said report shall have the priority status of the reports to which reference is made in section 2 of said Act.

(c) [**Municipal and industrial water supply works to be constructed by local**

communities except when infeasible—Construction by Secretary of the Interior; repayment.]—No part of the single purpose municipal and industrial water supply works involved in the Fryingpan-Arkansas project shall be constructed by the Secretary in the absence of evidence satisfactory to him that it would be infeasible for the communities involved to construct the works themselves, singly or jointly. In the event it is determined that these works, or any of them, are to be constructed by the Secretary, a contract providing, among other things, for payment of the actual cost thereof, with interest as hereinafter provided, as rapidly as is consistent with the contracting parties' ability to pay, but in any event, within fifty years from the time the works are first available for the delivery of water, and for assumption by the contracting parties of the care, operation, maintenance, and replacement of the works shall be a condition precedent to construction thereof. (76 Stat. 389; 43 U.S.C. § 616)

**Sec. 2. [Repayment period for irrigation water users; no development period authorized—Rates to be charged for commercial power and water for municipal, domestic or industrial use—Interest rates.]—**(a) Contracts to repay the portion of the cost of the Fryingpan-Arkansas project allocated to irrigation and assigned to be repaid by irrigation water users (exclusive of such portion of said cost as may be derived from temporary water supply contracts or from other sources) which are entered into pursuant to subsection (d), section 9, of the Reclamation Project Act of 1939 (53 Stat. 1187), as amended, shall provide for a basic repayment period of not more than fifty years after completion of construction and shall not provide for any development period. Such contracts shall be entered into only with organizations which have the capacity to levy assessments upon all taxable real property located within their boundaries.

(b) Rates charged for commercial power and for water for municipal, domestic or industrial use or for the use of facilities for the storage and/or delivery of such water shall be designed to return to the United States, within not more than fifty years from the completion of each unit of the project which serves those purposes, those costs of constructing, operating and maintaining that unit which are allocated to said purposes and interest on the unamortized balance of said construction allocation and, in addition, within the period fixed by subsection (a) of this section, so much of the irrigation allocation as is beyond the ability of the water users and their organizations to repay.

(c) The interest rate on the unamortized balance of the commercial power and municipal, domestic, and industrial water supply allocations 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. (76 Stat. 390; 43 U.S.C. § 616a)

**Sec. 3. [Operating principles—Benefits and rights of western Colorado water users—Interbasin transfers of water.]—**(a) The Fryingpan-Arkansas project shall be operated under the direction of the Secretary in accordance with the operating principles adopted by the State of Colorado on December 9, 1960, and reproduced in House Document Numbered 130, Eighty-seventh Congress.

(b) The Secretary may appoint the two representatives of the United States to the Commission referred to in paragraph 19 of said principles and may, upon unanimous recommendation of the parties signatory to the operating principles, adopt such modifications therein as are not inconsistent with the provisions of this Act.

(c) Any and all benefits and rights of western Colorado water users in and to water stored in the Green Mountain Reservoir, Colorado-Big Thompson project, as described, set forth and defined in Senate Document Numbered 80, Seventy-fifth Congress, shall not be impaired, prejudiced, abrogated, nullified, or diminished in any manner whatever by reason of the authorization, construction, operation, and maintenance of the Fryingpan-Arkansas project.

(d) Except for such rights as are appurtenant to lands which are acquired for project purposes, no valid right to the storage or use of water within the natural basin of the Colorado River in the State of Colorado shall be acquired by the Secretary of the Interior through eminent domain proceedings for the purpose of storing or using outside of said basin the water embraced within that right, and no water, the right to the storage or use of which is so acquired by anyone other than the Secretary, shall be transported through or by means of any works of the Fryingpan-Arkansas project from the Colorado River Basin to the Arkansas River Basin. (76 Stat. 391; 43 U.S.C. § 616b)

**Sec. 4. [Recreational facilities—Conservation of scenic, natural, historic and archeological values and fish and wildlife resources—National forest lands—Nonreimbursable costs.]—**(a) The Secretary is authorized and directed (1) to investigate, plan, construct, operate, and maintain public recreational facilities on lands withdrawn or acquired for the development of said project, (2) to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, (3) 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 the purposes of said project, and (4) to investigate, plan, construct, operate, and maintain facilities for the conservation and development of fish and wildlife resources. 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: *Provided*, That all lands within the exterior boundaries of a national forest acquired for recreational or other project purposes which are not determined by the Secretary of the Interior to be needed for actual use in connection with the reclamation works shall become national forest lands: *Provided further*, That the Secretary of the Interior shall make his determination hereunder within five years after approval of this Act or, in the case of individual tracts of land, within five years after their acquisition by the United States: *And provided further*, That the authority contained in this section shall not be exercised by the Secretary of the Interior with respect to national forest lands without the concurrence of the Secretary of Agriculture.

(b) The costs, including the operation and maintenance costs, of the undertakings described in subsection (a) of this section shall be nonreimbursable and nonreturnable under the reclamation laws. The funds appropriated for carrying out the authorization contained in section 1 of this Act shall, without prejudice to the availability of other appropriated moneys for the same purpose, also be available for carrying out the investigations and programs authorized in this section. (76 Stat. 391; 43 U.S.C. § 616c)

**Sec. 5. [Statutes governing diversion of Colorado River water—Use of diverted water limited to State of Colorado—Arkansas River Compact obligations unchanged—Right or claim of right to Colorado River water not aided or prejudiced—Consent to suit against, or joinder of, the United States.]—(a)** The use of water diverted from the Colorado River system to the Arkansas River Basin through works constructed under authority of this Act shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of Colorado is entitled and limited under said compacts, statutes, and treaty, and every contract entered into under this Act for the storage, use, and delivery, of such water shall so recite.

(b) All works constructed under authority of this Act, and all officers, employees, permittees, licensees, and contractees of the United States and of the State of Colorado acting pursuant thereto, and all users and appropriators of water of the Colorado River system diverted or delivered through the works constructed under authority of this Act and any enlargements or additions thereto shall observe and be subject to said compacts, statutes, and treaty, as hereinbefore provided, in the diversion, delivery, and use of water of the Colorado River system, and such condition 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 system.

(c) None of the waters of the Colorado River system shall be exported from the natural basin of that system by means of works constructed under authority of this Act, or extensions and enlargements of such works, to the Arkansas River Basin for consumptive use outside of the State of Colorado, and no such waters shall be made available for consumptive use in any State not a party to the Colorado River compact by exchange or substitution; nor shall the obligations of the State of Colorado under the provisions of the Arkansas River compact (63 Stat. 145) be altered by any operations of the Fryingpan-Arkansas project.

(d) No right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by this Act, and the Congress does not, by its enactment, construe or interpret any provision of the Colorado River com-

compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act or the Mexican Water Treaty or subject the United States to, or approve or disapprove any interpretation of, said compacts, statutes, or treaty, anything in this Act to the contrary notwithstanding.

(e) In the operation and maintenance of all facilities under the jurisdiction and supervision of the Secretary of the Interior authorized by this Act, 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, the Colorado River Storage Project Act (and any contract lawfully entered into by the United States under any of said Acts), the treaty with the United Mexican States, and the operating principles, and to comply with the laws of the State of Colorado relating to the control, appropriation, use, and distribution of water therein. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain any 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. (76 Stat. 392; 43 U.S.C. § 616d)

**Sec. 6. [Colorado River water quality studies—Report to Congress.]**—The Secretary of the Interior is directed to continue his studies of the quality of water of the Colorado River system, to appraise its suitability for municipal, domestic, and industrial use and for irrigation in the various areas in the United States in which it is used or proposed to be used, to estimate the effect of additional developments involving its storage and use (whether heretofore authorized or contemplated for authorization) on the remaining water available for use in the United States, to study all possible means of improving the quality of such water and of alleviating the ill effects thereof, and to report the results of his studies and estimates to the Congress on January 3, 1963, and every two years thereafter, the expense of said studies to be no part of the financial obligation of the Fryingpan-Arkansas project. (76 Stat. 393; 43 U.S.C. § 616e)

**Sec. 7. [Appropriation authorizations.]**—There is hereby authorized to be appropriated for construction of the Fryingpan-Arkansas project, the sum of \$170,000,000 (June 1961 prices), 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 types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the project and for future costs incurred under section 4 of this Act. (76 Stat. 393; 43 U.S.C. § 616f)

#### EXPLANATORY NOTES

**Reference in the Text.** The Act of April 11, 1956 (70 Stat. 105), referred to in subsection 1(c) of the text, is the Act authorizing the construction, operation and maintenance of the Colorado River storage project and participating projects. The Act appears herein in chronological order.

**References in the Text.** The Compacts, Acts and Treaty set forth below in the order referred in subsections 5(a), (d) and (e) of the text, all appear herein in chronological order: the Colorado River Compact, December 21, 1928; the Upper Colorado River Basin Compact, April 6,

1949; the Boulder Canyon Project Act, December 21, 1928; the Boulder Canyon Project Adjustment Act, July 19, 1940; the Colorado River Storage Project Act, April 11, 1956; the Mexican Water Treaty (Treaty Series 994), February 3, 1944.

**Reference in the Text.** The Arkansas River Compact (63 Stat. 145), referred to in subsection 5(c) of the text, is the compact between Colorado and Kansas to which the Congress granted its consent by

the Act of May 31, 1949. The Act appears herein in chronological order.

**Legislative History.** H.R. 2206, Public Law 87-590 in the 87th Congress. Reported in House from Interior and Insular Affairs, July 11, 1961; H.R. Rept. No. 694. Passed House June 13, 1962. Passed Senate Aug. 6, 1962. Companion bill S. 284 reported in Senate from Interior and Insular Affairs July 19, 1962; S. Rept. No. 1742.

## ARBUCKLE PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Arbutle reclamation project, Oklahoma, and for other purposes. (Act of August 24, 1962, Public Law 87-594, 76 Stat. 395)

[**Sec. 1. Arbutle project authorized.**]—The Secretary of the Interior is authorized to construct, operate, and maintain the Arbutle Federal reclamation project, Oklahoma, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and for controlling floods and for the conservation and development of fish and wildlife, and the enhancement of recreational opportunities. The project shall consist of the following principal works: A reservoir on Rock Creek near Sulphur, Oklahoma, pumping plants, pipelines, and other conduits for furnishing water for municipal, domestic, and industrial use, and minimum basic recreational facilities. (76 Stat. 395; 43 U.S.C. § 616k)

**Sec. 2. [Cost allocation—Repayment—Reservoir storage allocations.]**—In constructing, operating, and maintaining the Arbutle project, the Secretary shall allocate the costs thereof among different functions resulting from multiple-purpose development under the following conditions:

(a) Allocations to flood control, recreation, and the conservation and development of fish and wildlife shall be nonreimbursable and nonreturnable under the reclamation laws;

(b) Allocations to municipal water supply, including domestic, manufacturing, and industrial uses, shall be repayable to the United States by the water users through contracts with municipal corporations, or other organizations as defined by section 2, Reclamation Project Act of 1939 (53 Stat. 1187) under the provisions of the Federal reclamation laws, and to the extent appropriate, under the Water Supply Act of 1958 (72 Stat. 319), as amended. Such contracts shall be precedent to the commencement of construction of any project unit affecting the individual municipality or industrial users, and shall provide for repayment of construction costs allocated to municipal water supply in not to exceed fifty years from the date water is first delivered for that purpose: *Provided*, That the water users' organization be responsible for the disposal and sale of all water surplus to its requirements, and that the revenues therefrom shall be used by the organization for the retirement of project debt payment, payment of interest, and payment of operation and maintenance cost. 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;

(c) Upon the completion of the payment of the water users' construction cost obligation, together with the interest thereon, the water users, their designee or designees, shall (1) have a permanent right to the use of that portion of the project allocable to municipal water supply purposes, so long as the space designated for those purposes may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, subject, if the project is then operated by the United States, to payment of a reasonable annual charge to the Secretary of the Interior sufficient to pay all operation and maintenance charges and a fair share of the administrative costs applicable to the project; (2) be conveyed title to such portions of the pipelines and related facilities as are used solely for delivering project water to the water users. (76 Stat. 395; 43 U.S.C. § 616l)

**Sec. 3. [Irrigation not required.]**—Contracts may be entered into with the water users' organization pursuant to the provisions of this Act without regard to the last sentence of subsection (c) of section 9 of the Reclamation Project Act of 1939. (76 Stat. 396; 43 U.S.C. § 616m)

**Sec. 4. [Operation and maintenance of works may be transferred to water users' organization—Repayment adjustment—Operating criteria.]**—The Secretary is authorized to transfer to a water users' organization the care, operation, and maintenance of the works herein authorized and, if such transfer is made, may deduct from the obligation of the water users the reasonable capitalized equivalent of that portion of the estimated operation and maintenance cost of the undertaking which, if the United States continues to operate the project, would be allocated to flood control and fish and wildlife purposes. Prior to taking over the care, operation, and maintenance of said works, the water users' organization shall obligate itself to operate them in accordance with criteria specified by the Secretary of the Army with respect to flood control and the Secretary of the Interior with respect to fish and wildlife and recreation. (76 Stat. 396; 43 U.S.C. § 616n)

**Sec. 5. [Construction by unit or stages—Unit repayment contracts.]**—Construction of the Arbuttle project herein authorized may be undertaken in such units or stages as in the opinion of the Secretary best serve the project requirements and the relative needs for water. 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. (76 Stat. 397; 43 U.S.C. § 616o)

**Sec. 6. [Recreational facilities authorized consistent with State fish and game and health and welfare laws—Federal costs.]**—The Secretary may (1) contract for the construction of any part of the minimum basic recreational facilities with any qualified agency of the State of Oklahoma or a political subdivision thereof, and (2) upon conclusion of a suitable agreement with any such agency or political subdivision 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 reservoir of the Arbuttle project, when such use is determined by the Secretary not to be contrary to the public interest, all under such

## ARBUCKLE PROJECT

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 and the protection of the public health, safety, and welfare. The Federal costs of constructing the facilities authorized by this section shall be limited to the nonreimbursable costs of the Arbuttle project for minimum basic recreational facilities as determined by the Secretary. (76 Stat. 397; 43 U.S.C. § 616p)

**Sec. 7. [Conservation and development of fish and wildlife.]**—The Secretary may make such reasonable provision in connection with the works of the Arbuttle Federal reclamation project, in accordance with section 2 of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661, and the following), as he finds to be required for the conservation and development of fish and wildlife. (76 Stat. 397; 43 U.S.C. § 616q)

**Sec. 8. [Agricultural requirements waived.]**—Expenditures for Arbuttle Reservoir, and the water supply aqueduct system, 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). (76 Stat. 397; 43 U.S.C. § 616r)

**Sec. 9. [Appropriation authorization.]**—There is authorized to be appropriated for construction of the Arbuttle reclamation project the sum of \$13,340,000 (March 1962 prices), plus or minus such amounts 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 additional sums as may be required for the operation and maintenance of the project. (76 Stat. 397; 43 U.S.C. § 616s)

## EXPLANATORY NOTES

**Reference in the Text.** The Water Supply Act of 1958 (72 Stat. 319), as amended, referred to in section 2 of the text, appears herein in chronological order. Its date of enactment was July 3, 1958.

**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 section 3 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.** Extracts from the Interior Department Appropriation Act, 1954 (43 U.S.C. 390a), referred to in the text, appear herein in chronological order. The date of enactment was July 31, 1953.

**Legislative History.** H.R. 23, Public Law 87-594 in the 87th Congress. Reported in House from Interior and Insular Affairs Apr. 18, 1962; H.R. Rept. No. 1619. Passed House May 9, 1962. Passed Senate Aug. 8, 1962.

## WITHDRAWAL OF LANDS, LUKE-WILLIAMS AIR FORCE RANGE

An act to provide for the withdrawal and reservation for the Departments of the Air Force and the Navy of certain public lands of the United States at Luke-Williams Air Force Range, Yuma, Arizona, for defense purposes. (Act of August 24, 1962, Public Law 87-597, 76 Stat. 399)

[Sec. 1. Public lands withdrawn from appropriation for defense purposes.]—

(a) Subject to valid existing rights the public lands, and the minerals therein, within the areas described in section 2 of this Act are hereby withdrawn from all appropriations and other forms of disposition under the public land laws including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (60 Stat. 681; 30 U.S.C. 601-604) except as provided in subsection (b) of this section, and reserved (subject to an agreement which has been approved by the Secretary of Defense and the Secretary of the Interior for the joint use of the lands in area "A" for military and wildlife purposes) for the use of the Department of Defense for a period of ten years with an option to renew the withdrawal and reservation for a period of five years by notice from the Secretary of Defense to the Secretary of the Interior, and subject to the condition that the reservation may be terminated at any time during either of such periods by the Secretary of Defense upon notice to the Secretary of the Interior. However, this Act does not affect Executive Order Numbered 8038 of January 5, 1939 (4 F.R. 437), establishing the Cabeza Prieta Game Range, except to the extent rendered necessary by the national defense.

(b) Lands and resources within area "A" withdrawn and reserved by subsection (a) of this section shall be subject to such appropriation and other disposition as the Secretary of the Interior shall determine to be consistent both with the requirements of Executive Order Numbered 8038 of January 5, 1939 (4 F.R. 437), and, with the approval of the Secretary of Defense, with the requirements of the national defense. The Secretary of the Interior may, with the concurrence of the Secretary of Defense, authorize use or disposition of any of the lands or resources within area "B" withdrawn and reserved by subsection (a) of this section.

(c) Upon request of the Secretary of the Interior at the time of final termination of the reservation effected by this Act, the Department of Defense shall make safe for nonmilitary uses the land withdrawn and reserved, or such portions thereof as may be specified by the Secretary of the Interior, by neutralizing unexploded ammunition, bombs, artillery projectiles, or other explosive objects and chemical agents. Thereafter the Secretary of the Interior pursuant to law shall provide for the appropriate use or disposition of all or any part of the land withdrawn and reserved under provisions of this Act. Nothing in this subsection, however, shall be construed to prevent the Secretary of a military department at that time from making application for further withdrawal and reservation

## LUKE-WILLIAMS AIR FORCE RANGE

of all or part of said lands under laws and regulations then existing. (76 Stat. 399)

**Sec. 2. [Legal descriptions of withdrawn lands.]**—The lands withdrawn and reserved by this Act are those that are now or may hereafter become subject to the public land laws within the areas described as follows: Approximately 479,100 acres, more or less, within the Luke-Williams Air Force Range, Pima, Maricopa, and Yuma Counties, Arizona, and more fully described as follows:

\* \* \* \* \*

(Legal description omitted, 76 Stat. 399-400)

\* \* \* \* \*

## EXPLANATORY NOTES

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

**Background.** The Department report of March 21, 1961, on H.R. 3507, states in part: "A flood control reclamation withdrawal embraces approximately 15,800 acres of the lands to be withdrawn. Of this total approximately 2,500 acres have been acquired by the Bureau for the Gila project and the balance of 13,300 acres consists of withdrawal public domain lands for the

same project." Reprinted in H.R. Rept. No. 217, 87th Cong., 1st Sess. 9 (1961).

**Legislative History.** H.R. 3507, Public Law 87-597 in the 87th Congress. Reported in House from Interior and Insular Affairs Apr. 11, 1962; H.R. Rept. No. 217. Passed House Apr. 17, 1961. Reported in Senate from Interior and Insular Affairs, Aug. 6, 1962; S. Rept. No. 1830. Passed Senate Aug. 9, 1962.

## IRRIGATION BLOCKS; DEVELOPMENT PERIOD EXTENSION; SEMI-ANNUAL INSTALLMENTS

An act to amend section 9(d) (1) of the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U.S.C. 485), to make additional provisions for irrigation blocks, and for other purposes. (Act of August 28, 1962, Public Law 87-613, 76 Stat. 407)

[**Sec. 1. Amended contracts authorized to provide for, or modify the size of, irrigation blocks.**]—After the execution of a contract pursuant to the authority of section 9(d) (1) of the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U.S.C. 485), and prior to the commencement of the development period provided thereunder, the Secretary of the Interior is hereby authorized to amend such contract to provide for irrigation blocks, or if such are already provided, to add to or modify such irrigation blocks, as he shall deem desirable to carry out the purposes of that Act. (76 Stat. 407; 43 U.S.C. § 485h-6)

**Sec. 2. [Amended contracts or notices authorized to extend development periods—Deferred payment contracts may be terminated.]**—Section 9(d) (1) is amended by deleting the period at the end of the first sentence of said section and by adding the following: “: *Provided further*, That when the Secretary, by contract or by notice given thereunder, shall have fixed a development period of less than ten years, and at any time thereafter but before commencement of the repayment period conditions arise which in the judgment of the Secretary would have justified the fixing of a longer period, he may amend such contract or notice to extend such development period to a date not to exceed ten years from its commencement, and in a case where no development period was provided, he may amend such contract within the same limits: *Provided further*, That when the Secretary shall have deferred the payment of all or any part of any installments of construction charges under any repayment contract pursuant to the authority of the Act of September 21, 1959 (73 Stat. 584), he may, at any time prior to the due date prescribed for the first installment not reduced by such deferment, and by agreement with the contracting organization, terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section.” (76 Stat. 407; 43 U.S.C. § 485h)

**Sec. 3. [Annual installments provided for in repayment contracts may be paid in two parts.]**—In any repayment contract which provides for payment of construction charges by single annual installments, the Secretary may by agreement with the contracting organization amend such contract to provide for the payment of such annual installments in two parts on such dates in the calendar year as may best enable the contracting organization to meet its payments. (76 Stat. 408; 43 U.S.C. § 485h-7)

1682 IRRIGATION BLOCKS, DEVELOPMENT PERIOD, ETC.

EXPLANATORY NOTES

**Reference in the Text.** The Act of September 21, 1959 (73 Stat. 584), referred to in section 2 of the text, amended section 17(b) of the Reclamation Project Act of 1939 (enacted August 4, 1939). Both the 1939 and 1959 Acts are found herein in chronological order.

**Report to Committee.** H.R. Rept. No. 2189 states at page 3: "It is understood, based upon assurance given by representatives of the Department during the hearings, that the Committee will be notified in each instance where the development period is extended under the authority of

this legislation and advised as to the circumstances justifying such extension."

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of August 4, 1939 (the Reclamation Project Act of 1939).

**Legislative History.** S. 2179, Public Law 87-613 in the 87th Congress. Reported in Senate from Interior and Insular Affairs, May 1, 1962; S. Rept. No. 1377. Passed Senate May 17, 1962. Reported in House from Interior and Insular Affairs Aug. 14, 1962; H.R. Rept. No. 2189. Passed House Aug. 20, 1962.

## AMEND SPOKANE VALLEY PROJECT ACT

An act to amend the Act of September 16, 1959 (73 Stat. 561; 43 U.S.C. 615s), relating to the construction, operation, and maintenance of the Spokane Valley project. (Act of September 5, 1962, Public Law 87-630, 76 Stat. 431)

[Additional project purposes—Cost allocations adjusted—Appropriation authorization increased.]—The Act of September 16, 1959 (73 Stat. 561, 43 U.S.C. 615s), be amended as follows:

(a) By substituting in section 1 thereof the words “seven thousand two hundred and fifty” for the words “ten thousand three hundred” and by inserting the words “and for domestic, municipal, and industrial uses” after the words “the State of Idaho” in this same section. (43 U.S.C. § 615s)

(b) By amending section 2 to read as follows: “In constructing, operating, and maintaining the Spokane Valley 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) interest on the unpaid balance of the allocation to domestic, municipal, and industrial water supply shall be at a rate 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; and (2) the remaining cost of the project beyond the amount to be reimbursed or returned by the water users shall be accounted for in the same manner as provided in item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568), and power and energy required for irrigation pumping for the Spokane Valley project shall be made available in the same manner as provided for therein. The amount to be repaid by the irrigators shall be collected by the contracting entity through annual assessments based upon combination turnout and acreage charges and through the use of such other methods as it and the Secretary may agree upon.” (43 U.S.C. § 615t)

(c) By deleting from section 3 thereof the figure “\$5,100,000” and inserting in lieu thereof the figure “\$7,232,000”. (76 Stat. 431; 43 U.S.C. § 615u)

### EXPLANATORY NOTES

**Reference in the Text.** Item (c) of section 2 of the Act of July 27, 1954 (68 Stat. 568), referred to in the text, provides that for the Foster Creek Division, Chief Joseph Dam project, construction costs beyond the ability of irrigators to repay shall be charged to net revenues derived from the sale of power which are over and beyond those required to amortize the investment in the project and to return interest on the un-amortized balance thereof. The 1954 Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of September 16, 1959.

**Legislative History.** S. 2008, Public Law 87-630 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Sept. 15, 1961; S. Rept. No. 1042. Passed Senate Sept. 19, 1961. Reported in House from Interior and Insular Affairs May 1, 1962; H.R. Rept. No. 1642. Passed House, amended, Aug. 1, 1962. Senate agrees to House amendments Aug. 24, 1962.

## ARMY AND AGRICULTURE JOINT WATERSHED STUDIES

An act to authorize the Secretary of the Army and the Secretary of Agriculture to make joint investigations and surveys of watershed areas for flood prevention or the conservation, development, utilization, and disposal of water, and for flood control and allied purposes, and to prepare joint reports on such investigations and surveys for submission to the Congress, and for other purposes. (Act of September 5, 1962, Public Law 87-639, 76 Stat. 438)

[**Sec. 1. Watershed flood prevention and water conservation studies authorized.**]—The Secretary of the Army and the Secretary of Agriculture, when authorized to do so by resolutions adopted by the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, are hereby authorized and directed to make joint investigations and surveys in accordance with their existing authorities of watershed areas in the United States, Puerto Rico, and the Virgin Islands, and to prepare joint reports on such investigations and surveys setting forth their recommendations for the installation of the works of improvement needed for flood prevention or the conservation, development, utilization, and disposal of water, and for flood control and allied purposes. Such joint reports shall be submitted to the Congress through the President for adoption and authorization by the Congress of the recommended works of improvement: *Provided*, That the project authorization procedure established by Public Law 566, Eighty-third Congress, as amended, shall not be affected. (76 Stat. 438; 16 U.S.C. § 1009)

**Sec. 2. [Appropriation authorization.]**—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. (76 Stat. 438; 16 U.S.C. § 1009)

### EXPLANATORY NOTES

**Reference in the Text.** Public Law 566, Eighty-third Congress, as amended, referred to in the text, is the Watershed Protection and Flood Prevention Act, approved August 4, 1954. 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.** H.R. 3801, Public Law 87-639 in the 87th Congress. Reported in House from Public Works Aug. 30, 1961; H.R. Rept. No. 1083. Passed House Sept. 18, 1961. Reported in Senate from Public Works Aug. 23, 1962; S. Rept. No. 1910. Passed Senate Aug. 25, 1962.

## HANFORD NEW PRODUCTION REACTOR

[Extracts from] An act to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. (Act of September 26, 1962, Public Law 87-701, 76 Stat. 599)

\* \* \* \* \*

**Sec. 112. [Conditions precedent to sale of electric energy.]—**(a) The Commission is not authorized—

(1) to enter into any arrangements for the construction or operation of electric generating and transmission facilities at the Hanford New Production Reactor, or

(2) to sell any byproduct energy produced incident to the operation of the reactor and is directed to withhold from beneficial use and dissipate such byproduct energy, or

(3) to enter into agreements, as part of such arrangements, to lease or contract for the operation of the reactor during periods when the reactor is not being operated or maintained for production or other Commission purposes,

unless and until the Commission shall make the determinations required by subsection (b).

(b) Before entering into any arrangement or sale of the type described in subsection (a), the Commission shall make the following determinations:

(1) Usable byproduct energy will be produced incident to the production of special nuclear material in the reactor in accordance with the design of the reactor as originally authorized by Congress;

(2) The sale of byproduct energy could provide a substantial financial return to the United States Treasury for the benefit of the taxpayers;

(3) The national defense posture would be improved by the enhanced capability for resumption of special nuclear material production through non-Federal operation and maintenance of the reactor during periods when it is not being operated for special nuclear material production.

(c) All expenses of modifications of the Hanford New Production Reactor made at the request of a non-Federal entity, and all expenses of constructing and operating the electric energy generating and transmission facilities at the New Production Reactor, shall be borne by such non-Federal entity.

(d) Any losses to the Bonneville Power Administration, in connection with the arrangements or sales authorized herein, shall be borne by its system customers through rate adjustments.

(e) The Commission shall not enter into any arrangements for the sale of byproduct energy from the Hanford New Production Reactor unless it determines that the purchaser has offered fifty per cent participation to private organizations and fifty per cent participation to public organizations on a non-discriminatory basis in the sale of electric energy generated therewith.

## HANFORD NEW PRODUCTION REACTOR

(f) No Federal agency may acquire the generating facilities without prior Congressional authorization and in the event of such authorization the generating facilities shall be acquired subject to contracts then in existence for disposition of the electric energy produced by the facilities.

(g) Before the Commission enters into any arrangements pursuant to this section, the basis for such arrangements and the determinations required by subsection (b), with supporting data, shall be submitted to the Joint Committee on Atomic Energy and a period of forty-five days shall elapse: *Provided, however*, That the Joint Committee, after having received such documents, may, by majority concurrence in writing, waive the conditions of or all or any portion of such forty-five day period. (76 Stat. 604)

## EXPLANATORY NOTES

**Not Codified.** Section 112 of this Act is not codified in the U.S. Code.

**Legislative History.** H.R. 11974, Public Law 87-701 in the 87th Congress. Reported in House from Joint Committee on Atomic Energy June 21, 1962; H.R. Rept. No. 1871. Passed House July 17, 1962. Passed Senate, amended, Aug. 1, 1962. Senate asks for a conference Aug. 1, 1962. House agrees

to a conference Aug. 29, 1962. Conference report filed Sept. 11, 1962; H.R. Rept. No. 2342. House agrees to conference report Sept. 14, 1962. Senate agrees to conference report Sept. 18, 1962. Companion bill S. 3392 reported in Senate from Joint Committee on Atomic Energy June 29, 1962; S. Rept. No. 1671.

## NOTES OF OPINIONS

**1. Hanford power exchange contract**

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 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.)

In view of the express legislative intent of section 2(f) of the Bonneville Project Act to vest discretion in the Administrator of the Bonneville Power Administration as to the terms and conditions of contracts made

to carry out the purposes of that Act, and assuming that Congress authorizes Atomic Energy Commission participation in the plan to sell steam from the New Production Reactor at Hanford, Washington, the contingent liability provision in a proposed agreement that BPA would reimburse the Washington Public Power Supply System for expenses incurred in the event construction of the reactor should be discontinued, will not be questioned, notwithstanding the general provision of sections 3679 and 3732, Revised Statutes (31 U.S.C. § 665 and 41 U.S.C. § 11). 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 determinations made by the Atomic Energy Commission with respect to the proposed contract with the Washington Public Power Supply System meet the requirements of section 112(b). Dec. Comp. Gen. B-149083 (letter from Comptroller General Campbell to Chairman Holifield, Joint Committee on Atomic Energy, October 22, 1962).

## UPPER DIVISION, BAKER PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the upper division of the Baker Federal reclamation project, Oregon, and for other purposes. (Act of September 27, 1962, Public Law 87-706, 76 Stat. 634)

**[Sec. 1. Upper Division, Baker project, authorized.]**—For the purposes of providing irrigation water, controlling floods, conserving and developing fish and wildlife, and providing recreational benefits, 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 facilities of the upper division of the Baker Federal reclamation project, Oregon. The principal works of the project shall consist of a dam and reservoir, pumping plants, and related facilities. (76 Stat. 634; 43 Stat. § 616t)

**Sec. 2. [Repayment—McNary project power revenues—Excess lands.]**—  
(a) The period provided in subsection (d), section 9, of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h), for repayment of the construction cost properly chargeable to any block of lands and assigned to be repaid by irrigators, may be extended to fifty years, exclusive of any 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 repayment plan as is provided therein. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay, within the repayment period or periods herein specified, shall be returned to the reclamation fund within such period or periods from revenues derived by the Secretary of the Interior from the disposition of power from the McNary project power facilities.

(b) Any lands in the upper division of the Baker project, Oregon, which are held in private ownership by a person whose holdings exceed the equivalent of one hundred and twenty acres of class 1 land 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 project 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. 423e). In computing "the equivalent of one hundred and twenty acres of class 1 land" under the first sentence of this section, each acre of class 2 land shall be counted as seventy-five one-hundredths of an acre, each acre of class 3 land shall be counted as fifty-five one-hundredths of an acre, and each acre of class 4 land shall be counted as thirty-eight one-hundredths of an acre. (76 Stat. 634; 43 Stat. § 616u)

## UPPER DIVISION, BAKER PROJECT

## EXPLANATORY NOTE

**Reference in the Text.** The third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 636, 649, 43 U.S.C. 423e), referred to in the text, among other things provides that no water shall be delivered to excess lands whenever the private owners

thereof refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior. The Act is the Omnibus Adjustment Act and is found herein in chronological order.

**Sec. 3. [Recreation facilities—Fish and wildlife conservation and development—Cost allocations—State or local operation and maintenance—Flood control.]—(a)** The Secretary of the Interior is authorized, in connection with the upper division of the Baker project, to construct minimum basic public recreation facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. The cost of constructing such facilities shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) The Secretary may make such reasonable provision in the works authorized by this Act as he finds to be required for the conservation and development of fish and wildlife in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661–666c, inclusive), and the portion of the construction cost allocated to these purposes and to flood control, together with an appropriate share of the operation, maintenance, and replacement costs therefor, shall be nonreimbursable and nonreturnable. Before the works are transferred to an irrigation water user's organization for care, operation, and maintenance, the organization shall have agreed to operate them in a manner satisfactory to the Secretary of the Interior with respect to achieving the fish and wildlife benefits, and to return the works to the United States for care, operation, and maintenance in the event of failure to comply with the requirements to achieve such benefits.

(c) The works authorized in this Act shall be operated for flood control in accordance with regulations prescribed by the Secretary of the Army pursuant to section 7 of the Flood Control Act approved September 22, 1944 (58 Stat. 887). (76 Stat. 634; 43 U.S.C. § 616v)

**Sec. 4. [Appropriation authorization.]—**There is hereby authorized to be appropriated for construction of the Baker Federal reclamation project the sum of \$6,168,000 (February 1962 prices), 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 additional sums as may be required for operation and maintenance of the project. (76 Stat. 635; 43 U.S.C. § 616w)

## EXPLANATORY NOTES

**Authorization.** The Baker project, Oregon, was found feasible by the Secretary of the Interior on March 17, 1931, pursuant to the Reclamation Act of June 17, 1902, and approved by the President (as required by section 4 of the Act of June 25, 1910 (36 Stat. 835)), on March 18, 1931. The 1910 Act appears herein in chronological order.

**Legislative History.** H.R. 575, Public Law 87–706 in the 87th Congress. Reported in House from Interior and Insular Affairs July 2, 1962; H.R. Rept. No. 1960. Passed House Aug. 1, 1962. Reported in Senate from Interior and Insular Affairs Sept. 5, 1962; S. Rept. No. 1996. Passed Senate Sept. 20, 1962.

## ADDITIONAL FEATURES, TALENT DIVISION, ROGUE RIVER BASIN PROJECT

An act to amend the Act of August 20, 1954 (68 Stat. 752), in order to provide for the construction, operation, and maintenance of additional features of the Talent division of the Rogue River Basin reclamation project, Oregon. (Act of October 1, 1962, Public Law 87-727, 76 Stat. 677)

**[Sec. 1. Additional works authorized.]**—In addition to the works described in section 1 of the Act of August 20, 1954 (68 Stat. 752), 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 a part of the Talent division of the Rogue River Basin project, Oregon, the following works: Agate Dam and Reservoir, a diversion dam, feeder canals, and related facilities. (76 Stat. 677)

**Sec. 2. [Recreation facilities—Fish and wildlife conservation and development.]**—(a) The Secretary of the Interior is authorized, in connection with the works authorized by this Act, to construct minimum basic public recreation facilities and to arrange for the operation and maintenance of the same by an appropriate State or local agency or organization. The cost of constructing such facilities shall be nonreimbursable and nonreturnable under the reclamation laws.

(b) The Secretary may make such reasonable provision in the works authorized by this Act as he finds to be required for the conservation and development of fish and wildlife in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C., sec. 661, and the following), and the portion of the construction costs allocated to these purposes together with an appropriate share of the operation, maintenance, and replacement costs therefor, shall be nonreimbursable and nonreturnable. (76 Stat. 677)

**Sec. 3. [Appropriation authorization increased—Repayment period.]**—(a) Section 3 of the Act of August 20, 1954, supra, is amended by inserting after the figure "\$22,900,000" the following: ", and for the construction of Agate Dam and Reservoir the sum of \$1,802,000 (January 1960 costs), in each case".

(b) Section 2, subsection (c) of said Act is amended by deleting the final period and adding to the last sentence "from the date when each irrigation repayment contract becomes effective." (76 Stat. 677)

### EXPLANATORY NOTES

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

**Reference in the Text.** The Act of August 20, 1954 (68 Stat. 752), referred to in the text, is the Act which initially authorized the Talent Division of the Rogue River Basin project. The Act appears herein in chronological order.

**Legislative History.** S. 1023, Public Law 87-727 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Mar. 1, 1962; S. Rept. No. 1220. Passed Senate Mar. 8, 1962. Reported in House from Interior and Insular Affairs Aug. 16, 1962; H.R. Rept. No. 2236. Passed House Sept. 20, 1962.

## AMENDED CONTRACTS AND REPEAL OF FARM UNIT LIMITATIONS, COLUMBIA BASIN PROJECT

An act to approve an amendatory repayment contract negotiated with the Quincy Columbia Basin Irrigation District, authorize similar contracts with any of the Columbia Basin Irrigation Districts, and to amend the Columbia Basin Project Act of 1943 (57 Stat. 14), as amended, and for other purposes. (Act of October 1, 1962, Public Law 87-728, 76 Stat. 677)

[**Sec. 1. Quincy Columbia Basin Irrigation District amendatory repayment contract authorized—Negotiation and execution of same form of contract authorized for South and East Columbia Basin Irrigation Districts.**]—The amendatory repayment contract with the Quincy Columbia Basin Irrigation District 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), which contract was approved by the district electors on February 13, 1962, is hereby approved and the Secretary is hereby authorized to execute it on behalf of the United States and to negotiate and execute on behalf of the United States amendatory repayment contracts in substantially the same form or amendatory repayment contracts containing substantially the same provisions with the South and East Columbia Basin Irrigation Districts. (76 Stat. 677; 16 U.S.C. § 835a)

### NOTES OF OPINIONS

#### Approval of contracts 1

#### Right to withdraw 2

##### 1. Approval of contracts

The amendatory contracts with the Quincy and South Columbia Basin Irrigation Districts may be approved irrespective of action or inaction of East District to amend its contract. *Quincy Columbia Basin Irrigation District*, 63 Wash. 2d 115, 385 P. 2d 715 (1963), *cert. denied* 376 U.S. 953 (1964).

##### 2. Right to withdraw

Where 1945 repayment contracts between

the United States and irrigation districts on the Columbia Basin project afforded landowners the right to withdraw their lands from the districts, but 1951 contracts eliminated this right and amendatory repayment contracts and statute subsequently eliminated the withdrawal provision, landowners in the districts do not have the right to withdraw their lands prior to the election on the amendatory contracts. *Quincy Columbia Basin Irrigation District*, 63 Wash. 2d 115, 385 P. 2d 715 (1963), *cert. denied*, 376 U.S. 953 (1964).

**Sec. 2. [Districts' share of operation and maintenance costs prior to execution of amendatory contract to be capitalized and charged as part of project costs, etc.]**—Upon any amendatory repayment contract with a Columbia Basin Irrigation District approved or authorized by this Act becoming effective to bind the United States, that district's share of the operation and maintenance funds expended or obligated for the construction of drainage works including appropriate interest thereon during calendar years 1960, 1961, and 1962 shall be capitalized and charged as a part of the construction cost of the project works assigned directly to irrigation and the Secretary shall either refund to it or give it credit for (as it may elect) all operation and maintenance payments (including interest paid by it in connection therewith) which it has made for the construction of drainage works during those years, such credit, if so elected by the district, to be

applied against future development period and/or construction charges of the district as they become due. (76 Stat. 678; 16 U.S.C. § 835a)

**Sec. 3. [Columbia Basin Project to be governed by Federal reclamation laws—Sections of Columbia Basin Project Act repealed—Section 4 of same amended.]**—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 supplementary thereto, except that sections 2, 3, 7, and 9 of the Columbia Basin Project Act of March 10, 1943 (57 Stat. 14), as amended, are hereby repealed and section 4 of the Columbia Basin Project Act, as amended, is further amended to read as follows:

“**SEC. 4. (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 appropriate 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 landowners 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.”) (76 Stat. 678; 16 U.S.C. §§ 835-1, 835c)

#### EXPLANATORY NOTES

**Reference in the Text.** The Columbia Basin Project Act of March 10, 1943 (57 Stat. 14), as amended, referred to in the text, appears herein in chronological order.

**Reference in the Text.** Subsection (C) of section 4 of the Act of December 5, 1924

(43 Stat. 702), referred to in the text, authorizes the Secretary of the Interior to appoint boards to pass on the qualifications of applicants to make entry for land in a Federal irrigation project. Section 4 of the 1924 Act is known popularly as “The Fact

Finders' Act." Extracts from the 1924 Act, including all of section 4, appear herein in chronological order.

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

August 13, 1953 (67 Stat. 566), referred to in the text, is popularly known as the Farm Unit Exchange Act. The Act appears herein in chronological order.

**Sec. 4. [Secretary authorized to amend or modify contracts, instruments, rules, etc., to conform to this Act.]**—The Secretary is hereby authorized and directed 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. (76 Stat. 679; 16 U.S.C. § 835c)

**Sec. 5. [Water delivery to existing farm units in excess of 160 acres—Rights of vendees or grantees existing prior to this Act are preserved.]**—(a) 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. (16 U.S.C. § 835a)

(b) The rights of any vendee or grantee 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. (76 Stat. 679; 16 U.S.C. § 835b)

**Sec. 6. [Other Columbia Basin Project Act amendments.]**—The following sections of the Columbia Basin Project Act of March 10, 1943, are hereby amended in the following respects:

(a) Section 5(b). Delete the last sentence thereof. (16 U.S.C. § 835c-1)

(b) Section 6. Delete "under section 2 hereof" and insert in lieu thereof the words "for the repayment thereof". (16 U.S.C. § 835c-2)

(c) Section 8. Delete "and to include in the contracts hereinbefore provided for" and insert in lieu thereof the words "and to include in contracts relating to the Columbia Basin project". (76 Stat. 679; 16 U.S.C. § 835c-4)

**Sec. 7. [Delivery of water for University agricultural research.]**—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 research purposes. (76 Stat. 679; 16 U.S.C. § 835a)

#### EXPLANATORY NOTES

**Reference in the Text.** The Act of June 23, 1959, 73 Stat. 87, referred to in the text, 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 Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, with respect to sections 3, 4, 5 and 6 of this Act are found under

the Columbia Basin Project Act of March 10, 1943. Annotations of opinions, if any, with respect to section 7 of this Act are found under the Act of June 23, 1959.

**Legislative History.** H.R. 11164, Public Law 87-728 in the 87th Congress. Reported in House from Interior and Insular Affairs Aug. 13, 1962; H.R. Rept. No. 2180. Passed House Aug. 20, 1962. Reported in Senate from Interior and Insular Affairs Sept. 6, 1962; S. Rept. No. 2002. Passed Senate Sept. 20, 1962.

**CONVEYANCE OF LANDS TO CITY OF NEEDLES**

An act to direct the Secretary of the Interior to convey certain public lands in the State of California to the city of Needles. (Act of October 5, 1962, Public Law 87-752, 76 Stat. 749)

**[Sec. 1. Conveyance of land to City of Needles, Calif.—Mineral reservation to the United States—Legal description of the land.]**—The Secretary of the Interior shall issue to the city of Needles, in the county of San Bernardino, State of California, upon 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 which shall be an amount equal to the fair market value plus the cost of any appraisal of the lands as of the effective date of this Act as determined by the Secretary after the appraisal of the lands by contract appraisal or otherwise, a patent or deed for the following described lands situated within the city limits of said city of Needles or adjacent thereto, in the State of California comprising a total of 340 acres more or less (all range references are to San Bernardino base and meridian) with a reservation to the United States of the coal, phosphate, sodium, potassium, oil, gas, oil shale, native asphalt, solid and semisolid bitumen and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), together with the right to prospect for, mine, and remove the same under applicable provisions of law:

\* \* \* \* \*

(Legal description omitted, 76 Stat. 749)

\* \* \* \* \*

**Sec. 2. [Conveyance subject to existing valid claims and continued uses by the United States.]**—The conveyance authorized and directed 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 said lands by the United States. (76 Stat. 749)

**Sec. 3. [Lands segregated from all forms of appropriation until provided otherwise by the Secretary of the Interior.]**—The lands described in the first section of this Act shall be segregated from all forms of appropriation under the public land laws including the mining and mineral leasing laws, from the date of approval of this Act, until the Secretary shall provide otherwise by publication of an order in the Federal Register. (76 Stat. 749)

**Sec. 4. [Prior liabilities to the United States not relieved.]**—The execution of the patents or deeds described in section 1 of this Act shall not relieve any person of any liability to the United States arising prior to the date of such conveyances for unauthorized use of the conveyed lands. (76 Stat. 750)

## EXPLANATORY NOTES

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

**Bureau of Reclamation Interests.** H.R. 2952, 87th Congress, was the bill which when enacted, after being amended in Committee, became this statute. The Department of Interior report on H.R. 2952 included the following observations: "The parcel (as described in section 1(a) of the bill as introduced) was in the bed of the river until a dredging project built it up from dredge spoil." \* \* \* "Moreover, the tract is located in the flood plain between the levee and the river and is required by the Bureau of Reclamation for flood control operation and maintenance in connection with the river." Section 1(a) of the bill as introduced, and which described the above parcel, was deleted by the House Committee on Interior and Insular Affairs. Of the 345 acres of public lands which were within the purview of H.R. 2952, the Department's report continued, "\* \* \* part of which is

affected by outstanding reclamation withdrawals, some of which have been revoked but the lands not yet restored to entry. The public lands are in part being utilized by the Bureau of Reclamation for various purposes, including housing facilities. \* \* \*" Section 1(b) of the bill as introduced became section 1(a) of the statute. The Department's report stated: "The gravel deposits contained in approximately 40 acres described in section 1(b) of the bill are required by Reclamation's operations. \* \* \*" S. Rept. No. 2163, accompanying H.R. 2952, 87th Cong., 2nd Sess. (1962).

**Legislative History.** H.R. 2952, Public Law 87-752 in the 87th Congress. Reported in House from Interior and Insular Affairs July 31, 1962; H.R. Rept. No. 2088. Passed House Aug. 6, 1962. Reported in Senate from Interior and Insular Affairs Sept. 26, 1962; S. Rept. No. 2163. Passed Senate Sept. 27, 1962.

## OROVILLE-TONASKET UNIT, CHIEF JOSEPH DAM PROJECT

An act to authorize the Secretary of Interior to construct, operate, and maintain the Oroville-Tonasket unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes. (Act of October 9, 1962, Public Law 87-762, 76 Stat. 761)

**[Sec. 1. Oroville-Tonasket unit, Okanogan-Similkameen division, Chief Joseph Dam project, authorized.]**—For the purpose of furnishing a new and a supplemental water supply for the irrigation of approximately eight thousand four hundred and fifty acres of land in Okanogan County, Washington, for the purpose of undertaking the rehabilitation and betterment of existing works serving a major portion of these lands and for conservation and development of fish and wildlife resources, the Secretary of Interior is authorized to construct, operate, and maintain the Oroville-Tonasket unit of the Okanogan-Similkameen division of the Chief Joseph Dam 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 principal works of the unit shall consist of: facilities to permit enlargement and utilization of Palmer Lake storage; related canal, diversion dam, pumping plants, and distribution systems; and necessary works incidental to the rehabilitation of the existing irrigation system. (76 Stat. 761)

### EXPLANATORY NOTE

**Cross Reference, 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 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. [Repayment period—Chief Joseph Dam and interconnected power to be available for irrigation pumping—Power rates.]**—The basic period provided in subsection (d), section 9, of the Reclamation Project Act of 1939, as amended (43 U.S.C. 485h), for repayment of the construction cost properly chargeable to any block of lands may be extended to fifty years, exclusive of any development period, from the time water is first delivered to that block. Power and energy required for irrigation pumping for the Oroville-Tonasket unit 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. (76 Stat. 761)

**Sec. 3. [Fish and wildlife conservation and enhancement—Public, including fishermen and hunters, may have access to project areas—Nonreimbursable and nonreturnable costs.]**—The Secretary may make such provisions for fish and

wildlife conservation, including the installation, operation and maintenance of fish screens at the pump plants and diversion dam, and provision for sufficient flows in the rivers below Palmer Lake, as he finds to be required for the mitigation of losses or damages to existing fishery and wildlife resources, and, if he determines that it is practicable and desirable to reestablish anadromous fish runs in the Similkameen River, may make such provisions, including the construction, operation, and maintenance of fish ladders and other control works, and downstream flow releases as he finds to be required to accomplish that purpose. The Secretary is further authorized to make provisions for access to project areas for the general public, including fishermen and hunters. An appropriate portion of the construction costs of the unit shall be allocated as provided in the Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661 et seq.), which, together with the portion of the operation, maintenance, and replacement costs allocated to this function or the equivalent capitalized value thereof, shall be nonreimbursable and nonreturnable under the Federal reclamation laws. (76 Stat. 761)

**Sec. 4. [Appropriations authorization.]**—There are hereby authorized to be appropriated for construction of the works authorized by this Act not to exceed \$3,210,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from January 1961 construction costs as indicated by engineering cost indices applicable to the type of construction involved herein, and not to exceed \$400,000 for carrying out the provisions of section 3 of this Act, in addition to the cost of fish screens, when the Secretary finds that conditions justify such expenditures. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said works. (76 Stat. 761)

#### EXPLANATORY NOTES

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

**Reference in the Text.** The Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661 et seq.), referred to in section 3 of the text, is found herein in chronological order under the date of August 14, 1946.

**Legislative History.** S. 1060, Public Law 87-762 in the 87th Congress. Reported in Senate from Interior and Insular Affairs Sept. 12, 1961; S. Rept. No. 973. Passed Senate Sept. 15, 1961. Reported in House from Interior and Insular Affairs Aug. 16, 1962; H.R. Rept. No. 2237. Passed House, amended, Sept. 20, 1962. Senate agrees to House amendments Sept. 28, 1962.

**EXCHANGE OF LANDS WITH SOUTHERN UTE INDIAN TRIBE**

An act to provide for an exchange of lands between the United States and the Southern Ute Indian Tribe, and for other purposes. (Act of October 15, 1962, Public Law 87-828, 76 Stat. 954)

\* \* \* \* \*

[Sec. 9. Southern Ute Indian lands transferred to the United States for Navajo Dam and Reservoir project—Tribe to retain mineral rights—Legal description of the lands transferred.]—(a) There is hereby transferred to the United States all of the right, title, and interest of the Southern Ute Indian Tribe in the following lands, which are needed for the Navajo Dam and Reservoir project, except the minerals therein and the right to prospect for and remove them in a manner that does not impair the project, as prescribed by the Secretary of the Interior:

\* \* \* \* \*

(Legal description omitted, 76 Stat. 954-55)

\* \* \* \* \*

(b) [Lands of Archuleta Mesa to be selected by the Secretary of the Interior and held in trust for Southern Ute Indian Tribe—Mineral rights reserved to the United States—Tribe to approve selection.]—In exchange for such conveyance, the Secretary of the Interior is authorized to transfer to the United States in trust for the Southern Ute Indian Tribe, subject to valid existing rights, public lands on the Archuleta Mesa, reserving to the United States the minerals therein and the right to prospect for and remove them under regulations of the Secretary of the Interior, that are contiguous to the present eastern boundary of the Southern Ute Indian Reservation, and that have a value equal to or not materially greater than the value of the lands conveyed by the tribe, such values to be determined by the Secretary: *Provided*, That such public lands shall be selected in a manner that will not increase the Government's management problem for other public lands, the selection shall be approved by the Southern Ute Indian Tribe, and the Southern Ute Indian Tribe shall pay to the United States any difference in the values of the lands exchanged.

(c) [Owners of permanent range improvements on land selected for Indians shall be compensated.]—The owners of the range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on the public lands conveyed to the tribe shall be compensated for the reasonable value of such improvements, as determined by the Secretary, out of appropriations available for the construction of the Navajo unit, Colorado River storage project.

(d) [Persons having grazing permits, licenses or leases cancelled because of the conveyance shall be compensated.]—Persons whose grazing permits, licenses, or leases on the public lands conveyed to the tribe are cancelled because of such

conveyance shall be compensated in accordance with the standard prescribed by the Act of July 9, 1942, as amended (43 U.S.C. 315q), out of appropriations available for the construction of the Navajo unit, Colorado River storage project.

(e) [**Lands conveyed to the Tribe shall be part of the Southern Ute Indian Reservation.**]-The public lands conveyed to the tribe shall be a part of the Southern Ute Indian Reservation and shall be subject to the laws and regulations applicable to other tribal lands in that reservation.

(f) [**Lands conveyed to the United States shall be public lands and no longer "Indian country".**]-The tribal lands conveyed to the United States shall no longer be "Indian country" within the meaning of section 1151 of title 18 of the United States Code. They shall have the status of public lands withdrawn for administration pursuant to the Federal reclamation laws, and they shall be subject to all laws and regulations governing the use and disposition of public lands in that status.

(g) [**Indians shall be provided crossing points over railroad right-of-way.**]-In any right-of-way granted by the United States for a railroad over the tribal lands conveyed to the United States, the Secretary shall provide the Southern Ute Indians, at such points as he determines to be reasonable, the privilege of crossing such right-of-way.

(h) [**Lands conveyed to the United States may not be used for public recreation without tribal approval.**]-The tribal lands conveyed to the United States shall not be utilized for public recreational facilities without the approval of the Southern Ute Tribal Council.

(i) [**Indian fishing rights not to be abridged.**]-Nothing in this Act shall be construed to abridge any fishing rights that are vested in the Indians. (76 Stat. 954)

#### EXPLANATORY NOTES

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

**1963 Amendment.** The Act of September 6, 1963, corrected the land description in Section 9, Township 32 North, Range 5 West, by deleting an excess comma that appeared after the second word in the Section. For legislative history see H.R. 5883, Public Law 88-112 in the 88th Congress; S. Rept. No. 463; H.R. Rept. No. 493.

**Reference in the Text.** The Navajo Dam and Reservoir project, referred to in the text, was authorized by the Act of April 11, 1956, the Act authorizing the Colorado River storage project and participating projects. 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 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 graz-

ing, 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."

**Legislative History.** H.R. 9342, Public Law 87-828 in the 87th Congress. Reported in House from Interior and Insular Affairs Sept. 12, 1962; H.R. Rept. No. 2347. Passed House Sept. 17, 1962. Passed Senate, amended, Oct. 1, 1962. House agrees to Senate amendments Oct. 2, 1962. Companion bill S. 3713 reported in Senate from Interior and Insular Affairs Sept. 27, 1962; S. Rept. No. 2172.

## EASEMENTS IN PROPERTY OF UNITED STATES

An act to authorize executive agencies to grant easements in, over, or upon real property of the United States under the control of such agencies, and for other purposes. (Act of October 23, 1962, Public Law 87-852, 76 Stat. 1129)

[**Sec. 1. Federal agencies authorized to grant easements to State and local agencies in, over, or upon real property of the United States—Relinquishment of legislative jurisdiction.**]—Whenever a State or political subdivision or agency thereof or any person makes application for the grant of an easement in, over, or upon real property of the United States for a right-of-way or other purpose, the executive agency having control of such real property may grant to the applicant, on behalf of the United States, such easement as the head of such agency determines will not be adverse to the interests of the United States, subject to such reservations, exceptions, limitations, benefits, burdens, terms, or conditions, including those provided in section 2 hereof, as the head of the agency deems necessary to protect the interests of the United States. Such grant may be made without consideration, or with monetary or other consideration, including any interest in real property. In connection with the grant of such an easement, the executive agency concerned may relinquish to the State in which the affected real property is located such legislative jurisdiction as the executive agency deems necessary or desirable. Relinquishment of legislative jurisdiction under the authority of this Act may be accomplished by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof or by proceeding in such manner as the laws applicable to such State may provide. (76 Stat. 1129; 40 U.S.C. § 319)

**Sec. 2. [Termination of the easement—Written notice to grantee.]**—The instrument granting any such easement may provide for termination of the easement in whole or in part if there has been—

- (a) a failure to comply with any term or condition of the grant, or
- (b) a nonuse of the easement for a consecutive two-year period for the purpose for which granted, or
- (c) an abandonment of the easement.

If such a provision is included, it shall require that written notice of such termination shall be given to the grantee, or its successors or assigns. The termination shall be effective as of the date of such notice. (76 Stat. 1129; 40 U.S.C. § 319a)

**Sec. 3. [Authority granted is in addition to other law.]**—The authority conferred by this Act shall be in addition to, and shall not affect or be subject to, any other law under which an executive agency may grant easements. (76 Stat. 1129; 40 U.S.C. § 319b)

**Sec. 4. [Definitions.]**—As used in this Act—

- (a) The term “State” means the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

## 1700 EASEMENTS IN PROPERTY OF UNITED STATES

(b) The term "executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(c) The term "person" includes any corporation, partnership, firm, association, trust, estate, or other entity.

(d) The term "real property of the United States" excludes the public lands (including minerals, vegetative, and other resources) in the United States, including lands reserved or dedicated for national forest purposes, lands administered or supervised by the Secretary of the Interior in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, Indian-owned trust and restricted lands, and lands acquired by the United States primarily for fish and wildlife conservation purposes and administered by the Secretary of the Interior, lands withdrawn from the public domain primarily under the jurisdiction of the Secretary of the Interior, and lands acquired for national forest purposes. (76 Stat. 1129; 40 U.S.C. § 319c)

## 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. 8355, Public Law 87-852 in the 87th Congress. Reported

in House from Public Works Aug. 28, 1961; H.R. Rept. No. 1044. Passed House Feb. 5, 1962. Reported in Senate from Public Works Apr. 27, 1962; S. Rept. No. 1364. Passed Senate, amended, Sept. 7, 1962. House agrees to Senate amendments Oct. 10, 1962.

FLOOD CONTROL ACT OF 1962

[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 October 23, 1962, Public Law 87-874, 76 Stat. 1173)

\* \* \* \* \*

TITLE II—FLOOD CONTROL

\* \* \* \* \*

Sec. 203. [Authorization of projects.]—

\* \* \* \* \*

SAN JOAQUIN RIVER BASIN

[New Melones.]—The New Melones project, Stanislaus River, California, authorized by the Flood Control Act approved December 22, 1944 (58 Stat. 887), is hereby modified substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 453, Eighty-seventh Congress, at an estimated cost of \$113,717,000: *Provided*, That upon completion of construction of the dam and powerplant by the Corps of Engineers, the project shall become an integral part of the Central Valley project and be operated and maintained by the Secretary of the Interior pursuant to the Federal reclamation laws, except that the flood control operation of the project shall be in accordance with the rules and regulations prescribed by the Secretary of the Army: *Provided further*, That the Stanislaus River Channel, from Goodwin Dam to the San Joaquin River, shall be maintained by the Secretary of the Army to a capacity of at least eight thousand cubic feet per second subject to the condition that responsible local interests agree to maintain private levees and to prevent encroachment on the existing channel and floodway between the levees: *Provided further*, That before initiating any diversions of water from the Stanislaus River Basin in connection with the operation of the Central Valley project, the Secretary of the Interior shall determine the quantity of water required to satisfy all existing and anticipated future needs within that basin and the diversions shall at all times be subordinate to the quantities so determined: *Provided further*, That the Secretary of the Army adopt appropriate measures to insure the preservation and propagation of fish and wildlife in the New Melones project and shall 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 cost of constructing the Stanislaus River diversion and of operating and maintaining the same: *Provided further*, That the Secretary of the Army, in connection with the New Melones project, construct basic public recreation facilities, acquire land necessary for that purpose, the cost of constructing such facilities and acquiring such lands to be nonreimbursable and nonreturnable: *Provided further*, That 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 except that a first preference, to the extent as needed and as fixed by the Secretary of the Interior, but not to exceed 25 per centum of such additional energy, shall be given, under reclamation law, to preference customers in Tuolumne and Calaveras Counties, California, for use in that county, who are ready, able, and willing, within twelve months after notice of availability by the Secretary of the Interior, to enter into contracts for the energy and that Tuolumne and Calaveras County preference customers may exercise their option in 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 dates: *And provided further*, That the Secretary of the Army give consideration during the preconstruction planning for the New Melones project to the advisability of including storage for the regulation of streamflow for the purpose of downstream water quality control. (76 Stat. 1191)

[**Hidden Reservoir.**]—The Hidden Reservoir, Fresno River, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 37, Eighty-seventh Congress, at an estimated cost of \$14,338,000. (76 Stat. 1192)

[**Buchanan Reservoir.**]—The Buchanan Reservoir, Chowchilla River, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 98, Eighty-seventh Congress, at an estimated cost of \$13,585,000. (76 Stat. 1192)

#### 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.

**Reference in the Text.** Extracts from the Flood Control Act approved December 22, 1944 (58 Stat. 887), referred to in the text, appear herein in chronological order.

**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.

**Background: Hidden Dam and Reservoir.** Both House and Senate committee reports note in part: "*Local cooperation.*—(a) Hidden Dam and Reservoir: (1) Prior to construction of the dam and reservoir for

irrigation, Secretary of the Interior [will] make necessary arrangements for repayment of that part of the construction cost and annual operation and maintenance cost allocated to irrigation, presently estimated at \$3,698,000 and \$17,000, respectively, such repayment to be financially integrated into the Central Valley project of the Bureau of Reclamation." H.R. Rept. No. 2504 on H.R. 13273, at 215, and S. Rept. No. 2258 on S. 3773, at 290, 87th Cong., 2d Sess. (1962).

**Background: Buchanan Dam and Reservoir.** Both House and Senate committee reports note in part: "*Local cooperation.*—(a) Buchanan Dam and Reservoir: (1) Prior to construction of the dam and reservoir, the Secretary of the Interior [will] make necessary arrangements for repayment, under the provisions of reclamation law, of that part of the construction cost and annual operation and maintenance cost allocated to irrigation, presently estimated at \$6,341,000 and \$43,000, respectively, the final cost allocation to be made by the Secretary of the Army, with the assistance of

the Secretary of the Interior; such payment to be financially integrated into the Central Valley project of the Bureau of Reclama-

tion." H.R. Rept. No. 2504 on H.R. 13273, at 217, and S. Rept. No. 2258 on S. 3773, at 292, 87th Cong., 2d Sess. (1962).

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ROGUE RIVER BASIN

The project for the Rogue River, Oregon and California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 566, Eighty-seventh Congress, at an estimated cost of \$106,700,000, subject to the conditions of local cooperation specified in said report: *Provided*, That the project is to be located, constructed, and operated to accomplish the benefits as set forth and described in the report and appendixes: *And provided further*, That in the years of short water supply all water users will share the available water in the same proportions that they would share the total full supply when it is available, and that no further water-use allocations will be made from the authorized storage so as to retain the maximum possible benefits to authorized uses during the periods of adversity when storage shortages occur. (76 Stat. 1192)

EXPLANATORY NOTE

**Background:** Both House and Senate committee reports note in part: "*Local cooperation*—... the Secretary of the Interior [will] make necessary arrangements for repayment of that part of the construction cost and annual operation, maintenance, and replacement costs allocated to irrigation, presently estimated at \$13,007,000 and

\$66,500, respectively, for the Lost Creek-Elk Creek Reservoirs and \$3,585,000 and \$9,900, respectively, for the Applegate Reservoir." H.R. Rept. No. 2504 on H.R. 13273, at 223, and S. Rept. No. 2258 on S. 3773, at 299, 87th Cong., 2d Sess. (1962).

\* \* \* \* \*

COLUMBIA RIVER BASIN

[**Ririe Reservoir.**]-The project for the Ririe Dam and Reservoir, Willow Creek, Idaho, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 562, Eighty-seventh Congress, at an estimated cost of \$7,027,000. (76 Stat. 1193)

EXPLANATORY NOTE

**Background:** Both House and Senate committee reports note in part: "*Local cooperation*—... [Local agencies will] make necessary arrangements with the Secretary of the Interior for repayment, under the provisions of reclamation law, of the construction cost and annual operation, main-

tenance, and replacement costs allocated to irrigation, presently estimated at \$960,000 and \$5,000, respectively." H.R. Rept. No. 2504 on H.R. 13273, at 226, and S. Rept. No. 2258 on S. 3773, at 306, 87th Cong., 2d Sess. (1962).

\* \* \* \* \*

WYNOOCHEE RIVER

The project for the Wynoochee River, Washington, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 601, Eighty-seventh Congress, at an estimated

cost of \$40,211,000: *Provided*, That the installation of the power-generating facilities shall not be made until the Chief of Engineers shall submit a reexamination report to the Congress for authorization. (76 Stat. 1193)

COOK INLET, ALASKA

[**Bradley Lake project.**]—The project for Bradley Lake, Cook Inlet, Alaska, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 455, Eighty-seventh Congress, at an estimated cost of \$45,750,000. (76 Stat. 1193)

**Sec. 204. (a).** [**Crater-Long Lakes division of the Snettisham project, Alaska, authorized to be constructed by the Secretary of the Army and to be operated and maintained by the Secretary of the Interior.**]—For the purpose of developing hydroelectric power and to encourage and promote the economic development of and to foster the establishment of essential industries in the State of Alaska, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct and the Secretary of the Interior is authorized to operate and maintain the Crater-Long Lakes division of the Snettisham project near Juneau, Alaska. The works of the division shall consist of pressure tunnels, surge tanks, penstocks, a powerplant, transmission facilities, and related facilities, all at an estimated cost of \$41,634,000.

**(b).** [**Marketing of electric power and energy—Basis for rate schedules—Amortization of the capital investment—Preferred purchasers—Condition of contract with purchases for resale—Power revenues covered into Treasury as miscellaneous receipts.**]—Electric power and energy generated at the division except that portion required in the operation of the division, shall be disposed of by the Secretary of the Interior in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Rate schedules shall be drawn having regard to the recovery of the costs of producing and transmitting the power and energy, including the amortization of the capital investment over a reasonable period of years, with interest 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 adjusted to the nearest one-eighth of 1 per centum. In the sale of such power and energy, preference shall be given to Federal agencies, public bodies, and cooperatives. 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 division shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

**(c).** [**General authorities of Secretaries of the Army and of the Interior.**]—The appropriate 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 the acquisition of rights

and property, and the Secretary of the Army, when an appropriation shall have been made for the commencement of construction or the Secretary of the Interior in the case of operation and maintenance of said division, may, in connection with the construction or operation and maintenance of such division, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the appropriate Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor. (76 Stat. 1193)

\* \* \* \* \*

**Sec. 208.** Section 207 of the Flood Control Act of 1960 (74 Stat. 501) is hereby amended to read as follows:

**“Sec. 207. (a) [Definitions.]—**When used in this section—

“(1) The term ‘Agency’ means the Corps of Engineers, United States Army or the Bureau of Reclamation, United States Department of the Interior, whichever has jurisdiction over the project concerned.

“(2) The term ‘head of the Agency concerned’ means the Chief of Engineers or the Commissioner, Bureau of Reclamation, or their respective designees.

“(3) The term ‘water resources projects to be constructed in the future’ includes all projects not yet actually under construction, and, to the extent of work remaining to be completed, includes projects presently under construction where road relocations or identifiable components thereof are not complete as of the date of this section.

“(4) The term ‘time of the taking’ is the date of the relocation agreement, the date of the filing of a condemnation proceeding, or a date agreed upon between the parties as the date of taking.

**“(b). [Use of existing public roads as access roads to water resource projects—Improvement, reconstruction and maintenance of such roads—Conditions required for such improvement, reconstruction and maintenance.]—**Wherever, in connection with the construction of any authorized flood control, navigation, irrigation, or multiple-purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work. The accomplishment of such work of improvement may be carried out with or without obtaining any interest in the land on which the road is located in accordance with mutual agreement between the parties: *Provided*, (1) That the head of the Agency concerned determines that such work would result in a saving in Federal cost as opposed to the cost of providing a new access road at Federal expense, (2) that, at the completion of construction, the head of the Agency concerned will, if necessary, restore the road to at least as good condition as prior to the beginning of utilization for access during construction, and (3) that, at the completion of construction, the responsibility of the Agency for improvement, reconstruction, and maintenance shall cease.

FLOOD CONTROL ACT OF 1962

“(c). [Future water resources projects—Road design standards—Higher standard of road construction authorized if difference is paid for by State or local government.]—For water resources projects to be constructed in the future when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the Agency concerned is authorized to construct such substitute roads to design standards comparable to those of the State, or, where applicable State standards do not exist, those of the owning political division in which the road is located, for roads of the same classification as the road being replaced. The traffic existing at the time of the taking shall be used in the determination of the classification. In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such Agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs.” (76 Stat. 1196; 33 U.S.C. § 701r-1)

EXPLANATORY NOTE

**Purpose of the Section: Authority Extended to Bureau of Reclamation.** Section 207 of the Flood Control Act of 1960 (74 Stat. 501), which was amended in its en-

tirety by this section, as originally enacted was limited in its application to the Corps of Engineers. As amended, section 207 includes the Bureau of Reclamation within its purview.

NOTES OF OPINIONS

**Allocation and reimbursement of costs 1**  
**Effective date 2**

**1. Allocation and reimbursement of costs**

The provision of section 208 of the Flood Control Act of 1962, relating to the non-reimbursability of Federal costs of relocating roads to current standards, must be construed *in pari materia* with section 9 and section 14 of the Reclamation Project Act of 1939. This means that (1) the cost of relocating a road in kind is included as a part of total project cost to be allocated as provided in section 9 of the 1939 Act; (2) the additional cost of constructing the substitute road to current standards under section 208 is a non-reimbursable federal cost; and (3) the further cost of constructing the

road to a still higher standard requested by the State must be paid by the State. Memorandum of Associate Solicitor Weinberg, December 6, 1962.

**2. Effective date**

The benefits of this section may be extended by the Bureau of Reclamation to road relocation work performed under an agreement entered into prior to October 23, 1962, but only with respect to the work remaining to be done after such date. Dec. Comp. Gen., B-152193 (September 10, 1963), in re agreement with Kansas State Highway Commission for road relocation necessitated by Norton Reservoir, Missouri River Basin Project.

\* \* \* \* \*

**Sec. 212. [Short title.]**—Title II of this Act may be cited as the “Flood Control Act of 1962”. (76 Stat. 1198)

EXPLANATORY NOTES

**Not Codified.** Sections 203, 204, and 212 of these extracts are not codified in the U.S. Code.

**Legislative History.** H.R. 13273, Public Law 87-874 in the 87th Congress. Reported in House from Public Works Oct. 1, 1962;

October 23, 1962

FLOOD CONTROL ACT OF 1962

1707

H.R. Rept. No. 2504. Passed House Oct. 3, 1962. Passed Senate, amended, Oct. 4, 1962. Senate asks for a conference Oct. 4, 1962. House agrees to a conference Oct. 10, 1962. Conference report filed Oct. 12, 1962; H.R. Rept. No. 2557. House agrees to conference report Oct. 12, 1962. Senate agrees to conference report Oct. 13, 1962.

## DELIVER WATER, RIVERTON PROJECT

An act permitting the Secretary of the Interior to continue to deliver water to lands in the third division, Riverton reclamation project, Wyoming. (Act of April 19, 1963, Public Law 88-10, 77 Stat. 8)

[**Water delivery continued, Riverton project.**]—Pending completion of a repayment contract or the enactment of other legislation providing for the furnishing of water to lands of the third division, Riverton reclamation project, Wyoming, the Secretary is authorized to continue to furnish water to the lands in such division, during calendar year 1963, 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. Water shall be furnished upon individual applications accompanied by payments of \$4 per acre for the first three acre-feet per acre with water in excess of that amount at \$2 per acre-foot. The portion of the operation and maintenance costs in excess of the total of such payments is hereby declared to be nonreimbursable and nonreturnable. (77 Stat. 8)

### EXPLANATORY NOTES

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

**Authorization.** The Riverton project was initially authorized as an Indian reclamation project pursuant to the Indian Appropriation Act of March 2, 1917, 29 Stat. 969, 993. It was placed under the jurisdiction of the Bureau of Reclamation by the Act of June 5, 1920, 41 Stat. 874, 915, the Sundry Civil Expenses Appropriation Act for 1921. The first and second divisions of the project were developed over the next 20 years. The general plan of development of the third division was authorized as the Riverton Extension Unit of the Missouri River Basin project under section 9(a) of the Flood Control Act of 1944, 58 Stat. 887, 891, but was not constructed as a part of that project. Extracts from the 1920 and 1944 Acts, including the provisions referred to, appear herein in chronological order.

**Reference in the Text.** Subsection 9(d) (1) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195; 43 U.S.C. 485h(d)), enacted August 4, 1939, which is referred to in the text, authorizes the Secretary of the

Interior to fix a development period for each irrigation block, not to exceed ten years, and to deliver water to the lands of the block during the development period at a charge per annum per acre foot, or other charge, to be fixed by the Secretary. The Act appears herein in chronological order.

**Cross Reference, Delivery of Water.** Other Acts authorizing the continued delivery of water to the lands of the Third Division, Riverton project are the Act of May 5, 1960, for the calendar years 1960 and 1961, the Act of June 8, 1962, for the calendar year 1962, and the Act of March 10, 1964, for the calendar years 1964, 1965 and 1966. These Acts appear herein in chronological order.

**Legislative History.** H.R. 4423, Public Law 88-10 in the 88th Congress. Reported in House from Interior and Insular Affairs Mar. 28, 1963; H.R. Rept. No. 119. Passed House Apr. 1, 1963. Passed Senate Apr. 9, 1963. Companion bill S. 982 reported in Senate from Interior and Insular Affairs, Apr. 5, 1963; S. Rept. No. 112.

### CONSENT TO SUIT BY FORMAN

An act to authorize David H. Forman and Julia Forman to bring suit against the United States to determine title to certain lands in Maricopa County, Arizona. (Act of April 26, 1963, Private Law 88-1, 77 Stat. 873)

[Civil action against the United States authorized.]—Consent is hereby given that a civil action may be instituted against the United States within one year after the date of enactment of this Act by or on behalf of David H. Forman and Julia Forman in the United States District Court for the District of Arizona to determine their right, title, and interest in and to a parcel of land in the northeast quarter of section 2, township 1 north, range 3 east, Gila and Salt River base and meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the north line of the said northeast quarter of the northeast quarter of section 2, said point being south 89 degrees 54 minutes 30 seconds west a distance of 661.37 feet from the northeast corner of said section 2; thence south 0 degrees 20 minutes 30 seconds east a distance of 33 feet to the true point of beginning; thence south 0 degrees 20 minutes 30 seconds east a distance of 111.08 feet to a point on the north right-of-way line of the Appropriators Canal; thence south 47 degrees 38 minutes 45 seconds east, along said north right-of-way line, a distance of 81.78 feet; thence south 0 degrees 22 minutes 30 seconds east a distance of 63.05 feet; thence north 47 degrees 38 minutes 45 seconds west, parallel to the south right-of-way line of said Appropriators Canal, a distance of 190.90 feet; thence north 0 degrees 20 minutes 30 seconds west a distance of 100.57 feet to a point 33 feet south of the north line of said northeast quarter northeast quarter; thence north 89 degrees 54 minutes 30 seconds east, parallel to the north line of said northeast quarter northeast quarter a distance of 80.06 feet to the point of beginning. (77 Stat. 873)

#### EXPLANATORY NOTE

**Legislative History.** H.R. 1544, Private Law 88-1 in the 88th Congress. Reported in House from Interior and Insular Affairs Mar. 12, 1963; H.R. Rept. No. 88. Passed

House Apr. 2, 1963. Reported in Senate from Interior and Insular Affairs Apr. 9, 1963; S. Rept. No. 121. Passed Senate Apr. 11, 1963.

## TOWNSITE PLAT FOR VILLAGE OF HEYBURN

An act to release the right, title, or interest, if any, of the United States in certain streets in the village of Heyburn, Idaho, and to repeal the reverter in patent for public reserve. (Act of April 26, 1963, Public Law 88-14, 77 Stat. 13)

[**Sec. 1. Release of United States interest in townsite streets.**]—Any right, title, or interest of the United States in and to streets that were dedicated upon the filing of the townsite plat for Heyburn, Idaho, a reclamation townsite established pursuant to the Act of April 16, 1906 (34 Stat. 116), as amended, and that adjoin lands which have been sold, which streets have been vacated, or any street that may hereafter be vacated within the original townsite of Heyburn, Idaho, is hereby released. (77 Stat. 13)

**Sec. 2. [Repealer.]**—The clause included in patent numbered 1048499, issued by the United States to the village of Heyburn on July 27, 1931, providing for reversion of title to the United States is hereby repealed. (77 Stat. 13)

### EXPLANATORY NOTES

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

**Reference in the Text.** The Act of April 16, 1906 (34 Stat. 116), as amended, referred to in the text, authorizes the Secretary of the Interior to withdraw from public entry any lands, not to exceed 160 acres in each case, needed for townsite purposes in connection with irrigation projects. The Act

appears herein in chronological order.

**Legislative History.** H.R. 1087, Public Law 88-14 in the 88th Congress. Reported in House from Interior and Insular Affairs Mar. 12, 1963; H.R. Rept. No. 91. Passed House Apr. 1, 1963. Passed Senate Apr. 11, 1963. Companion bill S. 22 reported in Senate from Interior and Insular Affairs Apr. 9, 1963; S. Rept. No. 118.

## COORDINATION OF RECREATION PROGRAMS

An act to promote the coordination and development of effective programs relating to outdoor recreation, and for other purposes. (Act of May 28, 1963, Public Law 88-29, 77 Stat. 49)

[**Sec. 1. Policy of Congress.**]—The Congress finds and declares it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for all levels of government and private interests to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective powers and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people. (77 Stat. 49; 16 U.S.C. § 460*l*)

**Sec. 2. [Functions and activities of the Secretary of the Interior.]**—In order to carry out the purposes of this Act, the Secretary of the Interior is authorized to perform the following functions and activities:

(a) **INVENTORY.**—Prepare and maintain a continuing inventory and evaluation of outdoor recreation needs and resources of the United States.

(b) **CLASSIFICATION.**—Prepare a system for classification of outdoor recreation resources to assist in the effective and beneficial use and management of such resources.

(c) **NATIONWIDE PLAN.**—Formulate and maintain a comprehensive nationwide outdoor recreation plan, taking into consideration the plans of the various Federal agencies, States, and their political subdivisions. The plan shall set forth the needs and demands of the public for outdoor recreation and the current and foreseeable availability in the future of outdoor recreation resources to meet those needs. The plan shall identify critical outdoor recreation problems, recommend solutions, and recommend desirable actions to be taken at each level of government and by private interests. The Secretary shall transmit the initial plan, which shall be prepared as soon as practicable within five years hereafter, to the President for transmittal to the Congress. Future revisions of the plan shall be similarly transmitted at succeeding five-year intervals. When a plan or revision is transmitted to the Congress, the Secretary shall transmit copies to the Governors of the several States.

(d) **TECHNICAL ASSISTANCE.**—Provide technical assistance and advice to and cooperate with States, political subdivisions, and private interests, including nonprofit organizations, with respect to outdoor recreation.

(e) **REGIONAL COOPERATION.**—Encourage interstate and regional cooperation in the planning, acquisition, and development of outdoor recreation resources.

(f) **RESEARCH AND EDUCATION.**—(1) Sponsor, engage in, and assist in research relating to outdoor recreation, directly or by contract or cooperative agreements, and make payments for such purposes without regard to the limitations of section 3648 of the Revised Statutes (31 U.S.C. 529) concerning advances of funds when he considers such action in the public interest, (2)

## 1712 COORDINATION OF RECREATION PROGRAMS

undertake studies and assemble information concerning outdoor recreation, directly or by contract or cooperative agreement, and disseminate such information without regard to the provisions of section 4154, title 39, United States Code and (3) cooperate with educational institutions and others in order to assist in establishing education programs and activities and to encourage public use and benefits from outdoor recreation.

(g) **INTERDEPARTMENTAL COOPERATION.**—(1) Cooperate with and provide technical assistance to Federal departments and agencies and obtain from them information, data, reports, advice, and assistance that are needed and can reasonably be furnished in carrying out the purposes of this Act, and (2) promote coordination of Federal plans and activities generally relating to outdoor recreation. Any department or agency furnishing advice or assistance hereunder may expend its own funds for such purposes, with or without reimbursement, as may be agreed to by that agency.

(h) **DONATIONS.**—Accept and use donations of money, property, personal services, or facilities for the purposes of this Act. (77 Stat. 49; 16 U.S.C. § 460l-1)

**Sec. 3. [Cooperation of Federal agencies.]**—In order further to carry out the policy declared in section 1 of this Act, the heads of Federal departments and independent agencies having administrative responsibility over activities or resources the conduct or use of which is pertinent to fulfillment of that policy shall, either individually or as a group, (a) consult with and be consulted by the Secretary from time to time both with respect to their conduct of those activities and their use of those resources and with respect to the activities which the Secretary of the Interior carries on under authority of this Act which are pertinent to their work, and (b) carry out such responsibilities in general conformance with the nationwide plan authorized under section 2(c) of this Act. (77 Stat. 50; 16 U.S.C. § 460l-2)

**Sec. 4. [Terms defined.]**—As used in this Act, the term “United States” shall include the District of Columbia and the terms “United States” and “States” may, to the extent practicable, include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. (77 Stat. 60; 16 U.S.C. § 460l-3)

## EXPLANATORY NOTES

**Reference in the Text.** Section 3648 of the Revised Statutes (31 U.S.C. 529), referred to in subsection 2(f) of the text, is found herein in the Appendix.

**Reference in the Text.** Section 4154, title 39, United States Code, referred to in subsection 2(f) of the text, deals with restrictions on the use of official Government mail.

**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. 20, Public Law

88-29 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Feb. 28, 1963; S. Rept. No. 11. Passed Senate Mar. 11, 1963. Passed House, amended, Apr. 29, 1963. Senate asks for a conference May 1, 1963. House agrees to a conference May 13, 1963. Conference report May 15, 1963, H.R. Rept. No. 303. House agrees to conference report May 16, 1963. Senate agrees to conference report May 16, 1963. Companion bill H.R. 1762 reported in House from Interior and Insular Affairs Mar. 28, 1963; H.R. Rept. No. 160.

## MODIFY CONTRACT WITH GRAND VALLEY WATER USERS' ASSOCIATION

An act to authorize modification of the repayment contract with the Grand Valley Water Users' Association. (Act of June 21, 1963, Public Law 88-43, 77 Stat. 67)

[**Contract modification.**]—The Secretary of the Interior is authorized, pursuant to subsection 8(i) of the Act of August 4, 1939 (53 Stat. 1187), to modify the contractual obligation of the Grand Valley Water Users' Association (1) by deducting from such obligation the unaccrued construction charges in the amount of \$109,158.19 against one thousand three hundred sixty-six and two-tenths acres originally classified as productive and now reclassified as permanently unproductive; (2) by crediting to the next annual installment from the Grand Valley Water Users' Association due to the United States under its contract of January 27, 1945, after enactment of this Act, the sum of \$4,531.93, which represents construction charges paid by the association on one hundred twenty-three and six-tenths acres of land in canceled farm units included in the above acreage. (77 Stat. 67)

### EXPLANATORY NOTES

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

**Reference in the Text.** Section 8(i) of the Act of August 4, 1939 (53 Stat. 1187), referred to in the text, requires express authority granted by Congress upon recommendation of the Secretary of the Interior to modify any existing water users' obligation to pay construction charges on any reclamation project. The Act is the Recla-

mation Project Act of 1939, which appears herein in chronological order.

**Legislative History.** H.R. 2821, Public Law 88-43 in the 88th Congress. Reported in House from Interior and Insular Affairs Mar. 7, 1963; H.R. Rept. No. 73. Passed House Mar. 18, 1963. Reported in Senate from Interior and Insular Affairs June 13, 1963; S. Rept. No. 237. Passed Senate June 17, 1963.

## RENEWAL OF WATER SUPPLY CONTRACTS

An act to provide for the renewal of certain municipal, domestic, and industrial water supply contracts entered into under the Reclamation Project Act of 1939, and for other purposes. (Act of June 21, 1963, Public Law 88-44, 77 Stat. 68)

[**Sec. 1. Municipal, domestic and industrial water supply contracts—Renewal provision.**]—The Secretary of the Interior shall, upon request of the other party to any long-term contract for municipal, domestic, or industrial water supply hereafter entered into under clause (2) in the proviso to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 (53 Stat. 1195, 43 U.S.C. 485h), include provision for renewal thereof subject to renegotiation of (1) the charges set forth in the contract in the light of circumstances prevailing at the time of renewal and (2) any other matters with respect to which the right to renegotiate is reserved in the contract. 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. (77 Stat. 68; 43 U.S.C. § 485h, note)

**Sec. 2. [Priority of rights to a project's water supply.]**—The Secretary shall also, upon like request, provide in any such long-term contract or in any contract entered into under clause (1) of the proviso aforesaid that the other party to the contract shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right for the purposes stated in the contract (to which right the holders of any other type of contract for municipal, domestic, or industrial water supply shall be subordinate) to a stated share or quantity of the project's water supply available for municipal, domestic, or industrial use. (77 Stat. 68; 43 U.S.C. § 485h, note)

**Sec. 3. [Amendment of water supply contracts.]**—The Secretary is hereby authorized, upon request by the other party, to negotiate amendments to existing contracts entered into pursuant to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 to conform said contracts to the provisions of this Act. (77 Stat. 68; 43 U.S.C. § 485h, note)

**Sec. 4. [Definitions.]**—As used in this Act, the term "long-term contract" means any contract the term of which is more than ten years. (77 Stat. 68; 43 U.S.C. § 485h, note)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** The reader will find extensive annotations of opinions under Section 9, subsection (c), of the Reclamation Project Act of 1939, referred to herein, which was enacted August 4, 1939.

**Legislative History.** H.R. 131, Public

Law 88-44 in the 88th Congress. Reported in House from Interior and Insular Affairs, Mar. 11, 1963; H.R. Rept. No. 84. Passed House Apr. 1, 1963. Reported in Senate from Interior and Insular Affairs June 13, 1963; S. Rept. No. 238. Passed Senate June 19, 1963.

## CONVEYANCE OF LANDS TO CITY OF HENDERSON

An act to direct the Secretary of the Interior to convey to the city of Henderson, Nevada, at fair market value, certain public lands in the State of Nevada. (Act of July 22, 1963, Public Law 88-73, 77 Stat. 88)

[**Sec. 1. Conveyance of public lands authorized.**]—Within five years after he has advised, by certified mail, the mayor of the city of Henderson, Nevada, of the appraised fair market value of the lands involved, the Secretary of the Interior shall convey to said city the fifteen thousand acres of public lands described in section 2 hereof. (77 Stat. 88)

**Sec. 2. [Legal description of lands.]**—The lands to be conveyed under section 1 of this Act are hereby segregated from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, until said Secretary shall provide otherwise by publication of an order in the Federal Register, and comprise those fifteen thousand acres situated in the State of Nevada more particularly described as follows (all range references are to the Mount Diablo base and meridian):

(1) The east one-half and southwest quarter of section 21; all of section 27; the southwest quarter of section 28; and all of sections 29, 33, and 34 in township 22 south, range 63 east;

(2) all of sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, and 33, township 22 south, range 62 east;

(3) the south half of section 24; and all of sections 25, 35, and 36, township 22 south, range 61 east;

(4) all of sections 1, 2, and 3, township 23 south, range 61 east;

(5) all of section 32, lots 8 and 9, the south half of the southwest quarter, southwest quarter of the southeast quarter of section 35, township 21 south, range 63 east; and

(6) the southwest quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter, and the south half of the northwest quarter of section 34, township 21 south, range 62 east. (77 Stat. 88)

**Sec. 3. [Payment of fair market value—Reservation for reclamation purposes.]**—The conveyance authorized by this Act shall be made upon payment of the sum of the fair market value of the lands on the effective date of this Act, as determined by the Secretary of the Interior, plus reimbursement for the cost of appraisal, if accomplished by contract, minus any adjustment in the purchase price made by the Secretary of the Interior pursuant to section 5 of this Act, and subject to any existing valid claims against the lands described in section 2 of this Act, and to any reservations, restrictions, or conditions considered necessary by the Secretary of the Interior to protect continuing uses of those lands by the United States, its permittees, lessees, or licensees.

Any conveyance under this Act of section 32, the south half of the southwest quarter, the southwest quarter of the southeast quarter, lots 8 and 9, section 35, township 21 south, range 63 east; the east half of section 21, and sections

## 1716 CONVEYANCE OF LANDS TO CITY OF HENDERSON

27 and 34, township 22 south, range 63 east, Mount Diablo base and meridian, Nevada, or of any portion of such lands, shall specifically reserve to the United States the right to use any of such lands so conveyed for reclamation purposes and for any purpose reasonably incident to the proposed Southern Nevada water supply project. (77 Stat. 89)

**Sec. 4. [Purchase of a portion of land will not waive right to other portions.]**—The city of Henderson, State of Nevada, may purchase, in accordance with this Act, such portion or portions, by legal subdivision of the public land surveys, of the above-described lands as such city elects, and the purchase by the city of only a portion or portions of such lands shall not constitute a waiver or relinquishment of its right to purchase, in accordance with the provisions of this Act, by legal subdivisions of the public land surveys, the remainder of such lands or any portion thereof. (77 Stat. 89)

**Sec. 5. [Price adjusted to reflect expenditures by city.]**—The Secretary of the Interior is authorized, notwithstanding any other provision of this Act, to negotiate and enter into an agreement with the city of Henderson providing for adjustment of the purchase price determined by appraisal to reflect any expenditures incurred by the city of Henderson in facilitating transfer of the lands during the period between enactment of this Act and notice to the city of Henderson of the appraised fair market value. (77 Stat. 89)

**Sec. 6. [Acquiring title to lands for public and recreational use.]**—This Act shall not preclude the city of Henderson from acquiring title or leases to any lands described in this Act for public or recreational purposes under the Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869, et seq.). (77 Stat. 89)

**Sec. 7. [Mineral reservations.]**—Any patent issued under this Act shall contain a reservation to the United States of any of the following named minerals for which the land as of the date of issuance of patent is deemed by the Secretary of the Interior to be valuable or prospectively valuable: coal, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), oil, gas, oil shale, phosphate, sodium, and potassium, together with the right of the United States, its lessees, permittees, or licensees to prospect for, mine, and remove them under applicable provisions of law. (77 Stat. 89)

**Sec. 8. [Title to certain minerals to vest in patentee.]**—With respect to the conveyance of any land under this Act, which land is, at the time of issuance of patent therefor, subject to a mineral lease, permit, or license, for which mineral the land is deemed at that time by the Secretary of the Interior to be not valuable or prospectively valuable, the patent shall not convey such mineral rights in such lands until the mineral lease, permit, or license, or any extensions or renewals thereof, shall terminate or be relinquished, but upon such termination or relinquishment all the right, title, and interest of the United States to such mineral deposits shall automatically vest in the patentee. (77 Stat. 90)

**Sec. 9. [Grant of rights-of-way.]**—Notwithstanding any other provision of this Act to the contrary, the Secretary of the Interior, with the concurrence of the city of Henderson, may, prior to the transfer of title to the city of Henderson,

July 22, 1963

CONVEYANCE OF LANDS TO CITY OF HENDERSON 1717

grant rights-of-way in, over, upon, through, or under any of the lands described in section 2 of this Act. (77 Stat. 90)

EXPLANATORY NOTES

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

**Reference in the Text.** The Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869, et seq.), referred to in section 6 of the text, authorizes the Secretary of the Interior, upon application by a duly qualified applicant, to dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purposes consistent with its articles of incorporation or other creating authority.

**Cross Reference, Southern Nevada Water Supply Project.** The proposed Southern Nevada Water Supply project, referred to in section 3 of the text, was subsequently authorized by the Act of October 22, 1965. The Act appears herein in chronological order.

**Legislative History.** H.R. 2461, Public Law 88-73 in the 88th Congress. Reported in House from Interior and Insular Affairs May 23, 1963; H.R. Rept. No. 318. Passed House June 4, 1963. Reported in Senate from Interior and Insular Affairs July 2, 1963; S. Rept. No. 344. Passed Senate July 11, 1963.

## EXCHANGE OF LANDS, TOWN OF POWELL

An act relating to the exchange of certain lands between the town of Powell, Wyoming, and the Presbyterian Retirement Facilities Corp. (Act of August 8, 1963, Public Law 88-91, 77 Stat. 120)

**[Sec. 1. Land exchange authorized.]**—(a) The Secretary of the Interior is authorized to accept from the town of Powell, Wyoming, a deed conveying to the United States all right, title, and interest of the town of Powell, Wyoming, in and to all or part of the property comprising block 116 conveyed to such town by patent numbered 1056913, dated August 23, 1932.

(b) Upon the receipt of a deed from the town of Powell, Wyoming, conveying the property comprising all or part of block 116 to the United States, the Secretary of the Interior is authorized to convey by patent or other appropriate conveyance to the Presbyterian Retirement Facilities Corp. all right, title, and interest of the United States in and to such property upon the condition that—

(1) the Presbyterian Retirement Facilities Corp. convey to the United States fee simple title to a parcel of property of approximately equal value to that property received by it from the United States under this Act;

(2) if it is determined after an appraisal by the Secretary of the Interior that the parcel of property to be conveyed to the United States under paragraph (1) of this subsection is of less value than the property conveyed by it to the Presbyterian Retirement Facilities Corp., the corporation shall pay to the United States an amount equal to that difference in value. (77 Stat. 120)

**Sec. 2. [Conveyance after land exchange.]**—(a) The Secretary of the Interior is authorized to convey by patent or other appropriate conveyance to the town of Powell, Wyoming, all right, title, and interest of the United States in and to that parcel of property conveyed to the United States by the Presbyterian Retirement Facilities Corp. pursuant to the first section of this Act.

(b) The conveyance authorized under subsection (a) of this section shall be made subject to the same covenants, conditions, and limitations as those contained in patent numbered 1056913, dated August 23, 1932, referred to in the first section of this Act. (77 Stat. 120)

**Sec. 3. [Compensation to the United States for administrative expenses.]**—The town of Powell, Wyoming, and the Presbyterian Retirement Facilities Corp. shall pay to the United States such sum as may be fixed by the Secretary of the Interior to compensate the United States for its administrative costs in carrying out the provisions of this Act, which sum shall be covered into the Treasury as miscellaneous receipts. (77 Stat. 120)

### EXPLANATORY NOTES

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

**Purpose of the Act.** The purpose of this Act was to permit the town of Powell to

convey a block of Powell town site consisting of approximately 3.6 acres to the Presbyterian Retirement Facilities Corp. without breaching the condition in the town site

August 8, 1963

EXCHANGE OF LANDS, TOWN OF POWELL

1719

patent that the block " \* \* \* shall be used forever for public purposes \* \* \*." The patent was issued pursuant to the Act of April 16, 1906, 34 Stat. 116, entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the Reclamation Act of June 17, 1902, and for other purposes." The 1906 Act appears herein in chronological order.

**Legislative History.** S. 1122, Public Law 88-91 in the 88th Congress. Reported in Senate from Interior and Insular Affairs June 19, 1963; S. Rept. No. 265. Passed Senate June 24, 1963. Passed House, amended, July 9, 1963. Senate agrees to House amendments July 25, 1963. Companion bill H.R. 5076 reported in House from Interior and Insular Affairs, June 25, 1963; H.R. Rept. No. 451.

[The following text is extremely faint and largely illegible. It appears to be a detailed description of land parcels, possibly including acreage, location, and survey information. It is organized into several paragraphs, with some lines indented. Due to the low contrast and resolution of the scan, the specific words and numbers are difficult to discern.]

## EXTENSION OF CACHE NATIONAL FOREST

An act to add certain lands to the Cache National Forest, Utah. (Act of August 19, 1963, Public Law 88-99, 77 Stat. 124)

[**Sec. 1. Forest boundaries extended—Lands described.**]—The exterior boundaries of the Cache National Forest, Utah, are hereby extended to include the following described lands:

\*       \*       \*       \*       \*  
(Legal description of the land omitted, 77 Stat. 124-27)

**Sec. 2. [Pineview reservoir site to be national forest lands—Approval by the Secretary of the Interior required before lands may be disposed of—Proceeds from any such disposal of land to be credited pursuant to reclamation law.]—**All lands of the United States within such extended boundaries together with all federally owned lands within the former forest boundary which are included within the enlarged Pineview Reservoir site in sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, and 24, township 6 north, range 1 east, sections 6, 7, 18, and 19, township 6 north, range 2 east, and sections 34 and 36, township 7 north, range 1 east, Salt Lake base and meridian, and including any lands within such boundaries hereafter acquired by the United States in connection with the Weber Basin project, shall hereafter be national forest lands subject to the laws, rules, and regulations applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended: *Provided*, That none of these lands shall be sold, exchanged, or otherwise be disposed of by the Secretary of Agriculture without the approval of the Secretary of the Interior and any revenue from disposal so authorized shall be credited pursuant to reclamation law. (77 Stat. 127)

**Sec. 3. [Lands to be available to the Bureau of Reclamation—Respective responsibilities of the Secretaries of Agriculture and Interior.]—**(a) 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 Weber Basin and Ogden River reclamation projects, and shall include particularly as a minimum area needed for such project, all the normal water surface area of the Pineview Reservoir and an adjacent border strip extending out from such water surface area a minimum horizontal distance of 100 feet around said reservoir, and in addition all the reclamation acquired land in section 16, township 6 north, range 1 east.

(b) 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 Bureau of Reclamation of the Department of the Interior pursuant to subsection (a) as the Secretary

of the Interior finds to be proper in carrying out the purpose of this Act. (77 Stat. 127)

EXPLANATORY NOTES

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

**Purpose of the Act.** The purpose of this Act was to bring within the exterior boundaries of the Cache National Forest those lands acquired by the Bureau of Reclamation in order to enlarge the capacity of the Pineview Reservoir, Ogden River and Weber Basin projects, Utah. The area immediately surrounding the original reservoir had been within the Cache National Forest and the addition of the newly acquired lands to the forest area was authorized to facilitate their management.

**Reference in the Text.** The Act of March 1, 1911 (36 Stat. 961), as amended, referred to in section 2 of the text, among other things authorizes the Secretary of Agriculture to purchase in the name of the

United States such lands as have been approved for purchase by the National Forest Reservation Commission. This Act is popularly known as the Weeks Law.

**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. 1388, Public Law 88-99 in the 88th Congress. Reported in Senate from Agriculture and Forestry June 20, 1963; S. Rept. No. 283. Passed Senate June 25, 1963. Reported in House from Agriculture July 29, 1963; H.R. Rept. No. 597. Passed House, amended, Aug. 5, 1963. Senate agrees to House amendments Aug. 8, 1963.

## INTEREST OF LOCAL AGENCIES IN ARMY RESERVOIRS

An act defining the interest of local public agencies in water reservoirs constructed by the Government which have been financed partially by such agencies. (Act of October 16, 1963, Public Law 88-140, 77 Stat. 249)

**[Sec. 1. Contributions of States and local interests to Corps of Engineers dams and reservoirs recognized—Their rights to use.]—**Cognizant that many States and local interests have in the past contributed to the Government, or have contracted to pay to the Government over a specified period of years, money equivalent to the cost of providing for them water storage space at Government-owned dams and reservoirs, constructed by the Corps of Engineers of the United States Army, and that such practices will continue, and, that no law defines the duration of their interest in such storage space, and realizing that such States and local interests assume the obligation of paying substantially their portion of the cost of providing such facilities, their right to use may be continued during the existence of the facility as hereinafter provided. (77 Stat. 249; 43 U.S.C. § 390c)

**Sec. 2. [Dams and reservoirs affected.]—**This Act will be applicable to all dams and reservoirs heretofore or hereafter constructed by the United States Government (acting through the Corps of Engineers of the United States Army) wherein either a part of the construction cost thereof shall have been contributed or may be contributed by States or local interests (hereinafter called "local interests") or local interests have acquired or may acquire rights to utilize certain storage space thereof by making payments during the period of such use as specified in the agreement with the Government and wherein the amount of money paid, exclusive of interest, is equivalent to the cost of providing that part of such dam and reservoir which is allocated to such use, whether such share of cost shall have been determined by the "incremental cost" method or by the "separable costs-remaining benefits" method or by any other method. Included among the dams and reservoirs affected by this Act are those constructed by the Corps of Engineers of the Department of the Army, but nothing in this Act shall be construed to affect or modify section 8 of the Flood Control Act of 1944. (77 Stat. 249; 43 U.S.C. § 390d)

**Sec. 3. [Rights of interests continued so long as water storage space is physically available, subject to reallocations required due to sedimentation—Procedure should Federal operation of a facility end.]—**The right thus acquired by any such local interest is hereby declared to be available to the local interest so long as the space designated for that purpose may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, and not limited to the term of years which may be prescribed in any lease agreement or other agreement with the Government, but the enjoyment of such right will remain subject to performance of its obligations prescribed in such lease agreement or agreement executed in reference thereto. Such obliga-

October 16, 1963

LOCAL AGENCY INTEREST IN ARMY RESERVOIRS 1723

tions will include continued payment of annual operation and maintenance costs allocated to water supply. In addition, local interests shall bear the costs allocated to the water supply of any necessary reconstruction, rehabilitation, or replacement of project features which may be required to continue satisfactory operation of the project. Any affected local interest may utilize such facility so long as it is operated by the Government. In the event that the Government concludes that it can no longer usefully and economically maintain and operate such facility, the responsible department or agency of the Government is authorized to negotiate a contract with the affected local interest under which the local interest may continue to operate such part of the facility as is necessary for utilization of the storage space allocated to it, under terms which will protect the public interest and provided that the Government is effectively absolved from all liability in connection with such operation. (77 Stat. 249; 43 U.S.C. § 390e)

**Sec. 4. [Revision of existing leases and agreements authorized.]**—Upon application of any affected local interest its existing lease or agreement with the Government will be revised to evidence the conversion of its rights to the use of the storage as prescribed in this Act. (77 Stat. 250; 43 U.S.C. § 390f)

EXPLANATORY NOTES

**Reference in the Text.** Section 8 of the Flood Control Act of 1944, referred to in section 2 of the text, deals with Corps of Engineers dams and reservoirs that may be utilized for irrigation purposes. Extracts from the Act, which was approved December 22, 1944, including section 8, appear 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.** H.R. 1696, Public Law 88-140 in the 88th Congress. Reported in House from Public Works July 30, 1963; H.R. Rept. No. 619. Passed House Aug. 5, 1963. Reported in Senate from Public Works Oct. 2, 1963; S. Rept. No. 554. Passed Senate Oct. 3, 1963.

### AMENDED COSTILLA CREEK COMPACT

An act to consent to the amendment by the States of Colorado and New Mexico of the Costilla Creek Compact. (Act of December 12, 1963, Public Law 88-198, 77 Stat. 350)

[Sec. 1. Consent of Congress to amend compact.]—The consent of Congress is given to the amendment of the Costilla Creek Compact as agreed to by the States of Colorado and New Mexico. Such amended compact reads as follows:

### AMENDED COSTILLA CREEK COMPACT

The State of Colorado and the State of New Mexico, parties signatory to this compact (hereinafter referred to as "Colorado" and "New Mexico", respectively, or individually as a "State", or collectively as the "States"), having on September 30, 1944, concluded, through their duly authorized Commissioners, to-wit: Clifford H. Stone for Colorado and Thomas M. McClure for New Mexico, a compact with respect to the waters of Costilla Creek, an interstate stream, which compact was ratified by the States in 1945 and was approved by the Congress of the United States in 1946; and

The States, having resolved to conclude an amended compact with respect to the waters of Costilla Creek, have designated, pursuant to the Acts of their respective Legislatures and through their appropriate executive agencies, as their Commissioners:

J. E. Whitten, for Colorado

S. E. Reynolds, for New Mexico

who, after negotiations, have agreed upon these articles:

#### ARTICLE I

The major purposes of this compact are to provide for the equitable division and apportionment of the use of the waters of Costilla Creek; to promote interstate comity; to remove causes of present and future interstate controversies; to assure the most efficient utilization of the waters of Costilla Creek; to provide for the integrated operation of existing and prospective irrigation facilities on the stream in the two States; to adjust the conflicting jurisdictions of the two States over irrigation works and facilities diverting and storing water in one State for use in both States; to equalize the benefits of water from Costilla Creek, used for the irrigation of contiguous lands lying on either side of the Boundary, between the citizens and water users of one State and those of the other; and to place the beneficial application of water diverted from Costilla Creek for irrigation by the water users of the two States on a common basis.

The physical and other conditions peculiar to the Costilla Creek and its basin, and the nature and location of the irrigation development and the facilities in connection therewith, constitute the basis for this compact; and

neither 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.

## ARTICLE II

As used in this compact, the following names, terms and expressions are described, defined, applied and taken to mean as in this Article set forth:

(a) "Costilla Creek" is a tributary of the Rio Grande which rises on the west slope of the Sangre de Cristo range in the extreme south-eastern corner of Costilla County in Colorado and flows in a general westerly direction crossing the Boundary three times above its confluence with the Rio Grande in New Mexico.

(b) The "Canyon Mouth" is that point on Costilla Creek in New Mexico where the stream leaves the mountains and emerges into the San Luis Valley.

(c) The "Amalia Area" is that irrigated area in New Mexico above the Canyon Mouth and below the Costilla Reservoir which is served by decreed direct flow water rights.

(d) The "Costilla-Garcia Area" is that area extending from the Canyon Mouth in New Mexico to a point in Colorado about four miles downstream from the Boundary, being a compact body of irrigated land on either side of Costilla Creek served by decreed direct flow water rights.

(e) The "Eastdale Reservoir No. 1" is that off-channel reservoir located in Colorado in Sections 7, 8 and 18, Township 1 North, Range 73 West, and Sections 12 and 13, Township 1 North, Range 74 West, of the Costilla Estates Survey, with a nominal capacity of three thousand four hundred sixty-eight (3,468) acre-feet and a present usable capacity of two thousand (2,000) acre-feet.

(f) The "Eastdale Reservoir No. 2" is that off-channel reservoir located in Colorado in Sections 3, 4, 9 and 10, Township 1 North, Range 73 West, of the Costilla Estates Survey, with a nominal capacity of three thousand forty-one (3,041) acre-feet.

(g) The "Costilla Reservoir" is that channel reservoir, having a nominal capacity of fifteen thousand seven hundred (15,700) acre-feet, located in New Mexico near the headwaters of Costilla Creek. The present Usable Capacity of the reservoir is eleven thousand (11,000) acre-feet, subject to future adjustment by the State Engineer of New Mexico. The condition of Costilla dam may be such that the State Engineer of New Mexico will not permit storage above a determined stage except for short periods of time.

(h) The "Cerro Canal" is that irrigation canal which diverts water from the left bank of Costilla Creek in New Mexico near the southwest corner of Section 12, Township 1 South, Range 73 West, of the Costilla Estates Survey, and runs in a northwesterly direction to the Boundary near Boundary Monument No. 140.

## AMENDED COSTILLA CREEK COMPACT

(i) The "Boundary" is the term used herein to describe the common boundary line between Colorado and New Mexico.

(j) The term "Costilla Reservoir System" means and includes the Costilla Reservoir and the Cerro Canal, the permits for the storage of water in Costilla Reservoir, the twenty-four and fifty-two hundredths (24.52) cubic feet per second of time of direct flow water rights transferred to the Cerro Canal, and the permits for the diversion of direct flow water by the Cerro Canal as adjusted herein to seventy-five and forty-eight hundredths (75.48) cubic feet per second of time.

(k) The term "Costilla Reservoir System Safe Yield" means that quantity of usable water made available each year by the Costilla Reservoir System. The safe yield represents the most beneficial operation of the Costilla Reservoir System through the use, first, of the total usable portion of the yield of the twenty-four and fifty-two hundredths (24.52) cubic feet per second of time of direct flow rights transferred to the Cerro Canal, second, of the total usable portion of the yield of the direct flow Cerro Canal permits, and third, of that portion of the water stored in Costilla Reservoir required to complete such safe yield.

(l) The term "Usable Capacity" is defined and means that capacity of Costilla Reservoir at the stage above which the State Engineer of New Mexico will not permit storage except for short periods of time.

(m) The term "Temporary Storage" is defined and means the water permitted by the State Engineer of New Mexico to be stored in Costilla Reservoir for short periods of time above the Usable Capacity of that reservoir.

(n) The term "Additional Storage Facilities" is defined and means storage capacity which may be provided in either State to impound waters of Costilla Creek and its tributaries in addition to the nominal capacity of Costilla Reservoir and the Costilla Creek complement of the Eastdale Reservoir No. 1 capacity.

(o) The term "Duty of Water" is defined as the rate in cubic feet per second of time at which water may be diverted at the headgate to irrigate a specified acreage of land during the period of maximum requirement.

(p) The term "Surplus Water" is defined and means water which cannot be stored in operating reservoirs during the Storage Season or water during the Irrigation Season which cannot be stored in operating reservoirs and which is in excess of the aggregate direct flow rights and permits recognized by this compact.

(q) The term "Irrigation Season" is defined and means that period of each calendar year from May 16 to September 30, inclusive.

(r) The term "Storage Season" is defined and means that period of time extending from October 1 of one year to May 15 of the succeeding year, inclusive.

(s) The term "Points of Interstate Delivery" means and includes (1) the Acequia Madre where it crosses the Boundary; (2) The Costilla Creek

where it crosses the Boundary; (3) the Cerro Canal where it reaches the Boundary; and (4) any other interstate canals which might be constructed with the approval of the Commission at the point or points where they cross the Boundary.

(t) The term "Water Company" means The San Luis Power and Water Company, a Colorado corporation, or its successor.

(u) The word "Commission" means the Costilla Creek Compact Commission created by Article VIII of this compact for the administration thereof.

### ARTICLE III

1. To accomplish the purposes of this compact, as set forth in Article I, the following adjustments in the operation of irrigation facilities on Costilla Creek, and in the use of water diverted, stored and regulated thereby, are made:

(a) The quantity of water delivered for use in the two States by direct flow ditches in the Costilla-Garcia Area and by the Cerro Canal is based on a Duty of Water of one cubic foot per second of time for each eighty (80) acres, to be applied in the order of priority; *Provided, however,* That this adjustment in each instance is based on the acreage as determined by the court in decreeing the water rights for the Costilla-Garcia Area, and in the case of the Cerro Canal such basis shall apply to eight thousand (8,000) acres of land. In order to better maintain a usable head for the diversion of water for beneficial consumptive use the adjusted maximum diversion rate under the water right of each of the ditches supplying water for the Costilla-Garcia Area in Colorado is not less than one cubic foot per second of time.

(b) There is transferred from certain ditches in the Costilla-Garcia Area twenty-four and fifty-two hundredths (24.52) cubic feet per second of time of direct flow water rights, which rights of use are held by the Water Company or its successors in title, to the headgate of the Cerro Canal. The twenty-four and fifty-two hundredths (24.52) cubic feet of water per second of time hereby transferred represents an evaluation of these rights after adjustment in the Duty of Water, pursuant to subsection (a) of this Article, and includes a reduction thereof to compensate for increased use of direct flow water which otherwise would have been possible under these rights by this transfer.

(c) Except for the rights to store water from Costilla Creek in Eastdale Reservoir No. 1 as hereinafter provided, all diversion and storage rights from Costilla Creek for Eastdale Reservoirs No. 1 and No. 2 are relinquished and the water decreed thereunder is returned to the creek for use in accordance with the plan of integrated operation effectuated by this compact.

(d) The Cerro Canal direct flow permit shall be seventy-five and forty-eight hundredths (75.48) cubic feet per second of time.

## AMENDED COSTILLA CREEK COMPACT

(e) There is transferred to and made available for the irrigation of lands in Colorado a portion of the Costilla Reservoir complement of the Costilla Reservoir System Safe Yield in order that the storage of water in that reservoir may be made for the benefit of water users in both Colorado and New Mexico under the provisions of this compact for the allocations of water and the operation of facilities.

2. Each State grants for the benefit of the other and its water users the rights to change the points of diversion of water from Costilla Creek, to divert water from the stream in one State for use in the other and to store water in one State for the irrigation of lands in the other, insofar as the exercise of such rights may be necessary to effectuate the provisions of this Article and to comply with the terms of this compact.

3. The Water Company has consented to and approved the adjustments contained in this Article; and such consent and approval shall be evidenced in writing and filed with the Commission.

## ARTICLE IV

The apportionment and allocation of the use of Costilla Creek water shall be as follows:

(a) There is allocated for diversion from the natural flow of Costilla Creek and its tributaries sufficient water for beneficial use on meadow and pasture lands above Costilla Reservoir in New Mexico to the extent and in the manner now prevailing in that area.

(b) There is allocated for diversion from the natural flow of Costilla Creek and its tributaries thirteen and forty-two hundredths (13.42) cubic feet of water per second of time for beneficial use on lands in the Amalia Area in New Mexico.

(c) In addition to allocations made in subsections (e), (f) and (g) of this Article, there is allocated for diversion from the natural flow of Costilla Creek fifty and sixty-two hundredths (50.62) cubic feet of water per second of time for Colorado and eighty-nine and eight hundredths (89.08) cubic feet of water per second of time for New Mexico, subject to adjustment as provided in Article V(e), and such water shall be delivered for beneficial use in the two States in accordance with the schedules and under the conditions set forth in Article V.

(d) There is allocated for diversion from the natural flow of Costilla Creek sufficient water to provide each year one thousand (1,000) acre-feet of stored water in Eastdale Reservoir No. 1, such water to be delivered as provided in Article V.

(e) There is allocated for diversion to Colorado thirty-six and five-tenths percent (36.5%) and to New Mexico sixty-three and five-tenths percent (63.5%) of the water stored by Costilla Reservoir for release therefrom for irrigation purposes each year, subject to adjustment as provided in Article V(e) and such water shall be delivered for beneficial use in the two States

on a parity basis in accordance with the provisions of Article V. By "parity basis" is meant that neither State shall enjoy a priority of right of use.

(f) There is allocated for beneficial use in each of the States of Colorado and New Mexico one-half of the Surplus Water, as defined in Article 11 (p), to be delivered as provided in Article V.

(g) There is allocated for beneficial use in each of the States of Colorado and New Mexico one-half of any water made available and usable by Additional Storage Facilities which may be constructed in the future.

ARTICLE V

The operation of the facilities of Costilla Creek and the delivery of water for the irrigation of land in Colorado and New Mexico, in accordance with the allocations made in Article IV, shall be as follows:

(a) Diversions of water for use on lands in the Amalia Area shall be made as set forth in Article IV(b) in the order of decreed priorities in New Mexico and of relative priority dates in the two States, subject to the right of New Mexico to change the points of diversion and places of use of any of such water to other points of diversion and places of use; *Provided, however,* That the rights so transferred shall be limited in each instance to the quantity of water actually consumed on the lands from which the right is transferred.

(b) Deliveries to Colorado of direct flow water below the Canyon Mouth shall be made by New Mexico in accordance with the following schedule:

DELIVERIES OF DIRECT FLOW WATER TO COLORADO DURING IRRIGATION SEASON

Usable Discharge of Creek at Canyon Mouth Gaging Station (C.F.S.)	Incremental Allocations to Colorado (C.F.S.)		Points of Interstate Delivery	Cumulative Allocations to Colorado (C.F.S.)	Remarks
	(2A)	(2B)			
25.00	1.05	.....	Acequia Madre.	.....	Incremental allocation is 4.2% of the usable discharge when usable discharge is less than 25.00 C.F.S.
	2.53	.....	Cerro Canal...	.....	Incremental allocation is 10.13% of the usable discharge when usable discharge is less than 25.00 C.F.S.

## AMENDED COSTILLA CREEK COMPACT

DELIVERIES OF DIRECT FLOW WATER TO COLORADO DURING  
IRRIGATION SEASON—Continued

Usable Discharge of Creek at Canyon Mouth Gaging Station (C.F.S.)	Incremental Allocations to Colorado (C.F.S.)		Points of Interstate Delivery	Cumulative Allocations to Colorado (C.F.S.)	Remarks
	(2A)	(2B)			
25.00	4.70	.....	Cerro Canal...	8.28	This 4.70 C.F.S. is not a part of the Colorado allocation of the direct flow water of the Costilla Reservoir System and is not subject to adjustment in the event of a change in the usable capacity of Costilla Reservoir. Incremental allocation is 18.8% of the usable discharge when usable discharge is less than 25.00 C.F.S. This 4.70 C.F.S. allocated to Colorado for delivery through the Cerro Canal is 5.50 C.F.S. of the original 6.55 C.F.S. allocated to Colorado for delivery through the Acequia Madre less 0.8 C.F.S. correction for losses.
36.88	.38	.....	Cerro Canal...	.....	This 0.38 C.F.S. is not a part of the Colorado allocation of the direct flow water of the Costilla Reservoir System and is not subject to adjustment in the event of a change in the usable capacity of Costilla Reservoir. Incremental allocation is 3.26% of the usable discharge in excess of 25.38 C.F.S. and less than 36.88 C.F.S.
	4.04	.....	Cerro Canal...	12.70	Incremental allocation is 35.11% of the usable discharge in excess of 25.38 C.F.S. and less than 36.88 C.F.S.
38.62	.....	1.00	Creek.....	13.70	Incremental allocation is 100% of the usable discharge in excess of 37.62 C.F.S. and less than 38.62 C.F.S.
44.76	2.24	.....	Cerro Canal...	15.94	Incremental allocation is 36.5% of the usable discharge in excess of 38.62 C.F.S. and less than 44.76 C.F.S.
50.91	.....	6.00	Creek.....	21.94	Incremental allocation is 100% of the usable discharge in excess of 44.91 C.F.S. and less than 50.91 C.F.S.

DELIVERIES OF DIRECT FLOW WATER TO COLORADO DURING IRRIGATION SEASON—Continued

Usable Discharge of Creek at Canyon Mouth Gaging Station (C.F.S.)	Incremental Allocations to Colorado (C.F.S.)		Points of Interstate Delivery	Cumulative Allocations to Colorado (C.F.S.)	Remarks
	(1)	(2A)			
56.48	.13	.....	Cerro Canal...	22.07	Incremental allocation is 11.18% of the usable discharge in excess of 55.35 C.F.S. and less than 56.48 C.F.S.
61.48	.....	1.00	Creek.....	23.07	Incremental allocation is 100% of the usable discharge in excess of 60.48 C.F.S. and less than 61.48 C.F.S.
64.22	.....	.....	.....	.....	At usable creek discharge of 64.22 C.F.S the Cerro Canal direct flow permit becomes operative after 1,000 acre-feet has been stored in Eastdale Reservoir No. 1.
139.70	27.55	.....	Cerro Canal...	50.62	Incremental allocation is 36.5% of the usable discharge in excess of 64.22 C.F.S and less than 139.70 C.F.S.

The actual discharges of Costilla Creek at the Canyon Mouth gaging station at which the various blocks of direct flow water become effective shall equal the flows set forth in column (1) increased by the transmission losses necessary to deliver those flows to the headgates of the respective direct flow ditches diverting in New Mexico.

The delivery of ditch water at the Boundary shall equal the allocation set forth in columns (2A) and (2B) reduced by the transmission losses between the headgate of the ditch and the point where the ditch crosses the Boundary. The allocations to be delivered to Colorado through the Cerro Canal represent, except as otherwise indicated in column (5) of the table above, 36.5 percent of those blocks of direct flow water of the Costilla Reservoir System which are subject to adjustment as provided in subsection (e) of this Article.

The provisions of Article III 1. (a) shall not be applicable to the Colorado allocation of 5.08 C.F.S. which is transferred from the Acequia Madre to the Cerro Canal by this Amendment to the Costilla Creek Compact and shall not be applicable to the 0.8 C.F.S. which is transferred from Colorado to New Mexico by this Amendment to the Costilla Creek Compact.

The above table is compiled on the basis of the delivery to Colorado at the Boundary of thirty-six and five-tenths percent (36.5%) of all direct flow water of the Costilla Reservoir System diverted by the Cerro Canal and the delivery at the Boundary of all other direct flow water allocated to Colorado, in the order of priority, all such deliveries to be adjusted for transmission losses. In the event of change in the Usable Capacity of the Costilla Reservoir, Colorado's share of all direct flow water of the Costilla Reservoir System diverted by the Cerro Canal, to be delivered at the Boundary and adjusted for transmission losses, shall be determined by the percentages set forth in Column (4) of the table which appears in subsection (e) of this Article.

## AMENDED COSTILLA CREEK COMPACT

(c) During the Storage Season, no water shall be diverted under direct flow rights unless there is water in excess of the demand of all operating reservoirs for water from Costilla Creek for storage.

(d) In order to assure the most efficient utilization of the available water supply, the filling of Eastdale Reservoir No. 1 from Costilla Creek shall be commenced as early in the spring as possible and shall be completed as soon thereafter as possible. The Cerro Canal or any other ditch which may be provided for that purpose shall be used, insofar as practicable, to convey the water from the Canyon Mouth to Eastdale Reservoir No. 1. During any season when the Commission determines that there will be no Surplus Water, any diversions, waste or spill from any canal or canals supplying Eastdale Reservoir No. 1 will be charged to the quantity of water diverted for delivery to said reservoir.

(e) The Commission shall estimate each year the Safe Yield of Costilla Reservoir System and its component parts as far in advance of the Irrigation Season as possible, and shall review and revise such estimates from time to time as may be necessary.

In the event the Usable Capacity of the Costilla Reservoir changes, the average safe yield and the equitable division thereof between the States shall be determined in accordance with the following table:

Usable Capacity of Costilla Reservoir	Average Annual Safe Yield (acre-feet)	Division of Safe Yield			
		Colorado		New Mexico	
		(acre-feet)	(percent)	(acre-feet)	(percent)
(1)	(2)	(3)	(4)	(5)	(6)
0	1,800	1,510	83.9	290	16.1
1,000	3,400	2,000	58.8	1,400	41.2
2,000	4,900	2,450	50.0	2,450	50.0
3,000	6,400	2,910	45.5	3,490	54.5
4,000	7,900	3,370	42.7	4,530	57.3
5,000	9,300	3,800	40.9	5,500	59.1
6,000	10,700	4,220	39.4	6,480	60.6
7,000	12,000	4,620	38.5	7,380	61.5
8,000	13,200	4,990	37.8	8,210	62.2
9,000	14,300	5,320	37.2	8,980	62.8
10,000	15,200	5,600	36.8	9,600	63.2
11,000	16,000	5,840	36.5	10,160	63.5
12,000	16,600	6,020	36.3	10,580	63.7
13,000	17,000	6,140	36.1	10,860	63.9
14,000	17,400	6,270	36.0	11,130	64.0
15,000	17,700	6,360	35.9	11,340	64.1
15,700	17,900	6,420	35.9	11,480	64.1

Intermediate quantities shall be computed by proportionate parts.

In the event of change in the Usable Capacity of the Costilla Reservoir, the Costilla Reservoir complement of the Costilla Reservoir System Safe Yield shall be divided between Colorado and New Mexico in accordance with the percentages given in Columns 4 and 6, respectively, of the above table.

Each State may draw from the Reservoir in accordance with the allocations made herein, up to its proportion of the Costilla Reservoir complement of the Costilla Reservoir System Safe Yield and its proportion of Temporary Storage and no more. Colorado may call for the delivery of its share thereof at any of the specified Points of Interstate Delivery.

Deliveries of water from Costilla Reservoir to the Canyon Mouth shall be adjusted for transmission losses, if any, between the two points. Deliveries to Colorado at the Boundary shall be further adjusted for transmission losses from the Canyon Mouth to the respective points of Interstate Delivery.

Water stored in Costilla Reservoir and not released during the current season shall not be held over to the credit of either State but shall be apportioned when the safe yield is subsequently determined.

(f) The Colorado apportionment of Surplus Water, as allocated in Article IV(f), shall be delivered by New Mexico at such points of interstate delivery and in the respective quantities, subject to transmission losses, requested by the Colorado member of the Commission.

(g) In the event that additional water becomes usable by the construction of Additional Storage Facilities, such water shall be made available to each State in accordance with rules and regulations to be prescribed by the Commission.

(h) When it appears to the Commission that any part of the water allocated to one State for use in a particular year will not be used by that State, the Commission may permit its use by the other State during that year, provided that a permanent right to the use of such water shall not thereby be established.

#### ARTICLE VI

The desirability of consolidating various of the direct flow ditches serving the Costilla-Garcia Area, which are now or which would become interstate in character by consolidation, and diverting the water available to such ditches through a common headgate is recognized. Should the owners of any of such ditches or a combination of them, desire to effectuate a consolidation and provide for a common headgate diversion, application therefor shall be made to the Commission which, after review of the plans submitted, may grant permission to make such consolidation.

#### ARTICLE VII

The Commission shall cause to be maintained and operated a stream-gaging station, equipped with an automatic water-stage recorder, at each of the following points, to-wit:

(a) On Costilla Creek immediately below Costilla Reservoir.

## AMENDED COSTILLA CREEK COMPACT

- (b) On Costilla Creek at or near the Canyon Mouth above the headgate of Cerro Canal and below the Amalia Area.
- (c) On Costilla Creek at or near the Boundary.
- (d) On the Cerro Canal immediately below its headgate.
- (e) On the Cerro Canal at or near the Boundary.
- (f) On the intake from Costilla Creek to the Eastdale Reservoir No. 1, immediately above the point where the intake discharges into the reservoir.
- (g) On the Acequia Madre immediately below its headgate.
- (h) On the Acequia Madre at the Boundary.
- (i) Similar gaging stations shall be maintained and operated at such other points as may be necessary in the discretion of the Commission for the securing of records required for the carrying out of the provisions of the compact.

Such gaging stations shall be equipped, maintained, and operated by the Commission directly or in cooperation with an appropriate federal or state agency, and the equipment, method, and frequency of measurement at such stations shall be such as to produce reliable records at all times.

## ARTICLE VIII

The two States shall 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 such officials shall constitute the Costilla Creek Compact Commission. In addition to the powers and duties hereinbefore specifically conferred upon such Commission, the Commission shall collect and correlate factual data and maintain records having a bearing upon the administration of this compact. In connection therewith, the Commission may employ such engineering and other assistance as may be reasonably necessary within the limits of funds provided for that purpose by the States. The Commission may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact to govern its proceedings. The salaries and expenses of the members of the Commission shall be paid by their respective States. Other expenses incident to the administration of the compact, including the employment of engineering or other assistance and the establishment and maintenance of compact gaging stations, not borne by the United States shall be assumed equally by the two States and paid directly to the Commission upon vouchers submitted for that purpose.

The United States Geological Survey, or whatever federal agency may succeed to the functions and duties of that agency, shall collaborate with the Commission in the correlation and publication of water facts necessary for the proper administration of this compact.

## ARTICLE IX

This amended compact shall become operative when ratified by the Legislatures of the signatory States and consented to by the Congress of the United States; provided, that, except as changed herein, the provisions, terms, condi-

December 12, 1963

AMENDED COSTILLA CREEK COMPACT

1735

tions and obligations of the Costilla Creek Compact executed on September 30, 1944, continue in full force and effect.

IN WITNESS WHEREOF, the Commissioners have signed this compact in triplicate original, one copy of which shall be deposited in the archives of the Department of State of the United States of America, and one copy of which shall be forwarded to the Governor of each of the signatory States.

Done in the City of Sante Fe, New Mexico, on the 7th day of February, in the year of our Lord, one thousand nine hundred and sixty-three.

J. E. WHITTEN,  
Commissioner for Colorado.

S. E. REYNOLDS,  
Commissioner for New Mexico.

Sec. 2. [Rights reserved.]—The right to alter, amend, or repeal this Act is hereby reserved. (77 Stat. 350)

EXPLANATORY NOTES

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

**Original Compact.** The original compact was approved by the Act of June 11, 1946, 60 Stat. 246. The amended compact contains minor changes in the preamble and Articles III 1(a), IV(c), V(b) and IX, dealing with changes in water delivery schedules and state allocations. These changes are incorporated in the compact as shown. Section 2 of the 1946 Act approving the original compact contains the following disclaimer: "Neither this Act nor the compact hereby ratified shall be construed as amending, modifying or affecting in any

way the obligations of any of the parties to the Rio Grande Compact, dated March 18, 1938, approved by the Congress by the Act of May 31, 1939 (53 Stat. 785)." This disclaimer remains applicable to the amended compact. See S. Rept. No. 666 on H.R. 5949.

**Legislative History.** H.R. 5949, Public Law 88-198 in the 88th Congress. Reported in House from Interior and Insular Affairs, Oct. 1, 1963; H.R. Rept. No. 783. Passed House Oct. 7, 1963. Reported in Senate from Interior and Insular Affairs Nov. 26, 1963; S. Rept. No. 666. Passed Senate Nov. 27, 1963.

## MARKETING OF POWER FROM AMISTAD DAM

An act to amend the Act authorizing the transmission and disposition by the Secretary of the Interior of electric energy generated at Falcon Dam on the Rio Grande to authorize the Secretary of the Interior to also market power generated at Amistad Dam on the Rio Grande. (Act of December 23, 1963, Public Law 88-237, 77 Stat. 475)

[**Sec. 1. Integration with Falcon Dam power.**]—Section 1 of the Act of June 18, 1954 (68 Stat. 255), [is] amended as follows:

(a) In the first sentence of section 1 change the phrase “Falcon Dam, an international storage reservoir project” to read “Falcon Dam and Amistad Dam, international storage reservoir projects”, and change the word “project”, the second place it appears, to read “projects”.

(b) In the second sentence of section 1 change the word “project” to read “projects”.

(c) In the fourth sentence of section 1 of said Act, strike out the balance of the sentence beginning with the phrase “in order to make the power and energy generated at said project” and insert in lieu thereof the following: “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.” (77 Stat. 475)

**Sec. 2. [Priority of water uses.]**—The Act of June 18, 1954 (68 Stat. 255), is amended by adding a new section 4 to read as follows:

“**Sec. 4.** 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.” (77 Stat. 475)

### EXPLANATORY NOTES

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

**Cross Reference, Marketing of Falcon Dam Power.** The Act of June 18, 1954, 68 Stat. 255, referred to in text, authorizes the Secretary of the Interior to market the power from Falcon Dam. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinion, if any, are found under the Act of June 18, 1954.

**Legislative History.** H.R. 4062, Public Law 88-237 in the 88th Congress. Reported in House from Interior and Insular Affairs May 23, 1963; H.R. Rept. No. 319. Passed House July 8, 1963. Reported in Senate from Interior and Insular Affairs Nov. 26, 1963; S. Rept. No. 667. Passed Senate, amended, Nov. 27, 1963. House agrees to Senate amendments Dec. 17, 1963.

## ADDITIONAL AUTHORIZATION FOR CERTAIN RIVER BASINS

[Extracts from] An act authorizing additional appropriations for the prosecution of comprehensive plans for certain river basins. (Act of December 30, 1963, Public Law 88-253, 77 Stat. 841)

### [Sec. 1. Authorization of projects.]—

\* \* \* \* \*

#### RED RIVER BASIN

[Waurika Dam.]—The Waurika Dam and Reservoir on Beaver Creek, Oklahoma, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 33, Eighty-eighth Congress, at an estimated cost of \$25,100,000: *Provided*, That nothing in this Act shall be construed as authorizing the acquisition of additional lands for establishment of a national wildlife refuge at the reservoir. (77 Stat. 841)

Sec. 2. [Missouri Basin.]—In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$16,000,000 for the prosecution of the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress), as amended and supplemented by subsequent Acts of Congress, for continuing the works in the Missouri River Basin authorized to be undertaken under said plan by the Secretary of the Interior. (77 Stat. 841)

#### 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(a) of the Act approved December 22, 1944, which is the Flood Control Act of 1944.

**Legislative History.** H.R. 8667, Public Law 88-253 in the 88th Congress. Reported in House from Public Works Oct. 1,

1963; H.R. Rept. No. 799. Passed House Oct. 21, 1963. Reported in Senate from Public Works, Nov. 21, 1963; S. Rept. No. 648. Passed Senate, amended, Dec. 3, 1963. Senate asks for a conference Dec. 3, 1963. House agrees to a conference Dec. 5, 1963. Conference report filed Dec. 10, 1963; H.R. Rept. No. 1019. House agrees to conference report Dec. 17, 1963. Senate agrees to conference report Dec. 18, 1963.

**PUBLIC WORKS APPROPRIATION ACT, 1964**

[Extracts from] An act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and certain river basin commissions for the fiscal year ending June 30, 1964, and for other purposes. (Act of December 31, 1963, Public Law 88-257, 77 Stat. 844)

\* \* \* \* \*

**BUREAU OF RECLAMATION**

\* \* \* \* \*

**ADMINISTRATIVE PROVISIONS**

\* \* \* \* \*

[Revenues credited to cost of Klamath project water rights program.]—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: *Provided*, That net revenues not to exceed \$140,000 arising from the lease of grazing and agricultural lands within the Tule Lake and Lower Klamath Lake Divisions as determined by the Secretary may be credited to the cost heretofore and hereafter incurred for 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), 2(c) of the Act of August 1, 1956. (77 Stat. 850)

**EXPLANATORY NOTE**

**References in the Text.** The Acts of June 17, 1944, 58 Stat. 279, and August 1, 1956, 70 Stat. 799, referred to in the text, among other things, authorize the execution of contracts with the Klamath Drainage District and the Tule Lake Irrigation District, respectively.

\* \* \* \* \*

[Siphon Drop powerplant, Yuma project—Reserve funds transferred to Yuma County Water Users Association.]—The amount of \$241,160 shall be available from “Refunds and returns” for transfer to the Yuma County Water Users Association, representing the amount of credits accumulated as a reserve for depreciation and/or replacement of Siphon Drop powerplant, Yuma project, Arizona-California; this sum to be transferred to the Yuma County Water Users Association only after a contract providing for the custody, use, or expenditure of said money and containing terms satisfactory to the Secretary has been entered into with said association. (77 Stat. 850)

\* \* \* \* \*

[Short title.]—This Act may be cited as the “Public Works Appropriation Act, 1964”. (77 Stat. 856)

## EXPLANATORY NOTES

**Not Codified.** Sections of this Act which appear herein are not codified in the U.S. Code.

**Pacific Northwest—Pacific Southwest Intertie.** In approving funds for construction of two extra high-voltage transmission lines between Bonneville and the Central Valley project power system and the Federal Colorado River power system, the Senate report states in part:

"The committee directs that construction of these lines not begin until there has been enacted into law S. 1007, or similar legislation guaranteeing electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority. In addition, construction shall not begin unless the Secretary of the Interior finds, after good faith negotiations with utilities and other entities interested in constructing any portion of the lines involved, that their proposals will not result in benefits to the national interest at least equal to those to be derived from Federal

construction, including revenues which will accrue to the Federal Government after amortization of the line or lines; has submitted his findings to the committee; and the committee has had an opportunity to review them." S. Rept. No. 746, 88th Cong., 1st Sess. 40 (1963).

The conference report states that the managers on the part of the House concur in the above language. H.R. Rept. No. 1027, 88th Cong., 1st Sess. 24 (1963).

**Legislative History.** H.R. 9140, Public Law 88-257 in the 88th Congress. Reported in House from Appropriations Nov. 15, 1963; H.R. Rept. No. 902. Passed House Nov. 19, 1963. Reported in Senate from Appropriations Dec. 5, 1963; S. Rept. No. 746. Passed Senate, amended, Dec. 9, 1963. Senate asks for a conference Dec. 9, 1963. House agrees to a conference Dec. 10, 1963. Conference report filed Dec. 11, 1963; H.R. Rept. No. 1027. House agrees to conference report Dec. 12, 1963. House recedes and concurs in Senate amendments Nos. 5 and 19, Dec. 12, 1963. Senate agrees to conference report Dec. 12, 1963.

## PURCHASE LANDS, ADJUST COSTS, THIRD DIVISION, RIVERTON PROJECT

An act to authorize the Secretary of the Interior to acquire lands, including farm units and improvements thereon, in the third division, Riverton reclamation project, Wyoming, and to continue to deliver water for three years to lands of said division, and for other purposes. (Act of March 10, 1964, Public Law 88-278, 78 Stat. 156)

[**Sec. 1. Purchase of lands—Options—Report to Congress—Acquired lands available for exchange.**]—(a) The Secretary of the Interior shall negotiate with the entrymen on and the owners of land within the third division of the Riverton Federal reclamation project, Wyoming, for the purchase of their lands, patented or unpatented, at a price equal to the appraised value thereof and of the improvements thereon. In the case of any lands which were represented as being suitable for sustained irrigation production in the land classification in force at the time entry was made or the lands were acquired by the present owner (or, if the present owner acquired the same by descent or devise, by his predecessor in title), such value shall be determined without reference to any deterioration in their irrigability subsequent to the time of entry or acquisition arising from above-normal seepage and/or inadequate drainage. The Secretary is authorized to acquire options for the purchase of such lands in the name of the United States. He shall make a final report on the result of his negotiations and on options acquired to the President of the Senate and the Speaker of the House of Representatives on or before June 30, 1964, and, upon the expiration of not less than sixty calendar days after the submission of this report, he may acquire such lands.

(b) Property acquired by the United States under this section shall be available for disposal under the terms of the Farm Unit Exchange Act of August 13, 1953 (67 Stat. 566), or at public or private sale for not less than the appraised value at the time of such sale. Costs incurred by the Secretary under this section which are not offset by returns from sales shall be nonreimbursable and non-returnable. (78 Stat. 156)

### EXPLANATORY NOTE

**Reference in the Text.** The Farm Unit Exchange Act of August 13, 1953, 67 Stat. 566, referred to in the text, appears herein in chronological order.

### NOTE OF OPINION

#### 1. Disposal of original entry

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 un-

der 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).

**Sec. 2. [Water delivery continued for three years—Water payments—Report to Congress on possibilities of economic irrigation in certain areas.]**—The Secretary is authorized to continue to deliver water to the lands of the third division during calendar years 1964, 1965, and 1966 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. Water shall be furnished only upon individual application therefor and upon payment of an amount for each acre to which water is to be furnished to the applicant during the year in question equal to the estimated average cost per acre for all lands to be irrigated that year of operating and maintaining the third division. Prior to the expiration of this three-year period (January 1, 1967), the Secretary shall determine whether there are sufficient lands capable of sustained production under irrigation use in the North Portal, North Pavillion, and Cottonwood Bench areas of the third division to form an economical, feasible unit and shall report his findings thereon to the Congress. (78 Stat. 157)

**Sec. 3. [Limitation of land ownership.]**—Notwithstanding any other provision of law, the limitation of lands held in single ownership within the third division which are eligible to receive project water from, through, or by means of project works shall be one hundred and sixty acres of class 1 land or the equivalent thereof in other land classes, as determined by the Secretary. (78 Stat. 157)

**Sec. 4. [Costs nonreimbursable when assigned to nonproductive lands; exceptions.]**—Construction costs of the third division which the Secretary determines to be assignable to the lands classified as permanently nonproductive shall be nonreturnable and nonreimbursable under the Federal reclamation laws: *Provided*, That whenever new lands or lands formerly classified as nonproductive, are subsequently classified or reclassified as productive, the repayment obligation of the repayment organization within which such lands are included shall be appropriately increased. (77 Stat. 157)

**Sec. 5. [Moratorium on foreclosure by U.S.—New mortgages prohibited; exceptions.]**—(a) Notwithstanding any other provision of law, any administrative regulation, or the terms of any mortgage or other security instrument, no real property on the third division which has heretofore been mortgaged or otherwise encumbered as security for a debt to the United States or any of its agencies shall be subject to foreclosure or other process of law for enforcement of the debt between the effective date of this Act and December 1, 1964: *Provided*, That nothing contained in the foregoing shall operate to discharge any obligation of the debtor to the United States.

(b) Notwithstanding any other provision of law or any administrative regulation, no agency of the United States shall hereafter and prior to December 1, 1964, take as security for a debt to the United States or to that or any other agency of the United States any mortgage or other form of encumbrance on real property on the third division unless (1) the debt to the United States or its agency has heretofore been incurred and the security has heretofore been given and is required to be continued in connection with a renewal or refinancing of the debt or (2) the debtor specifically waives, with the consent of the Secretary of the Interior, the privilege of selling his land to the United States as provided in the first section of this Act. (77 Stat. 157)

**Sec. 6. [Appropriations.]**—Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available in an amount of not more than \$3,200,000 for the acquisition of lands as provided in section 1(a) of this Act and for additional drainage facilities, canal lining, and

## 1742 ADJUSTMENTS, THIRD DIVISION, RIVERTON

structure replacements: *Provided*, That all miscellaneous net revenues received from the sale of lands under section 1(b) of this Act shall be applied against such costs. (77 Stat. 157; Act of September 2, 1964, 78 Stat. 853)

## EXPLANATORY NOTES

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

**1964 Amendment.** The Act of September 2, 1964, increased the appropriation figure of the earlier 1964 Act from \$2,000,000 to \$3,200,000. For legislative history see H.R. 12128, Public Law 88-569 in the 88th Congress; S. Rept. No. 1478 (on S. 3053); H.R. Rept. No. 1827.

**Authorization.** The Riverton project was initially authorized as an Indian reclamation project pursuant to the Indian Appropriation Act of March 2, 1917, 29 Stat. 969, 993. It was placed under the jurisdiction of the Bureau of Reclamation by the Act of June 5, 1920, 41 Stat. 874, 915, the Sundry Civil Expenses Appropriation Act for 1921. The first and second divisions of the project were developed over the next 20 years. The general plan of development of the third division was authorized as the Riverton Extension Unit of the Missouri River Basin project under section 9(a) of the Flood Control Act of 1944, 58 Stat. 887, 891, but was not constructed as a part of that project. Extracts from the 1920 and 1944 Acts,

including the provisions referred to, appear herein in chronological order.

**Reference in the Text.** Subsection 9(d) (1) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195; 43 U.S.C. 485h(d)), enacted August 4, 1939, which is referred to in section 2 of the text, authorizes the Secretary of the Interior to fix a development period for each irrigation block, not to exceed ten years, and to deliver water to the lands of the block during the development period at a charge per annum per acre foot, or other charge, to be fixed by the Secretary. The Act appears herein in chronological order.

**Cross Reference, Delivery of Water.** The Act of April 19, 1963, found herein in chronological order, authorized the delivery of water to the lands of the Third Division, Riverton project during the calendar year 1963.

**Legislative History.** H.R. 8171, Public Law 88-278 in the 88th Congress. Reported in House from Interior and Insular Affairs, Dec. 9, 1963. H.R. Rept. No. 1010. Passed House Dec. 17, 1963. Passed Senate Feb. 26, 1964.

## DEFER OPERATION CHARGES, EDEN PROJECT

An act to defer certain operation and maintenance charges of the Eden Valley Irrigation and Drainage District. (Act of March 26, 1964, Public Law 88-291, 78 Stat. 170)

[Eden Valley operation and maintenance charges deferred.]—The Secretary of the Interior is authorized and directed to defer, without interest, the collection of irrigation operation and maintenance charges due for the last one-half of calendar year 1964 as shown in the May 17, 1963, notices of 1964 water charges to the Eden Valley Irrigation and Drainage District: *Provided*, That the Secretary and the district enter into a contract prior to June 1, 1964, for the payment by the district of such deferred charges during the sixty-year repayment period provided by the repayment contract of June 8, 1950, with said district: *Provided further*, That the Secretary of the Interior is authorized to defer all or any part of operation and maintenance charges due for the first one-half of calendar year 1965, as will be announced in a notice to be issued the district pursuant to article 8 of the repayment contract herein referred to, to the extent that he determines by June 1, 1964, that the water supply for 1964 is inadequate to meet project needs, such deferment without interest, to be contingent upon the Secretary and the district entering into a contract prior to December 1, 1964, for the payment by the district of such deferred charges over the repayment period provided by the repayment contract herein referred to. Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for operation and maintenance of the Eden project to the extent that funds for operation and maintenance are deferred hereunder and therefore are not advanced by the Eden Valley Irrigation and Drainage District. (78 Stat. 170)

### EXPLANATORY NOTES

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

**Authorization.** A plan of development and rehabilitation of the Eden project was approved by the President on September 18, 1940, as a Great Plains project. Funds were provided under the water conservation and utility provision of the 1940 Interior Department Appropriations Act, May 10, 1939, 53 Stat. 685. The project was reauthorized by the Act of June 28, 1949, 63

Stat. 277. Both Acts appear herein in chronological order.

**Legislative History.** S. 1299, Public Law 88-291 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Oct. 17, 1963; S. Rept. No. 567. Passed Senate Oct. 21, 1963. Reported in House from Interior and Insular Affairs Mar. 10, 1964; H.R. Rept. No. 1231. Passed House, amended, Mar. 16, 1964. Senate agrees to House amendments Mar. 18, 1964.

## PERMANENT POOL, COCHITI RESERVOIR

An act to authorize the Secretary of the Interior to make water available for a permanent pool for fish and wildlife and recreation purposes at Cochiti Reservoir from the San Juan-Chama unit of the Colorado River storage project. (Act of March 26, 1964, Public Law 88-293, 78 Stat. 171)

[**Sec. 1. Permanent pool for Cochiti Reservoir, New Mexico—Water to be made available from San Juan-Chama project.**]—The proviso to subdivision (e) of the conditions applicable to the project for improvement of the Rio Grande Basin authorized by section 203 of the Flood Control Act of 1960 (Public Law 86-645; 74 Stat. 493), is hereby supplemented to authorize, for conservation and development of fish and wildlife resources and for recreation, approximately fifty thousand acre-feet of water for the initial filling of a permanent pool of one thousand two hundred surface acres in Cochiti Reservoir, and thereafter sufficient water annually to offset the evaporation from such area, to be made available by the Secretary of the Interior from water diverted into the Rio Grande Basin by the works authorized by section 8 of the Act of June 13, 1962 (Public Law 87-483, 76 Stat. 97), subject to the conditions specified in sections 8, 12, 13, 14, and 16 of said Act. An appropriate share of the costs of said works shall be reallocated to recreation and fish and wildlife, and said allocation, which shall not exceed \$3,000,000, shall be nonreimbursable and nonreturnable. (78 Stat. 171)

**Sec. 2. [Previous appropriation authorization not increased.]**—Nothing contained in this Act shall be construed to increase the amount heretofore authorized to be appropriated for construction of the Colorado River storage project or any of its units. (78 Stat. 172)

### EXPLANATORY NOTES

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

**Reference in the Text.** Extracts from the Flood Control Act of 1960 (Public Law 86-645; 74 Stat. 493), including section 203 referred to in the text, appear herein in chronological order. The Act was approved July 14, 1960.

**Reference in Text.** The Act of June 13, 1962, referred to in text, authorizes the San Juan-Chama project. The Act appears

herein in chronological order.

**Legislative History.** S. 614, Public Law 88-293 in the 88th Congress. Reported in Senate from Interior and Insular Affairs June 17, 1963; S. Rept. No. 255. Passed Senate June 19, 1963. Passed House, amended, Mar. 16, 1964. Senate agrees to House amendments Mar. 18, 1964. Companion bill H.R. 3194 reported in House from Interior and Insular Affairs Mar. 10, 1964; H.R. Rept. No. 1232.

## AMENDED CONTRACT WITH NEWTON WATER USERS' ASSOCIATION

An act to approve a contract negotiated with the Newton Water Users' Association, Utah, to authorize its execution, and for other purposes. (Act of May 28, 1964, Public Law 88-314, 78 Stat. 203)

[Amended repayment contract approved.]—The proposed contract designated "R.O. Draft 1/31/63; Rev. 3/12/63," negotiated by the Secretary of the Interior with the Newton Water Users' Association, Utah, to extend the period for repayment of the reimbursable construction cost of the Newton project and to establish a variable repayment schedule is approved and the Secretary of the Interior is hereby authorized to execute such contract on behalf of the United States. (78 Stat. 203)

### EXPLANATORY NOTES

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

**Authorization.** The Newton project was authorized by the President on October 17, 1940, under the Water Conservation and Utilization Act of August 11, 1939, 53 Stat. 1418, as amended, as a Great Plains project. The Act appears herein in chronological order.

**Legislative History.** S. 1584, Public Law 88-314 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Oct. 17, 1964; S. Rept. No. 566. Passed Senate Oct. 21, 1963. Reported in House from Interior and Insular Affairs May 12, 1964; H.R. Rept. No. 1391. Passed House May 18, 1964.

## AMENDED CONTRACT WITH BIG FLAT IRRIGATION DISTRICT

An act to approve the January 1963 reclassification of land of the Big Flat unit of the Missoula Valley project, Montana, and to authorize the modification of the repayment contract with the Big Flat Irrigation District. (Act of May 28, 1964, Public Law 88-315, 78 Stat. 203)

**[Authority to negotiate an amendatory contract—Land reclassification approved.]**—The Secretary of the Interior is authorized to negotiate and execute an amendatory contract amending the existing repayment contract between the United States and the Big Flat Irrigation District dated April 2, 1945, by reducing the construction charge obligation of the district in the amount of \$7,190, representing the unmatured charges as of December 30, 1962, against one hundred and sixty-four and three-tenths acres of irrigable land presently classified as nonproductive. The reclassification of the lands of the Big Flat unit of the Missoula Valley project, Montana, dated January 1963, is hereby approved. (78 Stat. 203)

### EXPLANATORY NOTES

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

**Authorization.** The construction of the Missoula Valley project, Montana, was approved by the President on May 10, 1944, under authority of the Water Conservation and Utilization Act of August 11, 1939, 53 Stat. 1418, as amended, particularly by the Act of July 16, 1943. The 1939 Act appears

herein in chronological order.

**Legislative History.** S. 1687, Public Law 88-315 in the 88th Congress. Reported in Senate from Interior and Insular Affairs, Oct. 17, 1963; S. Rept. No. 565. Passed Senate Oct. 21, 1963. Reported in House from Interior and Insular Affairs, May 12, 1964; H.R. Rept. No. 1392. Passed House May 18, 1964.

## WATER RESOURCES RESEARCH ACT OF 1964

An act to establish water resources research centers, to promote a more adequate national program of water research, and for other purposes. (Act of July 17, 1964, Public Law 88-379, 78 Stat. 329)

[Sec. 1. Short title—Intent of Congress.]—(a) This Act may be cited as the “Water Resources Research Act of 1964.”

(b) In order to assist in assuring the Nation at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this Act, to stimulate, sponsor, provide for, and supplement present programs for the conduct of research, investigations, experiments, and the training of scientists in the fields of water and of resources which affect water. (78 Stat. 329; 42 U.S.C. § 1961)

### TITLE I—STATE WATER RESOURCES RESEARCH INSTITUTES

Sec. 100. [Appropriations to assist States in establishing Water Resources Research Institutes—Duties of the Institutes.]—(a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums adequate to provide \$75,000 to each of the several States in the first year, \$87,500 in each of the second and third years, and \$100,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as “institute”) at one college or university in that State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503), entitled “An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts” or some other institution designated by Act of the legislature of the State concerned: *Provided*, That (1) if there is more than one such college or university in a State, established in accordance with said Act of July 2, 1862, funds under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary’s determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this Act; (2) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, and experiments of

either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems, having due regard to the varying conditions and needs of the respective States, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research. (78 Stat. 329; 42 U.S.C. § 1961a)

**Sec. 101. [Appropriations for funds to match State contributions—Procedures governing the making of Federal grants.]—**(a) There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums not in excess of the following: 1965, \$1,000,000; 1966, \$2,000,000; 1967, \$3,000,000; 1968, \$4,000,000; and 1969 and each of the succeeding years, \$5,000,000. Such moneys when appropriated, shall be available to match, on a dollar-for-dollar basis, funds made available to institutes by States or other non-Federal sources to meet the necessary expenses of specific water resources research projects which could not otherwise be undertaken, including the expenses of planning and coordinating regional water resources research projects by two or more institutes.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region, and the State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for the training of water resources scientists. No grant shall be made under said subsection (a) except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists. (78 Stat. 330; 42 U.S.C. § 1961a-1)

**Sec. 102. [Payments to the institutes—Accounting procedures.]—**Sums available to the States under the terms of sections 100 and 101 of this Act shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the 1st day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this Act during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received

July 17, 1964

WATER RESOURCES RESEARCH ACT OF 1964 1749

by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State. (78 Stat. 330; 42 U.S.C. § 1961a-2)

**Sec. 103. [Purposes for which funds may be used—Cooperative programs among institutes.]**—Moneys appropriated pursuant to this Act, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this Act, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this Act in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research. (78 Stat. 330; 42 U.S.C. § 1961a-3)

**Sec. 104. [Duties of the Secretary of the Interior.]**—The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this Act, participate in coordinating research initiated under this Act by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after the passage of this Act, the Secretary shall ascertain whether the requirements of section 102 have been met as to each State, whether it is entitled to receive its share of the annual appropriations for water resources research under section 100 of this Act, and the amount which it is entitled to receive. (78 Stat. 331; 42 U.S.C. § 1961a-4)

**Sec. 105. [Relationship of colleges and universities to State where located is not impaired.]**—Nothing in this Act shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education at any college or university. (78 Stat. 331; 42 U.S.C. § 1961a-5)

TITLE II—ADDITIONAL WATER RESOURCES RESEARCH  
PROGRAM

**Sec. 200. [Appropriations authorization for grants, etc.—Congressional oversight.]**—(a) There are authorized to be appropriated to the Secretary

of the Interior \$5,000,000 for the fiscal year 1967, \$6,000,000 for the fiscal year 1968, \$7,000,000 for the fiscal year 1969, \$8,000,000 for the fiscal year 1970, \$9,000,000 for the fiscal year 1971, and \$10,000,000 for each of the fiscal years 1972-1976, inclusive, from which appropriations the Secretary may make grants to and finance contracts and matching or other arrangements with educational institutions, private foundations or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects, and with local, State, and Federal Government agencies, to undertake research into any aspects of water problems related to the mission of the Department of the Interior which he may deem desirable and which are not otherwise being studied.

(b) No grant shall be made, no contract shall be executed, and no matching or other arrangement shall be entered into under subsection (a) of this section prior to sixty calendar days from the date the same is submitted to the President of the Senate and the Speaker of the House of Representatives and said sixty calendar days shall not include days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. (78 Stat. 331; Act of April 19, 1966, 80 Stat. 129; 42 U.S.C. § 1961b)

#### EXPLANATORY NOTE

**Presidential Message.** A statement issued by President Johnson at the time of approving the original 1964 bill states in part: "One provision of the bill, however, causes me serious concern, and I request its deletion. The Secretary of the Interior, in administering the program is required, in effect, to obtain the approval of the committees of the House and Senate for each water research grant or contract. Although this legislation is so phrased that it is not technically subject to constitutional objection, it violates the spirit of the constitutional requirement of separation of power between the Executive and Legislative branches. It is both inappropriate and inefficient for committees of the Congress to participate in the award of individual

contracts or grants. Apart from the question of the relationship between the Executive and Legislative branches, the delays which would ensue from the suggested procedure would be detrimental to both scientific research and the timely achievement of the important mission of the legislation."

The original language of section 200 required the Secretary to submit each proposed grant, contract or other arrangement to the Congress and provided no appropriation be made to finance the same until 60 calendar days after submission and then only if neither the House nor Senate Committee on Interior and Insular Affairs had disapproved the same. The Act of April 19, 1966, amended section 200 to read as it appears in the text.

#### TITLE III—MISCELLANEOUS PROVISIONS

**Sec. 300. [Advice and cooperation of all water research interests.]—**The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments, and of private institutions and individuals, to assure that the programs authorized in this Act will supplement and not duplicate established water research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of water and related resources research. He shall make generally available information and reports on projects completed, in progress, or planned under the

July 17, 1964

WATER RESOURCES RESEARCH ACT OF 1964

1751

provisions of this Act, in addition to any direct publication of information by the institutes themselves. (78 Stat. 332; 42 U.S.C. § 1961c)

**Sec. 301. [Authority of other agencies preserved.]**—Nothing in this Act is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over water resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its areas of responsibility and concern with water resources. (78 Stat. 332; 42 U.S.C. § 1961c-1)

**Sec. 302. [Prohibition against advancement of public moneys waived.]**—Contracts or other arrangements for water resources work authorized under this Act with an institute, educational institution, or non-profit organization may be undertaken without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work. (78 Stat. 332; 42 U.S.C. § 1961c-2)

**Sec. 303. [Results of research to be available to the general public.]**—No part of any appropriated funds may be expended pursuant to authorization given by this Act for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exceptions and limitations as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activity of any rights which that owner may have under that patent. (78 Stat. 332; 42 U.S.C. § 1961c-3)

**Sec. 304. [Cataloging center.]**—There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current and projected scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for general use a catalog of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available. (78 Stat. 332; 42 U.S.C. § 1961c-4)

**Sec. 305. [Interagency coordination—Prevention of overlap.]**—The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include (a) continuing review of the adequacy of the Government-wide program in water resources research, (b) identification and

elimination of duplication and overlaps between two or more agency programs, (c) identification of technical needs in various water resources research categories, (d) recommendations with respect to allocation of technical effort among the Federal agencies, (e) review of technical manpower needs and findings concerning the technical manpower base of the program, (f) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (g) actions to facilitate interagency communication at management levels. (78 Stat. 332; 42 U.S.C. § 1961c-5)

**Sec. 306. [Puerto Rico included in term "State".]**—As used in this Act, the term "State" includes the Commonwealth of Puerto Rico. (78 Stat. 333; 42 U.S.C. § 1961c-6)

**Sec. 307. [Report to President and Congress.]**—The Secretary shall make a report to the President and Congress on or before March 1 of each year showing the disposition during the preceding calendar year of moneys appropriated to carry out this Act, the results expected to be accomplished through projects financed during that year under sections 101 and 200 of this Act, and the conclusions reached in or other results achieved by those projects which were completed during that year. The report shall also include an account of the work of all institutes financed under section 100 of this Act and indicate whether any portion of an allotment to any State was withheld and, if so, the reasons therefor. (Added by Act of April 19, 1966, 80 Stat. 130; 42 U.S.C. § 1961c-7)

#### EXPLANATORY NOTES

**1966 Amendment.** The Act of April 19, 1966, 80 Stat. 129, amended section 200 by substantially increasing the appropriations authorization and by authorizing universities with Water Research Institutes to participate in Title II funds. Other amendments effected by the 1966 Act relate to reports to the President and the Congress, and to Congressional oversight of programs. For legislative history of the 1966 Act see Public Law 89-404 in the 89th Congress; S. Rept. No. 127; H.R. Rept. No. 1350 on H.R. 3606.

**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. 2, Public Law 88-379 in the 88th Congress. Reported in Senate from Interior and Insular Affairs, Apr. 8, 1963; S. Rept. No. 117. Passed Senate Apr. 23, 1963. Reported in House from Interior and Insular Affairs Feb. 10, 1964; H.R. Rept. No. 1136. Passed House, amended, June 2, 1964. Senate asks for a conference June 8, 1964. House agrees to a conference June 15, 1964. Conference report filed June 20, 1964; H.R. Rept. No. 1526. House agrees to conference report July 2, 1964. Senate agrees to conference report July 2, 1964.

## INTERNATIONAL FLOOD CONTROL MEASURES, LOWER COLORADO RIVER

An act to authorize the conclusion of agreements with Mexico for joint construction, operation, and maintenance of emergency flood control works on the lower Colorado River, in accordance with the provisions of article 13 of the 1944 Water Treaty with Mexico, and for other purposes. (Act of August 10, 1964, Public Law 88-411, 78 Stat. 386)

[**Sec. 1. Agreements for flood control measures.**]—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude, with the appropriate official or officials of the Government of Mexico agreements for emergency flood control measures of international character in the reaches of the lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, such agreements to provide: (a) for the joint clearing and maintaining free of trees and brush the bed and banks of the channel; for removing sediment deposits from the river channel; and (b) for corrective actions to guard against sedimentation and consequent aggradation of the river channel incident to desilting operations at diversion dams in the two countries: *Provided*, That, prior approval of the Secretary of the Interior is required of any proposed agreement with Mexico under clause (b) of this section which would involve construction and/or operation of works on the Colorado River in the United States under the jurisdiction of the Secretary. The measures contemplated herein are for the purpose of controlling floods on the lower Colorado River in accordance with article 13 of the 1944 Water Treaty with Mexico, and accomplishment thereof by the International Boundary and Water Commission, United States Section, would be in accord with the Memorandum of Understanding “as to Functions and Jurisdiction of Agencies of the United States in Relation to the Colorado and Tijuana Rivers and the Rio Grande Below Fort Quitman, Texas, Under Water Treaty Signed at Washington, February 3, 1944,” between the Department of State and the United States Section, International Boundary and Water Commission, and the Department of the Interior dated February 14, 1945. (78 Stat. 386; 22 U.S.C. § 277d-26)

**Sec. 2. [United States Commissioner.]**—The United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to carry out those measures agreed upon for execution by the United States in the agreements concluded pursuant to section 1 of this Act. (78 Stat. 386; 22 U.S.C. § 277d-27)

**Sec. 3. [Appropriations.]**—There is authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, not in excess of \$300,000 for the initial cost of the work authorized in this Act, and not to exceed \$20,000 annually thereafter for necessary maintenance. (78 Stat. 386; 22 U.S.C. § 277d-28)

August 10, 1964

## 1754 INTERNATIONAL FLOOD CONTROL, LOWER COLORADO

### EXPLANATORY NOTES

**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 1944 Treaty. (See note below)

**Cross Reference, 1944 Treaty.** Article 13 of the Treaty with Mexico of February 3, 1944, deals with the subject of flood control measures on the Lower Colorado River. The 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 deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** H.R. 7419, Public Law 88-411 in the 88th Congress. Reported in House from Foreign Affairs July 1, 1964; H.R. Rept. No. 1534. Passed House July 21, 1964. Reported in Senate from Foreign Relations July 28, 1964; S. Rept. No. 1249. Passed Senate July 29, 1964.

**INCREASED AUTHORIZATION, MISSOURI RIVER BASIN PROJECT**

An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior. (Act of August 14, 1964, Public Law 88-442, 78 Stat. 446)

[**Appropriation increase authorized.**]—In addition to previous authorizations, there is hereby authorized to be appropriated for fiscal years 1965 and 1966 the sum of \$120,000,000 for the prosecution of the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law 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. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Missouri River Basin project, whether included in said comprehensive plan or not, which is not hereafter authorized by Act of Congress. (78 Stat. 446)

**EXPLANATORY NOTES**

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

**Reference in the Text.** The Act of December 22, 1944 (the Flood Control Act of 1944), referred to in the text, appears herein in chronological order. The note following section 9(e) of the Act is a complete listing of appropriations authorized for works undertaken or planned in the Mis-

souri River Basin by the Secretary of the Interior.

**Legislative History.** H.R. 9521, Public Law 88-442 in the 88th Congress. Reported in House from Interior and Insular Affairs Mar. 5, 1964; H.R. Rept. No. 1218. Passed House Apr. 20, 1964. Reported in Senate from Interior and Insular Affairs Aug. 4, 1964; S. Rept. No. 1302. Passed Senate Aug. 5, 1964.

## MORATORIUM ON POWER LICENSES, COLORADO RIVER

An act to preserve the jurisdiction of the Congress over construction of hydroelectric projects on the Colorado River below Glen Canyon Dam. (Act of August 27, 1964, Public Law 88-491, 78 Stat. 607)

[**Moratorium on licensing**].—No licenses or permits shall be issued under the Federal Power Act (16 U.S.C. 791a-823) nor any applications for such licenses or permits be accepted for filing for the reach of the Colorado River between Glen Canyon Dam and Lake Mead during the period ending December 31, 1966: *Provided*, That nothing herein shall change or affect for the purposes of any action which may be taken subsequent to such date the present status, equities, position, rights, or priorities of any parties to applications pending on the date of the enactment of this Act. (78 Stat. 607)

### EXPLANATORY NOTES

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

**Congressional Purpose.** In H.R. Rept. No. 1544, accompanying H.R. 9752, it is explained that at the time there were competing applications pending before the Federal Power Commission for a license to construct a hydroelectric project at the Marble Canyon site on the lower Colorado, and at the same time there was pending before Congress a comprehensive plan for the development of the water and power resources in the whole southwest region. Enactment of this legislation preserved through December 31, 1966, the op-

portunity of Congress to consider the Southwest development plan without the possible interposition, in the meantime, of new and conflicting rights.

**Legislative History.** S. 502, Public Law 88-491 in the 88th Congress. Reported in Senate from Interior and Insular Affairs May 14, 1964; S. Rept. No. 1023. Passed Senate June 23, 1964. Passed House, amended, Aug. 12, 1964. Senate agrees to House amendments Aug. 14, 1964. Companion bill H.R. 9752 reported in House from Interstate and Foreign Commerce July 2, 1964; H.R. Rept. No. 1544.

**PUBLIC WORKS APPROPRIATION ACT, 1965**

[Extracts from] An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, for the fiscal year ending June 30, 1965, and for other purposes. (Act of August 30, 1964, Public Law 88-511, 78 Stat. 682)

\* \* \* \* \*

**BUREAU OF RECLAMATION**

\* \* \* \* \*

**CONSTRUCTION AND REHABILITATION**

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, \* \* \*

[Additional tile drains, Wellton-Mohawk district, nonreimbursable.]—\* \* \* *Provided further*, That not to exceed \$2,000,000 as proposed in Senate Document 89, Eighty-eighth Congress, for maintaining suitable water quality in the Colorado River shall be non-reimbursable: \* \* \* (78 Stat. 686)

[Malta, Montana—Street improvement.]—\* \* \* *Provided further*, That not to exceed \$26,000 shall be available for reimbursement to the city of Malta, Montana, for the cost of improvements to streets and appurtenant facilities adjoining property under the jurisdiction of the Department of the Interior in that city to be nonreimbursable and nonreturnable: (78 Stat. 686)

[Weber Basin project—Access roads improvement nonreimbursable.]—*Provided further*, That not to exceed \$150,000 of funds made available for improvement of access roads in the Weber Basin project area shall be nonreimbursable. (78 Stat. 686)

\* \* \* \* \*

[Short title.]—This Act may be cited as the “Public Works Appropriation Act, 1965”. (78 Stat. 695)

**EXPLANATORY NOTES**

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

**Pacific Northwest—Pacific Southwest Intertie.** The Senate committee report states in part:

“Pacific Northwest—Pacific Southwest intertie, \$42,200,000.—The committee recommends an appropriation of \$42,200,000 to initiate construction of three of the four transmission lines between the power system of the Bonneville Power Administration and

the Pacific Southwest recommended in the report of the Secretary of the Interior on June 24, 1964, as amended on July 21 and July 27, 1964. The committee’s recommendation is based upon acceptance by the Secretary of the Interior of those proposals for participation in the construction of the intertie transmission facilities submitted by non-Federal agencies, which the Secretary indicates in his report, as amended, he will utilize in effectuating the intertie.

“Of this amount, \$1 million is for the

Oregon portion of the 750-kilovolt direct-current line between The Dalles Dam and Hoover Dam; \$29,300,000 for the Oregon portion of the 750-kilovolt direct-current line from The Dalles Dam via Nevada to the Sylmar substation, Los Angeles; and \$11,900,000 for the Oregon portion of the 500-kilovolt alternating-current line between the John Day Dam via the Central Valley of California to the Vincent substation, Los Angeles.

"The committee directs that before construction of The Dalles Dam-Hoover Dam line begins, the Secretary shall review load potentials on the line and find that it will be financially feasible and self-liquidating over its service life. In this review, he will consider the importance of this line to, and its economic effect on, the entire intertie system which he has recommended, and shall take cognizance of the economic value of the line for diversity exchanges between the Pacific Northwest and the Pacific Southwest, as well as the advantages to the Federal Government of an interconnection between two major federally owned power systems. Before energy generated in the upper division of the Colorado River Basin may be displaced by energy transmitted on The Dalles Dam-Hoover Dam line, the Secretary shall insure that said displaced energy is marketable in such quantities and at such rates as to assure that the repayment schedule of the Upper Colorado River Basin fund will not be delayed or otherwise adversely affected; and will not displace energy supplied to consumers (excepting cooperatives and public bodies as defined in the Bonneville Project Act) from any other source.

"With respect to the intertie lines, the committee approves the existing policy of the Department to the effect that it will not enter into contracts which call for wheeling charges greater than Federal costs for such service, or which do not provide to the Department wheeling capacity in the lines to meet its full requirements. It is the desire of the committee that all such contracts be made public and be transmitted to

the Senate not less than 60 days before their effective dates.

"The committee directs that none of these funds shall be expended until there has been enacted into law S. 1007, or similar legislation, guaranteeing electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority.

"The committee also directs that no contracts between the Secretary and non-Federal agencies for construction of portions of these transmission lines shall be effective until funds appropriated in this act become available after requirements set forth in this report have been met; and until the Secretary has directed the Bonneville Power Administration and the Bureau of Reclamation to proceed with construction of all those portions of the transmission lines for which appropriations are provided in this bill. It is the desire of the committee that construction of the 750-kilovolt direct-current line between The Dalles Dam and Hoover Dam shall commence not later than construction of other lines of the intertie is initiated." S. Rept. No. 1326, 88th Cong., 2d Sess. 37-38 (1964).

The report also states, at page 33, that the same requirements and restrictions shall govern the use of funds recommended for the Bureau of Reclamation for the Intertie.

The conference report states that the conferees are in agreement with the above provision of the Senate report. H.R. Rept. No. 1794, 88th Cong., 2d Sess. 42 (1964).

**Legislative History.** H.R. 11579, Public Law 88-511 in the 88th Congress. Reported in House from Appropriations June 11, 1964; H.R. Rept. No. 1479. Passed House June 16, 1964. Reported in Senate from Appropriations, Aug. 5, 1964; S. Rept. No. 1326. Passed Senate, amended, Aug. 7, 1964. Senate asks for a conference Aug. 7, 1964. House agrees to a conference Aug. 12, 1964. Conference report filed Aug. 13, 1964; H.R. Rept. No. 1794. House agrees to conference report Aug. 14, 1964. Senate agrees to conference report Aug. 14, 1964.

#### NOTE OF OPINION

##### 1. Keating amendment

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.

## RECREATION DEVELOPMENT, SANFORD RESERVOIR

An act to provide for the establishment and administration of public recreational facilities at the Sanford Reservoir area, Canadian River project, Texas, and for other purposes. (Act of August 31, 1964, Public Law 88-536, 78 Stat. 744)

[**Sec. 1. Recreation development.**]—The Secretary of the Interior is hereby authorized to investigate, plan, construct, operate and maintain, or otherwise provide for basic public outdoor recreation facilities at the Sanford Reservoir area, Canadian Federal reclamation project, to acquire or otherwise include within the project area such adjacent lands or interests therein as are necessary for present or future public recreation use, and to provide for the public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes: *Provided*, That this Act shall not provide the Secretary with a basis for allocation to recreation of water, reservoir capacity, or joint project costs of the Canadian River project nor affect the priority for municipal use of water stored in Sanford Reservoir, or the priority of use for municipal purposes of the capacity of said reservoir. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, or additional development of project lands or facilities, or to dispose of project lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The cost of providing basic recreation facilities shall be nonreimbursable. In carrying out the aforesaid activities the Secretary shall take cognizance of the effect of the fish and wildlife plan approved by the President December 19, 1962, pursuant to the Act of December 29, 1950 (64 Stat. 1124) in providing facilities at the Canadian River project which have general recreation utility. (78 Stat. 744; 43 U.S.C. § 600d)

**Sec. 2. [Appropriation.]**—There are authorized to be appropriated such amounts, but not more than \$1,100,000, as may be necessary for the investigation, preparation of plans, construction and acquisition of lands authorized in this Act. (78 Stat. 744; 43 U.S.C. § 600e)

### EXPLANATORY NOTES

**Canadian River Project.** The Canadian River project was found feasible by the Secretary of the Interior on January 13, 1950. A modification of the report was approved by him on May 3, 1950. The project was authorized, subject to the consent of Congress to the Canadian River Compact, by the Act of December 29, 1950. The Congress granted its consent to the compact by the Act of May 17, 1952. Both acts appear herein in chronological order.

**Supplementary Provision: Establishment of National Monument.** The Act of August 31, 1965, 79 Stat. 587, authorizes the estab-

lishment of the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument in the vicinity of Sanford Reservoir. The act appears herein in chronological order.

**Legislative History.** H.R. 8135, Public Law 88-536 in the 88th Congress. Reported in House from Interior and Insular Affairs Nov. 7, 1963; H.R. Rept. No. 891. Passed House Nov. 18, 1963. Reported in Senate from Interior and Insular Affairs Aug. 17, 1964; S. Rept. No. 1461. Passed Senate Aug. 18, 1964.

## PACIFIC NORTHWEST POWER MARKETING

An act to guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority, and for other purposes. (Act of August 31, 1964, Public Law 88-552, 78 Stat. 756)

[Sec. 1. Definitions.]—As used in this Act—

(a) “Secretary” means the Secretary of the Interior.

(b) “Pacific Northwest” means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region.

(c) “Surplus energy” means electric energy generated at Federal hydroelectric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rate.

(d) “Surplus peaking capacity” means electric peaking capacity at Federal hydroelectric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.

(e) “Non-Federal utility” means any utility not owned or controlled by the United States, including any entity (1) which such a utility owns or controls, in whole or in part, or is controlled by, (2) which is controlled by those controlling such utility, or (3) of which such utility is a member.

(f) “Energy requirements of any Pacific Northwest customer” means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the hydroelectric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.

(g) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission. (78 Stat. 756; 16 U.S.C. § 837)

### EXPLANATORY NOTE

Extension of Marketing Area. Order No. 2883 of October 6, 1964, of the Secretary of the Interior provides as follows: “Pur-

suant to subsection (b) of section 1 of the Act of August 31, 1964, Public Law 88-552, and Reorganization Plan No. 3 of 1950, 64

Stat. 1262, those portions of the States of Nevada, Utah and Wyoming within the Columbia drainage basin, and all of the State of Idaho are included within the marketing area of the Bonneville Power Administration and the Federal Columbia River Power System." (29 FR 14081)

**Sec. 2. [Sales outside Pacific Northwest—Prior notice to Northwest customers.]**—Subject to the provisions of this Act, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, Federal hydroelectric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least 30 days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Bonneville Power Administration written notice that negotiations for such a contract are pending, and thereafter, at any customer's request, make available for its inspection current drafts of the proposed contract. (78 Stat. 756; 16 U.S.C. § 837a)

**Sec. 3. [Criteria for contracts for the sale of surplus energy outside the Pacific Northwest—Determination of Northwest energy requirements.]**—(a) Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or indirectly, within the Pacific Northwest for hydroelectric energy delivered for use outside that region by a non-Federal utility, shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, will not deliver electric energy under such contract whenever it can reasonably be foreseen that such delivery would impair his ability to meet, either at or after the time of such delivery, the energy requirements of any Pacific Northwest customer. The purchaser shall obligate himself not to take delivery of or use any such energy to supply any load under such conditions that discontinuance of deliveries from the Pacific Northwest in sixty days would cause undue hardship to the purchaser or in his territory, and, further, the purchaser shall acknowledge full responsibility if any such hardship occurs. Deliveries by a non-Federal utility from its generating plants in the Pacific Northwest for use on its own distribution system in an area outside but contiguous to the Pacific Northwest (not including any extension of its outside service area by merger or acquisition after the effective date of this Act) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Electric energy generated at Federal hydroelectric plants in the Pacific Northwest which can be conserved, for which there is no immediate demand in the Pacific Northwest at any established rate, but for which the Secretary determines there may be a demand in meeting the future requirements of the Pacific Northwest, may be delivered for use outside that region only on a provisional basis under contracts providing that if the Secretary determines at a subsequent time that, by virtue of prior deliveries under such contract, the Secretary is or will be unable to meet the energy requirements of any Pacific Northwest customer, the purchaser will return the full amount of energy delivered to him, or such portion or portions thereof as may be required, at such time or times as may be specified by the Secretary, except that the Secretary shall not require return during the purchaser's daily peak periods. The Secretary shall require

the return of the energy provisionally delivered hereunder, to such extent and at such times, as may be necessary to meet demands at any established rate for use within the Pacific Northwest.

(c) Any contract for the disposition of surplus peaking capacity shall provide that (1) the Secretary may terminate the contract upon notice not in excess of sixty months, and (2) the purchaser shall advance or return the energy necessary to supply the peaking capacity, except that the Secretary shall not require such advance or return during the purchaser's daily peak periods. The Secretary may contract for the sale of such energy to the purchaser, in lieu of its return, under the conditions prescribed in subsection (a) of this section.

(d) The Secretary, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having hydroelectric generating facilities, shall exclude any amounts of hydroelectric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility's own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement therefor only what would otherwise be surplus energy. (78 Stat. 756; 16 U.S.C. § 837b)

**Sec. 4. [Sale of electric energy in the Pacific Northwest which is generated outside the area.]**—Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, Federal hydroelectric plants in marketing areas outside the Pacific Northwest for use within the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 for any contract for the sale or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. (78 Stat. 757; 16 U.S.C. § 837c)

**Sec. 5. [Exchange of energy during refill periods—Return of energy to Pacific Northwest.]**—Without regard to the limitations specified in sections 2 and 3 of this Act the Secretary may enter into contracts for the exchange with areas other than the Pacific Northwest of (1) surplus energy during the Pacific Northwest storage refill period, (2) any hydroelectric energy during the Pacific Northwest storage refill period which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest refill period or the succeeding storage drawdown period, (3) any hydroelectric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period, (4) hydroelectric peaking capacity, or (5) surplus peaking capacity for energy. All benefits from such exchanges, including resulting increases of firm power, shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each. (78 Stat. 758; 16 U.S.C. § 837d)

**Sec. 6. [Use of excess capacity in Federal transmission lines.]**—Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Pacific Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 9, shall be made available as a carrier for transmission of other electric

energy between such areas. The transmission of other electric energy shall be at equitable rates determined by the Secretary, but such rates shall be subject to equitable adjustment at appropriate intervals not less frequently than once in every five years as agreed to by the parties. No contract for the transmission of non-Federal energy on a firm basis shall be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy, the energy described in section 9, or other electric energy. (78 Stat. 758; 16 U.S.C. § 837e)

**Sec. 7. [Priority purchasers.]**—The Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at Federal hydroelectric plants in the Pacific Northwest to include, and shall include in all new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this Act. (78 Stat. 758; 16 U.S.C. § 837f)

**Sec. 8. [Restrictions on construction of transmission lines and arrangements for transmission capacity.]**—No electric transmission lines or related facilities shall be constructed by any Federal agency outside the Pacific Northwest for the purpose of transmitting electric energy between the Pacific Northwest and Pacific Southwest, nor shall any arrangement for transmission capacity be executed by any Federal agency for the purpose of financing such lines and related facilities to be constructed by non-Federal entities, except those lines and facilities recommended for Federal construction in the Report of the Secretary of the Interior submitted to Congress on June 24, 1964, as supplemented on July 27, 1964, or as hereafter specifically authorized by Congress: *Provided*, That, except, with respect to electric transmission lines and related facilities for the purpose of transmitting electric energy between the two regions above mentioned, nothing herein shall be construed as expanding or diminishing in any way the present authority of the Secretary of the Interior to construct transmission lines to market power and energy. (78 Stat. 758; 16 U.S.C. § 837g)

#### EXPLANATORY NOTE

**Availability of Report.** The report of June 24, 1964, and supplemental letters of July 21 and July 27, 1964, cited in text, have been reprinted in a committee print of the Senate Committee on Appropriations entitled "Report to the Appropriations

Committees of the Congress of the United States Recommending a Plan of Construction and Ownership of EHV Electric Interties between the Pacific Northwest and Pacific Southwest (1964)."

**Sec. 9. [Exclusions.]**—The provisions of this Act shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 6, downstream power benefits to which Canada is entitled under the treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, nor to energy or capacity disposed of to Canada in any exchange pursuant to paragraph 1 or 2 of article VIII thereof. Nothing in this Act shall be construed to modify the geographical preference of power users in the State

of Montana which is established by the Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended. (78 Stat. 758; 16 U.S.C. § 837h)

## EXPLANATORY NOTES

**Reference in the Text.** The Canyon Ferry project, referred to in section 9 of the text, was authorized as a unit of the Missouri River Basin project, by section 9(a) of the Flood Control Act of December 22, 1944, which approved the general comprehensive plans set forth in Senate Documents 191 and 247, 78th Congress. The Act appears herein in chronological order.

**Reference in the Text.** The treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, and referred to in section 9 of the text, appears herein in chronological order.

**Reference in the Text.** The Hungry Horse Dam Act of June 5, 1944, 58 Stat. 270 (incorrectly referred to in the statute as the Act of June 4, 1944), which is referred

to in section 9 of the text, appears herein in chronological order.

**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. 1007, Public Law 88-552 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Apr. 9, 1963; S. Rept. No. 122. Passed Senate Apr. 23, 1963. Reported in House from Interior and Insular Affairs July 25, 1963; H.R. Rept. No. 590. Passed House, amended, Aug. 27, 1963. Senate asks for a conference Sept. 10, 1963. House agrees to a conference Oct. 2, 1963. Conference report filed Aug. 17, 1964; H.R. Rept. No. 1822. House agrees to conference report Aug. 18, 1964. Senate agrees to conference report Aug. 20, 1964.

## NOTE OF OPINION

## 1. Canadian exchange power

Exchange power furnished by the Bonneville Power Administration under Canadian Entitlement Exchange Agreements is ex-

empted from the Pacific Northwest regional preference act by section 9 of the act. Solicitor Barry Opinion, February 11, 1965.

## JUDGE FRANCIS CARR POWERHOUSE

An act to designate the powerhouse on Clear Creek at the head of Whiskeytown Reservoir, in the State of California, as Judge Francis Carr Powerhouse. (Act of August 31, 1964, Public Law 88-555, 78 Stat. 764)

[**Powerhouse named.**]—The one hundred and thirty thousand kilowatt capacity powerhouse on Clear Creek at the head of Whiskeytown Reservoir shall hereafter be known as Judge Francis Carr Powerhouse in honor of Judge Francis Carr, of Redding, California, a lawyer, judge, public servant, and advocate of reclamation development including the great Central Valley project developed to meet the serious water shortages in the San Joaquin Valley and Sacramento Valley of California. The Secretary of the Interior is hereby directed to place a suitable plaque at the site. Any law, regulation, document, or record of the United States in which such powerhouse is designated or referred to shall be held to refer to such powerhouse under and by the name of Judge Francis Carr Powerhouse. (78 Stat. 764)

### EXPLANATORY NOTES

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

**Legislative History.** H.J. Res. 733, Public Law 88-555 in the 88th Congress. Reported in House from Interior and Insular Affairs Apr. 27, 1964; H.R. Rept. No. 1344.

Passed House May 4, 1964. Reported in Senate from Interior and Insular Affairs Aug. 18, 1964; S. Rept. No. 1462. Passed Senate, amended, Aug. 19, 1964. House agrees to Senate amendments Aug. 21, 1964.

## COMPENSATION FOR CANAL RIGHTS-OF-WAY

An act to provide for the payment of compensation, including severance damages, for rights-of-way acquired by the United States in connection with reclamation projects the construction of which commenced after January 1, 1961. (Act of September 2, 1964, Public Law 88-561, 78 Stat. 808)

[**Sec. 1. Compensation authorized to be paid owners of private land utilized for ditches or canals.**]—Notwithstanding the existence of any reservation of right-of-way to the United States for canals under the Act of August 30, 1890 (26 Stat. 371, 391; 43 U.S.C. 945), or any State statute, the Secretary of the Interior shall pay just compensation, including severance damages, to the owners of private land utilized for ditches or canals in connection with any reclamation project, or any unit or any division of a reclamation project, provided the construction of said ditches or canals commenced after January 1, 1961, and such compensation shall be paid notwithstanding the execution of any agreements or any judgments entered in any condemnation proceeding, prior to the effective date of this Act. (78 Stat. 808; Act of October 4, 1966, 80 Stat. 873; 43 U.S.C. § 945a)

**Sec. 2. [Jurisdiction conferred on United States District Court.]**—Jurisdiction of an action brought by the United States or the landowner for the determination of just compensation pursuant to this Act is hereby conferred on the United States district court in the district in which any such land is situated, without limitation to the amount of compensation sought by such suit. The procedure for such an action shall be governed by the Federal Rules of Civil Procedure for the condemnation of real and personal property. (Added by the Act of October 4, 1966, 80 Stat. 874; 43 U.S.C. § 945b)

**Sec. 3. [Effective date.]**—The amendment made by this Act shall apply to any condemnation action pending in any district court of the United States on the date of enactment of this Act and to any such action instituted after that date. (Added by the Act of October 4, 1966, 80 Stat. 874; 43 U.S.C. § 945a note)

### EXPLANATORY NOTES

**1966 Amendments.** The Act of October 4, 1966, 80 Stat. 873, amended section 1 by inserting the phrases "to the United States" and "or any State statute," and added sections 2 and 3 to the Act. The 1966 Act appears herein in chronological order.

**Reference in the Text.** Extracts from the Act of August 30, 1890, 26 Stat. 371, referred to in the text, appear herein in chronological order.

**Legislative History.** H.R. 130, Public Law 88-561 in the 88th Congress. Reported in House from Interior and Insular Affairs Nov. 26, 1963; H.R. Rept. No. 922. Passed House Dec. 2, 1963. Reported in Senate from Interior and Insular Affairs Aug. 20, 1964; S. Rept. No. 1507. Passed Senate Aug. 21, 1964.

### NOTE OF OPINION

#### 1. Rights-of-way reserved by State law

This act does not authorize compensation for rights-of-way reserved to the United States by State statute; and it cannot be

contended that the State of Utah, in enacting such a statute, was simply implementing the Act of August 30, 1890, because the land was selected pursuant to the State's

September 2, 1964

COMPENSATION FOR CANAL RIGHTS-OF-WAY

1767

enabling act of July 16, 1894, 28 Stat. 107. Letter of Deputy Solicitor Weinberg to Assistant Attorney General Clark, February 9, 1965, in re contention of Utah Power and Light Company regarding land acquired for

Willard Canal, Weber Basin project. (Ed. note: The 1966 amendment included reservations under State statute. See explanatory note above.)

## DIXIE PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Dixie project, Utah, and for other purposes. (Act of September 2, 1964, Public Law 88-565, 78 Stat. 848)

[**Sec. 1. Dixie project authorized.**]—For the purposes of developing the water resources of the Virgin and Santa Clara Rivers, including the furnishing of municipal and industrial water supplies, the furnishing of an irrigation water supply to approximately twenty-one thousand acres of land, the control of floods, the generation and sale of electric energy, the conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities, the Secretary of the Interior is authorized to construct, operate, and maintain the Dixie project, Utah. The project shall consist of the Virgin City Dam and Reservoir, tunnels, canals, siphons, pumping plants, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Virgin River; a dam on the Santa Clara River near Gunlock, Utah, and other works necessary to serve irrigated and irrigable lands along and adjacent to the Santa Clara River and on Ivins Bench; and hydroelectric plants and transmission facilities at the Virgin City Dam and at such other points as are desirable. The Dixie project shall be coordinated with the Cedar City water development program which includes the diversion of the waters of Crystal Creek into the Kolob Reservoir, and after completion of the Dixie project said waters of Crystal Creek and of the natural watershed of said Kolob Reservoir shall be exported for use of Cedar City and vicinity in accordance with an agreement entered by Cedar City and Iron County, Utah, on the 26th day of August 1953, with Kolob Reservoir and Storage Association, Incorporated, and Washington County, Utah. (78 Stat. 848; 43 U.S.C. § 616aa)

**Sec. 2. [Insure delivery to downstream users.]**—The project shall include such measures for the disposition of saline waters of La Verkin Springs as are necessary in the opinion of the Secretary to insure the delivery of water at downstream points along the Virgin River for water users in the States of Arizona and Nevada of suitable quality for irrigation, or provision shall be made to indemnify such water users for any impairment of water quality for irrigation purposes directly attributable to Dixie project operations. (78 Stat. 848; 43 U.S.C. § 616bb)

**Sec. 3. [Reclamation laws to govern project.]**—In constructing, operating, and maintaining the works authorized by this Act, 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. (78 Stat. 848; 43 U.S.C. § 616cc)

**Sec. 4. [Conservancy district to be established.]**—Construction of the project shall not be commenced until there shall be established a conservancy district or similar organization with such powers as may be required by the Secretary, these to include powers to tax both real and personal property within the boundary

of the district and to enter into contracts with the United States for the repayment of reimbursable costs. (78 Stat. 848; 43 U.S.C. § 616dd)

**Sec. 5. [Interest rate—Repayment.]**—The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance of those portions of the reimbursable costs which are properly allocable to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which this bill is enacted, 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. If the interest rate so computed is not a multiple of one-eighth of 1 per centum, the rate of interest to be used for these purposes shall be the multiple of one-eighth of 1 per centum next lower than the rate so computed. The portions of the costs which are allocable to commercial power development and to municipal and industrial water supply shall be repaid over a period of fifty years with interest at the rate determined in accordance with this section. The portion of the cost which is allocable to irrigation shall be repaid, pursuant to reclamation law, within fifty years plus any authorized development period. (78 Stat. 848; 43 U.S.C. § 616ee)

**Sec. 6. [Outdoor recreation—Fish and wildlife enhancement.]**—The Secretary is authorized in connection with the project to construct, operate, and maintain or otherwise provide for the basic public outdoor recreation facilities, to acquire or otherwise to include within the project area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for the public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of project lands or facilities, or to dispose of project lands or facilities to Federal agencies, or State or local public bodies by lease, transfer, conveyance, or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, and the costs of the project allocated to fish and wildlife enhancement, including costs of investigation, planning, Federal operation and maintenance, and an appropriate share of joint costs of the project, shall be nonreimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resource projects, or disposition of public lands for recreational purposes. (78 Stat. 849; 43 U.S.C. § 616ff)

**Sec. 7. [Water diversion subject to laws and treaty.]**—The use of all water diverted for this project from the Colorado River system shall be subject to and controlled by the Colorado River compact, the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617t), and the Mexican Water Treaty (Treaty Series 994) (59 Stat. 1219). (78 Stat. 849; 43 U.S.C. § 616gg)

**Sec. 8. [Appropriation.]**—There is hereby authorized to be appropriated for the construction of the Dixie project, the sum of \$42,700,000, plus or minus

September 2, 1964

1770

## DIXIE PROJECT

such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said project. (78 Stat. 849; 43 U.S.C. § 616hh)

### EXPLANATORY NOTE

**Legislative History.** S. 26, Public Law 88-565 in the 88th Congress. Reported in Senate from Interior and Insular Affairs, Oct. 21, 1963; S. Rept. No. 574. Passed Senate Oct. 30, 1963. Passed House, amended, Aug. 17, 1964. Senate agrees to House amendments Aug. 19, 1964. Companion bill H.R. 3279 reported in House from Interior and Insular Affairs, Aug. 8, 1964; H.R. Rept. No. 1725.

## WILDLIFE MANAGEMENT, KLAMATH PROJECT

An act to promote the conservation of the Nation's wildlife resources on the Pacific flyway in the Tule Lake, Lower Klamath, Upper Klamath, and Clear Lake National Wildlife Refuges in Oregon and California and to aid in the administration of the Klamath reclamation project. (Act of September 2, 1964, Public Law 88-567, 78 Stat. 850)

[**Sec. 1. Policy of the Congress.**]—It is hereby declared to be the policy of the Congress to stabilize the ownership of the land in the Klamath Federal reclamation project, Oregon and California, as well as the administration and management of the Klamath Federal reclamation project and the Tule Lake National Wildlife Refuge, Lower Klamath National Wildlife Refuge, Upper Klamath National Wildlife Refuge, and Clear Lake National Wildlife Refuge, to preserve intact the necessary existing habitat for migratory waterfowl in this vital area of the Pacific flyway, and to prevent depredations of migratory waterfowl on agricultural crops in the Pacific Coast States. (78 Stat. 850; 16 U.S.C. § 695k)

**Sec. 2. [Areas preserved for migratory waterfowl—Agricultural use.]**—Notwithstanding any other provisions of law, all lands owned by the United States lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge, the Lower Klamath National Wildlife Refuge, the Upper Klamath National Wildlife Refuge, and the Clear Lake Wildlife Refuge are hereby dedicated to wildlife conservation. Such lands shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith. Such lands shall not be opened to homestead entry. The following public lands shall also be included within the boundaries of the area dedicated to wildlife conservation, shall be administered by the Secretary of the Interior for the major purpose of waterfowl management, but with full consideration to optimum agricultural use that is consistent therewith, and shall not be opened to homestead entry: Hanks Marsh, and first form withdrawal lands (approximately one thousand four hundred and forty acres) in Klamath County, Oregon, lying adjacent to Upper Klamath National Wildlife Refuge; White Lake in Klamath County, Oregon, and Siskiyou County, California; and thirteen tracts of land in Siskiyou County, California, lettered as tracts "A", "B", "C", "D", "E", "F", "G", "H", "I", "J", "K", "L", and "N" totaling approximately three thousand two hundred and ninety-two acres, and tract "P" in Modoc County, California, containing about ten acres, all as shown on plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956, prepared by the United States Fish and Wildlife Service. All the above lands shall remain permanently the property of the United States. (78 Stat. 850; 16 U.S.C. § 695l)

## EXPLANATORY NOTE

**Klamath Project and Klamath Compact.** All lands referred to in section 2 above lie within, adjacent to or nearby the Klamath Federal reclamation project, Oregon-California. The project was authorized by the Secretary of the Interior, pursuant to the Reclamation Act of June 17, 1902, 32 Stat. 388, on May 15, 1905. The consent of

Congress to the negotiation of a compact relating to the waters of the Klamath River by the States of Oregon and California was given by the Act of August 9, 1955, 69 Stat. 613. The consent of Congress to the resulting compact was given by the Act of August 30, 1957, 71 Stat. 497. Each of these acts appears herein in chronological order.

**Sec. 3. [Payments to counties in lieu of taxes.]**—Subject to conditions hereafter prescribed, and pursuant to such regulations as may be issued by the Secretary, 25 per centum of the net revenues collected during each fiscal year from the leasing of Klamath project reserved Federal lands within the Executive order boundaries of the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge shall be paid annually by the Secretary, without further authorization, for each full fiscal year after the date of this Act to the counties in which such refuges are located, such payments to be made on a pro rata basis to each county based upon the refuge acreage in each county: *Provided*, That the total annual payment per acre to each county shall not exceed 50 per centum of the average per acre tax levied on similar lands in private ownership in each county, as determined by the Secretary: *Provided further*, That no such payments shall be made which will reduce the credits or the payments to be made pursuant to contractual obligations of the United States with the Tulelake Irrigation District or the payments to the Klamath Drainage District as full reimbursement for the construction of irrigation facilities within said district, and that the priority of use of the total net revenues collected from the leasing of the lands described in this section shall be (1) to credit or pay from such revenues to the Tulelake Irrigation District the amounts already committed to such payment or credit; (2) to pay from such revenues to the Klamath Drainage District the sum of \$197,315; and (3) to pay from such revenues to the counties the amounts prescribed by this section. (78 Stat. 850; 16 U.S.C. § 695m)

**Sec. 4. [Leasing of reserved lands continued.]**—The Secretary shall, consistent with proper waterfowl management, continue the present pattern of leasing the reserved lands of the Klamath Straits unit, the Southwest Sump, the League of Nations unit, the Henzel lease, and the Frog Pond unit, all within the Executive order boundaries of the Lower Klamath and Tule Lake National Wildlife Refuges and shown in plate 4 of the report entitled "Plan for Wildlife Use of Federal Lands in the Upper Klamath Basin, Oregon-California," dated April 1956. Leases for these lands shall be at a price or prices designed to obtain the maximum lease revenues. The leases shall provide for the growing of grain, forage, and soil-building crops, except that not more than 25 per centum of the total leased lands may be planted to row crops. All other reserved public lands included in section 2 of this Act shall continue to be managed by the Secretary for waterfowl purposes, including the growing of agricultural crops by direct planting and sharecrop agreements with local cooperators where necessary. (78 Stat. 851; 16 U.S.C. § 695n)

**Sec. 5. [Areas not to be reduced.]**—The areas of sumps 1(a) and 1(b) in the Klamath project lying within the Executive order boundaries of the Tule Lake National Wildlife Refuge shall not be reduced by diking or by any other construction to less than the existing thirteen thousand acres. (78 Stat. 851; 16 U.S.C. § 695o)

**Sec. 6. [Water levels to be maintained.]**—In carrying out the obligations of the United States under any migratory bird treaty, the Migratory Bird Treaty Act (40 Stat. 755), as amended or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, waters under the control of the Secretary of the Interior shall be regulated, subject to valid existing rights, to maintain sump levels in the Tule Lake National Wildlife Refuge at levels established by regulations issued by the Secretary pursuant to the contract between the United States and the Tulelake Irrigation District, dated September 10, 1956, or any amendment thereof. Such regulations shall accommodate to the maximum extent practicable waterfowl management needs. (78 Stat. 851; 16 U.S.C. § 695p)

## EXPLANATORY NOTES

**Reference in the Text.** The Migratory Bird Treaty Act of July 3, 1918, 40 Stat. 755, as amended, which is referred to in the text, does not appear herein. The Act is codified in 16 U.S.C. § 703, *et seq.*

**Reference in the Text.** The Migratory

Bird Conservation Act of February 18, 1929, 45 Stat. 1222, as amended, which is referred to in the text, does not appear herein. The Act is codified in 16 U.S.C. § 715, *et seq.*

**Sec. 7. [Clear Lake National Wildlife Refuge studies continued.]**—The Secretary is hereby directed to complete studies that have been undertaken relating to the development of the water resources and waterfowl management potential of the Clear Lake National Wildlife Refuge. The results of such studies, when completed, and the recommendations of the Secretary shall be submitted to the Congress. (78 Stat. 851; 16 U.S.C. § 695q)

**Sec. 8. [Regulations to implement Act.]**—The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this Act. (78 Stat. 851; 16 U.S.C. § 695r)

## 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.** S. 793, Public Law 88-567 in the 88th Congress. Reported in Senate from Interior and Insular Affairs June 28, 1963; S. Rept. No. 341. Passed Senate July 15, 1963. Reported in House

from Interior and Insular Affairs Dec. 19, 1963; H.R. Rept. No. 1072. Passed House, amended, Apr. 20, 1964. Senate asks for a conference Apr. 23, 1964. House agrees to a conference May 7, 1964. Conference report filed Aug. 17, 1964; H.R. Rept. No. 1820. House agrees to conference report Aug. 18, 1964. Senate agrees to conference report Aug. 19, 1964.

## SAVERY-POT HOOK, BOSTWICK PARK, AND FRUITLAND MESA PROJECTS

An act to provide for the construction, operation, and maintenance of the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa participating reclamation projects under the Colorado River Storage Project Act. (Act of September 2, 1964, Public Law 88-568, 78 Stat. 852)

[**Sec. 1. Savery-Pot Hook, Bostwick Park, and Fruitland Mesa projects authorized.**]—In order to provide for the construction, operation, and maintenance of the Savery-Pot Hook Federal reclamation project, Colorado-Wyoming, the Bostwick Park Federal reclamation project, Colorado, and the Fruitland Mesa Federal reclamation project, Colorado, as participating projects under the Colorado River Storage Project Act (70 Stat. 105; 43 U.S.C. 620), section 1 of said Act is amended by inserting the words “Savery-Pot Hook, Bostwick Park, Fruitland Mesa,” between the words “Seedskadee” and “Silt”; section 2 of said Act is amended by deleting the words “Savery-Pot Hook,” “Bostwick Park,” and “Fruitland Mesa.”. The amount which section 12 of said Act authorizes to be appropriated is hereby increased by the sum of \$47,000,000 plus or minus 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. This additional sum shall be available solely for the construction of the projects herein authorized. (78 Stat. 852; 43 U.S.C. §§ 616 mm, 620, 620a)

**Sec. 2. [Construction and operation plans.]**—The Savery-Pot Hook Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior transmitted to the Congress on June 25, 1962, and printed as House Document 461, Eighty-seventh Congress. The Bostwick Park Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior submitted to the Congress on July 20, 1962, and printed as House Document 487, Eighty-seventh Congress. The Fruitland Mesa Federal reclamation project shall be constructed and operated substantially in accordance with the engineering plans set out in the report of the Secretary of the Interior transmitted to Congress on April 19, 1963, and printed as House Document 107, Eighty-eighth Congress. Acreage equivalents expressed in those reports may be modified at the discretion of the Secretary of the Interior. (78 Stat. 852; 43 U.S.C. § 616ii)

**Sec. 3. [Size of farm units.]**—For the purpose of assisting in the permanent settlement of farm families, protecting project land, facilitating project development, and other beneficial purposes, the provisions of the Act of August 28, 1958 (72 Stat. 963), relating to the Seedskadee project in Wyoming, are hereby made equally applicable to the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa projects and all references therein to “Wyoming”, “the State of Wyoming”, “the laws of the State of Wyoming”, or “said State” shall also refer to the State of

Colorado to the extent that lands of the said projects 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. (78 Stat. 852; 43 U.S.C. § 616jj)

## EXPLANATORY NOTE

**Reference in the Text.** The Act of August 28, 1958 (72 Stat. 963), referred to in the text, authorizes the acquisition and disposition of certain private lands and establishes the size of farm units on the Seedskadee project, Wyoming. The Act appears herein in chronological order.

**Sec. 4. [Recreation and fish and wildlife enhancement—Cost allocations.]—**  
 (a) Costs of the Bostwick Park, Fruitland Mesa, and Savery-Pot Hook projects, incurred pursuant to section 8 of the Act of April 11, 1956 (70 Stat. 105), including an appropriate share of the aggregate of joint costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable: *Provided*, That in the case of the Bostwick Park project joint costs allocated to recreation and fish and wildlife enhancement shall in the aggregate be nonreimbursable only to the extent they do not exceed 25 per centum of the cost of joint use land and facilities of that project (joint use land and facilities being defined as land or facilities serving two or more project purposes one of which is recreation or fish and wildlife enhancement) and: *Provided further*, That provision shall be made for the reimbursement, for the contribution by non-Federal interests, or for the reallocation of joint costs of said project allocated to recreation and fish and wildlife enhancement in excess of the foregoing limit under one or a combination of the following methods as may be determined appropriate by the Secretary: (1) provision by non-Federal interests of lands or interests therein, or facilities required for the project; (2) payment, or repayment, with interest at a rate determined in accordance with section 5(f) of the Act of April 11, 1956, as amended, pursuant to agreement with one or more non-Federal public bodies; (3) reallocation to other project functions in the same proportion as joint costs are allocated among such functions.

(b) In connection with the Bostwick Park and Fruitland Mesa projects the Secretary of the Interior shall transfer lands acquired for the projects within exterior national forest boundaries for administration as national forest, and jurisdiction of national forest lands within the projects shall remain with the Secretary of Agriculture for recreation and other national forest system purposes: *Provided*, That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the projects for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation.

(c) 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 other project functions. (78 Stat. 852; 43 U.S.C. § 616kk)

## EXPLANATORY NOTE

**Reference in the Text.** The Act of April 11, 1956, referred to in two instances in section 4 of the text, is the Colorado River Storage Project Act, which appears herein in chronological order. Section 8 of the Act, referred to in the first instance, deals with recreation and fish and wildlife facilities. Section 5(f), referred to in the second instance, deals with the computation of the project interest rate.

**Sec. 5. [Production of basic agricultural commodities restricted.]**—For a period of ten years from the date of enactment of this Act, no water from the projects 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. (78 Stat. 853; 43 U.S.C. § 616*ll*)

## EXPLANATORY NOTES

**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. 3672, Public Law 88-568 in the 88th Congress. Reported in House from Interior and Insular Affairs July 23, 1964; H.R. Rept. No. 1571. Passed House Aug. 3, 1964. Reported in Senate from Interior and Insular Affairs, Aug. 19, 1964; S. Rept. No. 1479. Passed Senate, amended, Aug. 20, 1964. House agrees to Senate amendments Aug. 21, 1964.

## WILDERNESS ACT

An act to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes. (Act of September 3, 1964, Public Law 88-577, 78 Stat. 890)

### SHORT TITLE

[Section 1.]—This Act may be cited as the “Wilderness Act”. (78 Stat. 890; 16 U.S.C. § 1131)

### WILDERNESS SYSTEM ESTABLISHED STATEMENT OF POLICY

Sec. 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as “wilderness areas”, and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as “wilderness areas” except as provided for in this Act or by a subsequent Act.

(b) The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

### DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is

## WILDERNESS ACT

protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value. (78 Stat. 890; 16 U.S.C. § 1131)

## NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM

Sec. 3. (a) All areas within the national forests classified at least 30 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

(b) The Secretary of Agriculture shall, within ten years after the enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as "primitive" within three years after the enactment of this Act, not less than two-thirds within seven years after the enactment of this Act, and the remaining areas within ten years after the enactment of this Act. Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty

acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

(c) Within ten years after the effective date of this Act the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within, the national wildlife refuges and game ranges, under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after enactment of this Act, not less than two-thirds within seven years of enactment of this Act, and the remainder within ten years of enactment of this Act. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

(d) (1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness—

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

## WILDERNESS ACT

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section. (78 Stat. 891-893; 16 U.S.C. § 1132)

## USE OF WILDERNESS AREAS

Sec. 4. (a) The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and—

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215).

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

(3) Nothing in this Act shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with the Act of August 25, 1916, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

## EXPLANATORY NOTE

References in the Text (in the order referred to). (1) The Act of June 4, 1896 (30 Stat. 11) is an Appropriation Act for the fiscal year ending June 30, 1898, and includes (30 Stat. 34) an appropriation for the survey of public lands set aside by Executive Order as forest reserves. (2) The Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215) specifies the multiple purposes for which forest areas are to be used. (3) The Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), among other things, restricts logging and the alteration of the natural water levels in certain areas of the public domain in northern Minnesota in order to preserve the natural beauty of the lands and waters—especially the shore lines—of the areas. (4) The Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), provides for the safeguarding of certain areas of exceptional public value within the Superior National Forest, Minnesota. (5) The Humphrey - Thye - Blatnik - Andresen Act (Public Law 607, Eighty-fourth Congress, June 22, 1956; 70 Stat. 326), extended and made applicable to additional lands the provisions of the Thye-Blatnik Act (item

“(4)” above). (6) The Act of August 25, 1916, established the National Park Service (39 Stat. 535; 16 U.S.C. 1). (7) The Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432, *et seq.*), deals with the issuing of permits to those qualified to examine ruins, to excavate at archeological sites and to gather objects of antiquity upon lands under the jurisdiction of the Secretaries of Interior, Agriculture and Defense. (8) Section 3(2) of the Federal Power Act (16 U.S.C. 796(2)), defines the word “reservations,” i.e., national forests, military and Indian reservations, lands withdrawn from disposal under the public land laws, etc. The act prohibits the granting of licenses for the construction of dams, power facilities, etc., that interfere or are inconsistent with the purpose for which the reservation was created or acquired. (9) And lastly, the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461, *et seq.*) provides for the preservation for public use of historic sites, buildings and objects of national significance. Extracts from the Federal Power Act, listed above as item “(8)”, appear herein in chronological order under the Act of August 26, 1935. None of the other acts listed above appear herein.

(b) Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

## PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

## SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted

to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Notwithstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this Act, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided*, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions

of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(5) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: *Provided*, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.

(6) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

(7) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(8) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests. (78 Stat. 893-896; 16 U.S.C. § 1133)

#### STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

Sec. 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the

Secretary of Agriculture: *Provided, however,* That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress. (78 Stat. 896; 16 U.S.C. § 1134)

#### GIFTS, BEQUESTS, AND CONTRIBUTIONS

**Sec. 6.** (a) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

(b) The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act. (78 Stat. 896; 16 U.S.C. § 1135)

#### ANNUAL REPORTS

**Sec. 7.** At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make. (78 Stat. 896; 16 U.S.C. § 1136)

#### EXPLANATORY NOTES

**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. 4, Public Law 88-577 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Apr. 3, 1963; S. Rept. No. 109. Passed Senate Apr. 9, 1963. Passed House, amended,

July 30, 1964. Senate asks for a conference Aug. 4, 1964. House agrees to a conference Aug. 7, 1964. Conference report filed Aug. 19, 1964; H.R. Rept. No. 1829. House agrees to Conference Report Aug. 20, 1964. Senate agrees to conference report Aug. 20, 1964. Companion bill H.R. 9070 reported in House from Interior and Insular Affairs July 2, 1964; H.R. Rept. No. 1538.

## LAND AND WATER CONSERVATION FUND ACT OF 1965

An act to establish a land and water conservation fund to assist the States and Federal agencies in meeting present and future outdoor recreation demands and needs of the American people, and for other purposes. (Act of September 3, 1964, Public Law 88-578, 78 Stat. 897)

### TITLE I—LAND AND WATER CONSERVATION PROVISIONS

#### SHORT TITLE AND STATEMENT OF PURPOSES

[Section 1.]—(a) CITATION; EFFECTIVE DATE.—This Act may be cited as the “Land and Water Conservation Fund Act of 1965” and shall become effective on January 1, 1965.

(b) PURPOSES.—The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas. (78 Stat. 897; 16 U.S.C. § 4601-4)

#### CERTAIN REVENUES PLACED IN SEPARATE FUND

Sec. 2. SEPARATE FUND.—During the period ending June 30, 1989, and during such additional period as may be required to repay any advances made pursuant to section 4(b) of this Act, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the “fund”, the following revenues and collections:

(a) ENTRANCE AND USER FEES; ESTABLISHMENT; REGULATIONS.—All proceeds from entrance, admission, and other recreation user fees or charges collected or received by the National Park Service, the Bureau of Land Management, the Bureau of Sport Fisheries and Wildlife, the Bureau of Reclamation, the Forest Service, the Corps of Engineers, the Tennessee Valley Authority, and the United States section of the International Boundary and Water Commission (United States and Mexico), notwithstanding any other provision of law: *Provided*, That nothing in this Act shall affect any rights or authority of the States with respect to fish and wildlife, nor shall this Act repeal any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be

credited to specific purposes; but the proceeds from fees or charges established by the President pursuant to this subsection for entrance or admission generally to Federal areas shall be used solely for the purposes of this Act.

The President is authorized, to the extent and within the limits hereinafter set forth, to designate or provide for the designation of land or water areas administered by or under the authority of the Federal agencies listed in the preceding paragraph at which entrance, admission, and other forms of recreation user fees shall be charged and to establish and revise or provide for the establishment and revisions of such fees as follows:

(i) An annual fee of not more than \$7 payable by a person entering an area so designated by private noncommercial automobile which, if paid, shall excuse the person paying the same and anyone who accompanies him in such automobile from payment of any other fee for admission to that area and other areas administered by or under the authority of such agencies, except areas which are designated by the President as not being within the coverage of the fee, during the year for which the fee has been paid.

(ii) Fees for a single visit or a series of visits during a specified period of less than a year to an area so designated payable by persons who choose not to pay an annual fee under clause (i) of this paragraph or who enter such an area by means other than private noncommercial automobile.

(iii) Fees payable for admission to areas not within the coverage of a fee paid under clause (i) of this paragraph.

(iv) Fees for the use within an area of sites, facilities, equipment, or services provided by the United States.

Entrance and admission fees may be charged at areas administered primarily for scenic, scientific, historical, cultural, or recreational purposes. No entrance or admission fee shall be charged except at such areas or portions thereof administered by a Federal agency where recreation facilities or services are provided at Federal expense. No fee of any kind shall be charged by a Federal agency under any provision of this Act for use of any waters. All fees established pursuant to this subsection shall be fair and equitable, taking into consideration direct and indirect costs to the Government, benefits to the recipient, public policy or interest served, and other pertinent factors. Nothing contained in this paragraph shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation. No such fee shall be charged for travel by private noncommercial vehicle over any national parkway or any road or highway established as a part of the national Federal-aid system, as defined in section 101, title 23, United States Code, or any road within the National Forest system or a public land area, which, though it is part of a larger area, is commonly used by the public as a means of travel between two places either or both of which are outside the area. No such fee shall be charged any person for travel by private noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area.

No fees established under clause (ii) or clause (iii) of the second paragraph of this subsection shall become effective with respect to any area which embraces lands more than half of which have heretofore been acquired by contribution

September 3, 1964

LAND AND WATER CONSERVATION FUND ACT 1787

from the government of the State in which the area is located until sixty days after the officer of the United States who is charged with responsibility for establishing such fees has advised the Governor of the affected State, or an agency of the State designated by the Governor for this purpose, of his intention so to do, and said officer shall, before finally establishing such fees, give consideration to any recommendation that the Governor or his designee may make with respect thereto within said sixty days and to all obligations, legal or otherwise, that the United States may owe to the State concerned and to its citizens with respect to the area in question. In the Smoky Mountains National Park, unless fees are charged for entrance into said park on main highways and thoroughfares, fees shall not be charged for entrance on other routes into said park or any part thereof.

There is hereby repealed the third paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 7, 1928 (45 Stat. 238) and the second paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 4, 1929 (45 Stat. 1602; 16 U.S.C. 14). Section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 24, 1944 (16 U.S.C. 460d), as amended by the Flood Control Act of 1962 (76 Stat. 1195) is further amended by deleting ", without charge," in the third sentence from the end thereof. All other provisions of law that prohibit the collection of entrance, admission, or other recreation user fees or charges authorized by this Act or that restrict the expenditure of funds if such fees or charges are collected are hereby also repealed: *Provided*, That no provision of any law or treaty which extends to any person or class of persons a right of free access to the shoreline of any reservoir or other body of water, or to hunting and fishing along or on such shoreline, shall be affected by this repealer.

The heads of departments and agencies are authorized to prescribe rules and regulations for the collection of any entrance, admission, and other recreation user fees or charges established pursuant to this subsection for areas under their administration: *Provided further*, That no free passes shall be issued to any Member of Congress or other government official. Clear notice that a fee or charge has been established shall be posted at each area to which it is applicable. Any violation of any rules or regulations promulgated under this title at an area so posted shall be punishable by a fine of not more than \$100. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. (78 Stat. 897; Act of July 9, 1965, 79 Stat. 218; 16 U.S.C. § 460l-5)

EXPLANATORY NOTES

1965 Amendment. Section 11 of the Federal Water Project Recreation Act, enacted July 9, 1965, amended subsection 2(a) of

this Act by striking out the words "notwithstanding any provision of law that such proceeds shall be credited to miscellaneous

receipts of the Treasury:" and inserting in lieu thereof the words "notwithstanding any other provision of law:" and by striking out the words "or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law" and inserting in lieu thereof "or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes."

**Executive Order.** Executive Order 11200, 30 F.R. 2645 (1965), designates the classes of areas for which fees may be charged and sets down procedures for the establishment of fees pursuant to subsection 2(a).

**References in the Text—Paragraphs Repealed.** The paragraph in the Act of March 7, 1928 (45 Stat. 238), and that in the Act

of March 4, 1929 (45 Stat. 1602; 16 U.S.C. § 14), which are repealed by the penultimate paragraph of this subsection were identical in language and forbid the use of appropriated funds within any park or national monument wherein a charge is made or collected by the National Park Service for campground privileges.

**References in the Text—Amendment.** The Act of December 24, 1944 (sic—actually the Act of December 22, 1944), (16 U.S.C. § 460d), as amended by the Flood Control Act of 1962 (76 Stat. 1195), referred to in the text, provided that reservoir areas under the supervision of the Secretary of the Army should be available for general public recreational use "without charge." The amendment effected by the penultimate paragraph of this subsection deletes the words "without charge". Extracts from the 1944 Act appear herein in chronological order.

(b) **SURPLUS PROPERTY SALES.**—All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485(b)–(e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions. (78 Stat. 899; 16 U.S.C. § 460l–5)

#### EXPLANATORY NOTE

**References in the Text—Certain Proceeds from Surplus Property Sales Excepted from Being Covered into the Land and Water Conservation Fund.** Section 485(b)–(e), title 40, United States Code, referred to in the text, is section 204(b)–(e) of the Federal Property and Administrative Services Act of 1949, as amended, and appears herein in chronological order under the date

of June 30, 1949. The Independent Offices Appropriation Act, 1963 (76 Stat. 725), also referred to in the text, appropriated \$8,500,000 to be derived from proceeds from the transfer of excess property or the disposal of surplus property, for necessary expenses incident to the utilization and disposal of such property.

(c) **MOTORBOAT FUELS TAX.**—The amounts provided for in section 201 of this Act. (78 Stat. 897–899; 16 U.S.C. §§ 460l–5, 460d)

#### EXPLANATORY NOTE

**Supplementary Provision: Revenues from Conveyance of Certain Lands.** Subsection 6(h) of the Federal Water Project Recreation Act, enacted July 9, 1965, reads as follows: "All payments and repayment by non-Federal public bodies under the provisions of this Act shall be deposited in the Treas-

ury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under subsection 3(b) (2) of this Act shall be deposited in the Land and Water Conservation Fund." The Act appears herein in chronological order.

September 3, 1964

LAND AND WATER CONSERVATION FUND ACT 1789

**Sec. 3. APPROPRIATIONS.**—Moneys covered into the fund shall be available for expenditure for the purposes of this Act only when appropriated therefor. Such appropriations may be made without fiscal-year limitation. Moneys covered into this fund not subsequently authorized by the Congress for expenditures within two fiscal years following the fiscal year in which such moneys had been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury. (78 Stat. 899; 16 U.S.C. § 460l-6)

ALLOCATION OF LAND AND WATER CONSERVATION FUND FOR STATE AND FEDERAL PURPOSES: AUTHORIZATION FOR ADVANCE APPROPRIATIONS

**Sec. 4. (a) ALLOCATION.**—There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. In the absence of a provision to the contrary in the Act making an appropriation from the fund, (i) the appropriation therein made shall be available in the ratio of 60 per centum for State purposes and 40 per centum for Federal purposes, but (ii) the President may, during the first five years in which appropriations are made from the fund, vary said percentages by not more than 15 points either way to meet, as nearly as may be, the current relative needs of the States and the Federal Government.

**(b) ADVANCE APPROPRIATIONS; REPAYMENT.**—Beginning with the third full fiscal year in which the fund is in operation, and for a total of eight years, advance appropriations are hereby authorized to be made to the fund from any moneys in the Treasury not otherwise appropriated in such amounts as to average not more than \$60,000,000 for each fiscal year. Such advance appropriations shall be available for Federal and State purposes in the same manner and proportions as other moneys appropriated from the fund. Such advance appropriations shall be repaid without interest, beginning at the end of the next fiscal year after the first ten full fiscal years in which the fund has been in operation, by transferring, annually until fully repaid, to the general fund of the Treasury 50 per centum of the revenues received by the land and water conservation fund each year under section 2 of this Act prior to July 1, 1989, and 100 per centum of any revenues thereafter received by the fund. Revenues received from the sources specified in section 2 of this Act after July 1, 1989, or after payment has been completed as provided by this subsection, whichever occurs later, shall be credited to miscellaneous receipts of the Treasury. The moneys in the fund that are not required for repayment purposes may continue to be appropriated and allocated in accordance with the procedures prescribed by this Act. (78 Stat. 900; 16 U.S.C. § 460l-7)

FINANCIAL ASSISTANCE TO STATES

**Sec. 5. (a) GENERAL AUTHORITY; PURPOSES.**—The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such

terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

(b) **APPORTIONMENT AMONG STATES; NOTIFICATION.**—Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

(1) two-fifths shall be apportioned equally among the several States; and

(2) three-fifths shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 7 per centum of the total amount allocated to the several States in any one year.

The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection.

The District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa shall be treated as States for the purposes of this title, except for the purpose of paragraph (1) of this subsection. Their population also shall be included as a part of the total population in computing the apportionment under paragraph (2) of this subsection.

(c) **MATCHING REQUIREMENTS.**—Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

(d) **COMPREHENSIVE STATE PLAN REQUIRED; PLANNING PROJECTS.**—A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this Act. The plan shall contain—

(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

- (2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;
- (3) a program for the implementation of the plan; and
- (4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

(e) **PROJECTS FOR LAND AND WATER ACQUISITION; DEVELOPMENT.**—In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

- (1) **ACQUISITION OF LAND AND WATERS.**—For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.
- (2) **DEVELOPMENT.**—For development, including but not limited to site planning and the development of Federal lands under lease to States for terms of twenty-five years or more.

(f) **REQUIREMENTS FOR PROJECT APPROVAL; CONDITION.**—Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds

may be transferred by the State to a political subdivision or other appropriate public agency.

No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

Each recipient of assistance under this Act shall keep such records as the Secretary of the Interior shall prescribe, including records which fully disclose the amount and the 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 and nature 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.

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 recipient that are pertinent to assistance received under this Act.

(g) COORDINATION WITH FEDERAL AGENCIES.—In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations. (78 Stat. 900-903; 16 U.S.C. § 460l-8)

#### EXPLANATORY NOTE

**References in the Text.** Title VII of the Housing Act of 1961 (75 Stat. 183), referred to in the text, authorizes the Housing and Home Finance Administrator, among other things, to enter into contracts to make grants to States and local public bodies to help finance the acquisition of lands (known as "open space" lands) for park and recreational, conservation and historic and scenic purposes in urban areas. Section 701 of the Housing Act of 1954 (68 Stat. 640), also

referred to in the text, authorizes the Housing and Home Finance Administrator to make grants to State planning agencies for planning assistance (surveys, land use studies, urban renewal plans, technical services, etc.) to municipalities of less than 25,000 persons, and grants to State, metropolitan, and regional planning agencies for such planning work in metropolitan and regional areas.

## ALLOCATION OF MONEYS FOR FEDERAL PURPOSES

**Sec. 6.** (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes in substantially the same proportion as the number of visitor-days in areas and projects hereinafter described for which admission fees are charged under section 2 of this Act:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

**NATIONAL PARK SYSTEM; RECREATION AREAS.**—Within the exterior boundaries of areas of the national park system now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

**NATIONAL FOREST SYSTEM.**—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act which other areas are primarily of value for outdoor recreation purposes: *Provided*, That lands outside of but adjacent to an existing national forest boundary, not to exceed five hundred acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: *Provided further*, That not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

**THREATENED SPECIES.**—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction.

**RECREATION AT REFUGES.**—For the incidental recreation purposes of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 460k-1); and

(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(b) **ACQUISITION RESTRICTION.**—Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law. (78 Stat. 903; 16 U.S.C. § 460l-9)

## EXPLANATORY NOTES

**Supplementary Provision: Limitation of Subsection 6(a)(2) in Certain Cases.** Subsection 6(g) of the Federal Water Project Recreation Act reads as follows: "Subsection 6(a)(2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) shall not apply to costs allocated to recreation and fish and wildlife enhancement

which are borne by the United States as a nonreimbursable project cost pursuant to subsection 2(a) or subsection 3(b)(1) of this Act." Subsections 2(a) and 3(b)(1) of the Federal Water Project Recreation deal with certain costs that are nonreimbursable whenever non-Federal public bodies agree to administer Federal water project land

## 1794 LAND AND WATER CONSERVATION FUND ACT

and water areas for recreation and fish and wildlife purposes. The Act appears herein in chronological order.

**Reference in the Text.** Section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. § 460k-1), referred to in the text, provides that, in order to avoid adverse

effects to fish and wildlife which might result from public recreation at or visitation to areas devoted to fish and wildlife conservation, the Secretary of the Interior is authorized to acquire limited areas of land adjacent to such areas for recreational development.

## FUNDS NOT TO BE USED FOR PUBLICITY

**Sec. 7.** Moneys derived from the sources listed in section 2 of this Act shall not be available for publicity purposes. (78 Stat. 903; 16 U.S.C. § 460l-10).

## TITLE II—MOTORBOAT FUEL TAX PROVISIONS

## TRANSFERS TO AND FROM LAND AND WATER CONSERVATION FUND

**Sec. 201.** (a) There shall be set aside in the land and water conservation fund in the Treasury of the United States provided for in title I of this Act the amounts specified in section 209(f)(5) of the Highway Revenue Act of 1956 (relating to special motor fuels and gasoline used in motorboats).

(b) There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before July 1, 1973, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 1972; and

(2) 80 percent of the floor stocks refunds made before July 1, 1973, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats. (78 Stat. 904; 16 U.S.C. § 460l-11)

## AMENDMENTS TO HIGHWAY REVENUE ACT OF 1956

**Sec. 202.** (a) Section 209(f) of the Highway Revenue Act of 1956 (relating to expenditures from highway trust fund) is amended by adding at the end thereof the following new paragraph:

“(5) **TRANSFERS FROM THE TRUST FUND FOR SPECIAL MOTOR FUELS AND GASOLINE USED IN MOTORBOATS.**—The Secretary of the Treasury shall pay from time to time from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts as determined by him in consultation with the Secretary of Commerce equivalent to the taxes received, on or after January 1, 1965, under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel for the propulsion of motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats.”

(b) Section 209(f) of such Act is further amended—

(1) by adding at the end of paragraph (3) the following new sentence:

September 3, 1964

LAND AND WATER CONSERVATION FUND ACT 1795

“This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under section 6421 of such Code with respect to gasoline used after December 31, 1964, in motorboats.”; and

(2) by inserting after “such Code” in paragraph (4) (C) the following: “(other than gasoline to be used in motorboats, as estimated by the Secretary of the Treasury)”. (78 Stat. 904; 23 U.S.C. § 120, note)

EXPLANATORY NOTES

**References in Title II to the Highway Revenue Act of 1956 and the Internal Revenue Code of 1954—Summary.** In substance, Title II provides that all Federal excise taxes paid on special motor fuel and gasoline used in motorboats, rather than going into the highway trust fund, are to be placed in the land and water conservation fund. As of this writing, the net tax is 2 cents per gallon. While special motor fuels are taxed at the retail level, gasoline is subject to a 4 cents a gallon tax when sold by the producer or wholesaler, with the ultimate purchaser having the right to obtain a refund of 2 cents per gallon where the gasoline is used “otherwise than as a fuel in a registered highway vehicle.” Prior to January 1, 1965, all such refunds were paid out of the highway trust fund (where all such taxes were deposited), but since that date, as authorized by Title II, refunds to purchasers of gasoline for use in motorboats

are paid out of the land and water conservation fund (where such taxes are now deposited).

**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. 3846, Public Law 88-578 in the 88th Congress. Reported in House from Interior and Insular Affairs Nov. 14, 1963; H.R. Rept. No. 900. Passed House July 23, 1964. Reported in Senate from Interior and Insular Affairs Aug. 10, 1964; S. Rept. No. 1364. Passed Senate, amended, Aug. 12, 1964. Senate asks for a conference Aug. 12, 1964. House agrees to a conference Aug. 13, 1964. Conference report filed Aug. 31, 1964; H.R. Rept. No. 1847. House agrees to conference report, Sept. 1, 1964. Senate agrees to conference report Sept. 1, 1964.

## LOWER TETON DIVISION, TETON BASIN PROJECT

An act to provide for the construction of the Lower Teton division of the Teton Basin Federal reclamation project, Idaho, and for other purposes. (Act of September 7, 1964, Public Law 88-583, 78 Stat. 925)

[**Sec. 1. Lower Teton Division, Teton Basin Project, Idaho.**]—In order to assist in the irrigation of arid and semiarid lands in the upper Snake River Valley, Idaho, to provide facilities for river power opportunities created thereby and, as incidents to the foregoing purposes, to enhance recreational opportunities and provide for the conservation and development of fish and wildlife, the Secretary of the Interior is authorized to construct, operate, and maintain the Lower Teton division of the Teton Basin Federal reclamation project. The principal engineering features of the said project shall be a dam and reservoir at the Fremont site, a pumping plant, powerplant, canals and water distribution facilities, ground water development, and related facilities in the upper Snake River Valley, Idaho. In the construction, operation, and maintenance of the said project and project works the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto). The project shall be operated consistent with the existing agreements as to storage rights in the Federal reclamation reservoirs in the upper Snake River Basin. (78 Stat. 925; 43 U.S.C. § 616nn)

**Sec. 2. [Repayment period extended—Return of irrigation costs from Idaho power project.]**—The period provided in subsection (d) of section 9 of the Reclamation Project Act of 1939, as amended, for repayment of construction costs properly allocable 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 as near that number of years as is consistent with the adoption and operation of a repayment formula as therein provided. Costs allocated to irrigation in excess of the amount determined by the Secretary to be within the ability of the irrigators to repay within a fifty-year period shall be returned to the reclamation fund from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration and attributable to Federal projects in Idaho. (78 Stat. 925, 43 U.S.C. § 616oo)

**Sec. 3. [Recreation facilities—Fish and wildlife preservation costs.]**—(a) The Secretary is authorized to construct, operate, and maintain or otherwise provide for basic public outdoor recreation facilities, to acquire or otherwise to include within the division area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for the public use and enjoyment of division lands, facilities, and water areas in a manner coordinated with the other division functions. The Secretary is authorized to enter into agreements with Federal

September 7, 1964

LOWER TETON DIVISION, TETON BASIN PROJECT 1797

agencies or State or local public bodies for the operation, maintenance, or additional development of division lands or facilities, or to dispose of division lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance, or exchange upon such terms and conditions as will best promote the development and operation of such lands and facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, including costs of investigation, planning, Federal operation and maintenance, shall be non-reimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resource projects or to disposition of public lands for recreation purposes.

(b) 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 other division functions. (78 Stat. 925; 43 U.S.C. § 616pp)

**Sec. 4. [Authority to amend water users' contracts—Conditions precedent to construction.]**—(a) The Secretary is authorized to amend contracts heretofore made under the Acts of September 30, 1950 (64 Stat. 1083), and of August 31, 1954 (68 Stat. 1026), whereby the water users assumed an obligation for winter power replacement based on the winter water savings program at the Minidoka powerplant to relieve the contractors ratably by one-third of that obligation, and to make new contracts under these Acts on a like basis. To the extent such annual obligations 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.

(b) The actual construction of the facilities herein authorized shall not be undertaken until at least 80 per centum of the conservation capacity in Fremont Reservoir is under subscription, nor until negotiations have been undertaken in accordance with the provisions of (a) of this section.

(c) No construction shall be undertaken on facilities of the Lower Teton division which are required solely to provide a full water supply to lands in the Rexburg Bench area until the Secretary has submitted his report and finding of feasibility on this phase of the division to the President and to the Congress. (78 Stat. 926; 43 U.S.C. § 616qq)

EXPLANATORY NOTE

**References in the Text.** The Acts of September 30, 1950 (64 Stat. 1083), and of August 31, 1954 (68 Stat. 1026), referred to in the text, appear herein in chronological order.

**Sec. 5. [Appropriation.]**—There is hereby authorized to be appropriated for the construction of the Lower Teton division of the Teton Basin Federal reclamation project, the sum of \$52,000,000, 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 types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said division. (78 Stat. 926; 43 U.S.C. § 616rr)

September 7, 1964

1798 LOWER TETON DIVISION, TETON BASIN PROJECT

EXPLANATORY NOTE

**Legislative History.** S. 1123, Public Law 88-583 in the 88th Congress. Reported in Senate from Interior and Insular Affairs June 29, 1964; S. Rept. No. 1127. Passed Senate June 30, 1964. Passed House, amended, Aug. 17, 1964. Senate asks for a conference Aug. 20, 1964. House agrees to

a conference Aug. 21, 1964. Conference report filed Sept. 2, 1964; H.R. Rept. 1882. House agrees to conference report Sept. 3, 1964. Senate agrees to conference report, Sept. 3, 1964. Companion bill H.R. 2337 reported in House from Interior and Insular Affairs Aug. 7, 1964; H.R. Rept. No. 1715.

## CANYONLANDS NATIONAL PARK

[Extracts from] An act to provide for establishment of the Canyonlands National Park in the State of Utah, and for other purposes. (Act of September 12, 1964, Public Law 88-590, 78 Stat. 934)

\* \* \* \* \*

**Sec. 2. [Acquisition of lands—Certain lands freed from withdrawal.]—** Within the area described in section 1 hereof or which lies within the boundaries of the park, the Secretary of the Interior is authorized to acquire lands and interests in lands by such means as he may deem to be in the public interest. The Secretary may accept title to any non-Federal property within the park, including State-owned school sections and riverbed lands, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction within the State of Utah, notwithstanding any other provision of law. The properties so exchanged shall be of the same classification, as near as may be, and shall be of approximately equal value, and the Secretary shall take the administrative action to complete transfer on any lands in a proper application by the State of Utah on or before the expiration of one hundred twenty days following the date of enactment of this Act: *Provided*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged. Federal property located within the boundaries of the park may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior, without consideration, for use by him in carrying out the purposes of this Act. Any lands within the boundaries of the park which are subject to Bureau of Reclamation or Federal Power Commission withdrawals are hereby freed and exonerated from any such withdrawal and shall, on the date of enactment of this Act, become a part of the Canyonlands National Park subject to no qualifications except those imposed by this Act. (78 Stat. 937; 16 U.S.C. § 271a)

\* \* \* \* \*

## 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 section of the statute.

**Legislative History.** S. 27, Public Law 88-590 in the 88th Congress. Reported in Senate from Interior and Insular Affairs July 31, 1963; S. Rept. No. 381. Passed Senate Aug. 2, 1963. Passed House,

amended, Aug. 19, 1964. Senate asks for a conference Aug. 21, 1964. House agrees to a conference Sept. 1, 1964. Conference report filed Sept. 2, 1964; H.R. Rept. No. 1881. House agrees to conference report Sept. 3, 1964. Senate agrees to conference report Sept. 3, 1964. Companion bill H.R. 6925 reported in House from Interior and Insular Affairs Aug. 17, 1964; H.R. Rept. No. 1823.

## PHREATOPHYTE CONTROL, PECOS RIVER BASIN

Joint resolution authorizing the Secretary of the Interior to carry out a continuing program to reduce nonbeneficial consumptive use of water in the Pecos River Basin, in New Mexico and Texas. (Act of September 12, 1964, Public Law 88-594, 78 Stat. 942)

[**Sec. 1. Phreatophyte control—Pecos River Basin.**]—In order to prevent further decreases in the supply of water in the Pecos River Basin, and in order to increase and protect such water supply for municipal, industrial, irrigation, and recreational uses, and for the conservation of fish and wildlife, and to provide protection for the farmlands in such basin from the hazards of floods, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized and directed to take such measures as he deems necessary and appropriate to carry out a continuing program to reduce the nonbeneficial consumption of water in the basin, including that by salt cedar and other undesirable phreatophytes. Such program shall be carried out in the Pecos River Basin from its headwaters in New Mexico to the town of Girvin, Texas: *Provided, however,* That no money shall be appropriated for and no work commenced on the clearing of the floodway authorized by the Act of February 20, 1958 (72 Stat. 17), unless provision shall have been made to replace any Carlsbad Irrigation District terminal storage which might be lost by the clearing of said floodway. (78 Stat. 942)

### EXPLANATORY NOTE

**Reference in the Text.** The Act of February 20, 1958 (72 Stat. 17), referred to in the text, authorizes the McMillan Delta project. It appears herein in chronological order.

**Sec. 2. [States’ responsibilities.]**—As a condition to undertaking the program authorized by the first section of this joint resolution, the Secretary shall require the States of New Mexico and Texas to give such assurances as he deems adequate that such States will acquire such lands, easements, rights-of-way, and other interests in lands as the Secretary considers necessary effectively to carry out such program. (78 Stat. 942)

**Sec. 3. [Determination of beneficiaries—Cost allocations.]**—(a) As a further condition to undertaking the program authorized by this joint resolution, the Secretary may, with respect to those beneficiaries in New Mexico and Texas which the Secretary determines to be likely to benefit directly from the results of such program, require such commitments as he deems appropriate that such beneficiaries will repay the United States so much of the reimbursable costs incurred by it in carrying out such program as do not exceed the value of the benefits accruing to such beneficiaries from such program. The Secretary shall not require the repayment of such costs unless he determines that it is feasible (1) to identify the beneficiaries that are directly benefited by the program, and (2) to measure the extent to which each beneficiary is benefited by such program.

(b) Repayment contracts entered into pursuant to the provisions of this section shall be subject to such terms and conditions as the Secretary may

September 12, 1964

PHREATOPHYTE CONTROL, PECOS RIVER BASIN 1801

prescribe, except that the amount of the repayment installment and total obligation in the case of any beneficiary shall be fixed by the Secretary in accordance with the ability of such beneficiary to pay, taking into consideration all other financial obligations of such beneficiary.

(c) Any costs of the program which the Secretary determines as properly allocable to flood control, fish and wildlife conservation and development, recreation, or restoration of streamflow shall be considered as nonreimbursable costs.

(d) In conducting the program, the Secretary shall take such measures as may be necessary to insure that there will be no interference with regular streamflow, no contamination of water, and the least possible hazard to fish and wildlife resources. (78 Stat. 942)

**Sec. 4. [Pecos River compact unaffected.]**—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. (78 Stat. 943)

EXPLANATORY NOTE

**Reference in the Text.** The Pecos River Compact, referred to in the text, was negotiated between the States of New Mexico and Texas, with the participation of a repre-

sentative of the United States. The consent of Congress was granted to the Compact by the Act of June 9, 1949. The Act appears herein in chronological order.

**Sec. 5. [Appropriation.]**—There is hereby authorized to be appropriated not more than \$2,500,000 for the initial eradication or suppression of salt cedar and other undesirable phreatophytes on lands within the area to which this joint resolution applies and, in addition thereto, such further sums as may be necessary to maintain continued control over this land to prevent its reinfestation. (78 Stat. 943)

EXPLANATORY NOTES

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

**Legislative History.** S.J. Res. 49, Public Law 88-594 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Oct. 21, 1963; S. Rept. No. 572. Passed

Senate Oct. 22, 1963. Reported in House from Interior and Insular Affairs July 23, 1964; H.R. Rept. No. 1572. Passed House, amended, Aug. 17, 1964. Senate agrees to House amendments Sept. 2, 1964.

## CROOKED RIVER PROJECT EXTENSION

An act to amend the Act authorizing the Crooked River Federal reclamation project to provide for the irrigation of additional lands. (Act of September 18, 1964, Public Law 88-598, 78 Stat. 954)

**[Sec. 1. Crooked River project extension authorized.]**—The first section of the Act entitled “An Act to authorize construction by the Secretary of the Interior of the Crooked River Federal reclamation project, Oregon”, approved August 6, 1956 (70 Stat. 1058), as amended, is amended by inserting immediately before the period at the end of the first sentence of such section the following: “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”. (78 Stat. 954; 43 U.S.C. § 615f)

### EXPLANATORY NOTES

<p><b>Reference in the Text.</b> The Act of August 6, 1956 (70 Stat. 1058), as amended, referred to in the text, appears herein in chronological order.</p>	<p><b>Editor's Note, Annotations.</b> Annotations of opinions of section 1, if any, are found under the Act of August 6, 1956.</p>
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**Sec. 2. [Appropriation.]**—There are hereby authorized to be appropriated for construction of the new works involved in the Crooked River project extension \$1,132,000, plus or minus 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 cost indexes and, in addition thereto, such sums as may be required to operate and maintain said extension. (78 Stat. 954; 43 U.S.C. § 615j-1)

**Sec. 3. [Irrigation pumping power.]**—Supplemental power and energy required for irrigation water pumping for the project shall be made available by the Secretary of the Interior from the Federal Columbia River power system at charges determined by him. (78 Stat. 954; 43 U.S.C. § 615f-1)

### EXPLANATORY NOTE

**Legislative History.** S. 1186, Public Law 88-598 in the 88th Congress. Reported in Senate from Interior and Insular Affairs June 26, 1964; S. Rept. No. 1122. Passed Senate June 29, 1964. Passed House, amended, Sept. 1, 1964. Senate agrees to

House amendments Sept. 8, 1964. Public Law 88-598. Companion bill H.R. 1712 reported in House from Interior and Insular Affairs Aug. 12, 1964; H.R. Rept. No. 1778.

## WHITESTONE COULEE UNIT, CHIEF JOSEPH DAM PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Whitestone Coulee unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes. (Act of September 18, 1964, Public Law 88-599, 78 Stat. 955)

[Sec. 1. **Whitestone Coulee Unit, Chief Joseph Dam project, authorized.**]—For the purpose of furnishing a new and a supplemental water supply for the irrigation of approximately two thousand five hundred and fifty acres of land in Okanogan County, Washington, for the purpose of undertaking the rehabilitation and betterment of existing works serving a major portion of these lands, and for conservation and development of fish and wildlife resources and improvement of public recreation facilities, the Secretary of the Interior is authorized to construct, operate, and maintain the Whitestone Coulee unit of the Okanogan-Similkameen division of the Chief Joseph Dam 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 principal works of the unit shall consist of: facilities to permit enlargement and utilization of Spectacle Lake storage; related canal and conduits, diversion dam, pumping plants, and distribution systems; and necessary works incidental to the rehabilitation and expansion of the existing irrigation system. (78 Stat. 955; 43 U.S.C. § 616ss)

### EXPLANATORY NOTE

**Cross Reference, 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. [Repayment period—Cost allocations.]**—The provisions of section 2 of the Act of July 27, 1954 (68 Stat. 568, 569), shall be applicable to the Whitestone Coulee unit of the Okanogan-Similkameen division of the Chief Joseph Dam project. The term "construction costs" used therein shall include any irrigation operation, maintenance, and replacement 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. (78 Stat. 955; 43 U.S.C. § 616tt)

### EXPLANATORY NOTE

**Reference in the Text.** Section 2 of the Act of July 27, 1954 (68 Stat. 568, 569), referred to in the text, provides that repayment of construction costs may be extended to 50 years, exclusive of a devel-

opment period, and that power revenues from the Chief Joseph Dam project may be used to repay costs which are beyond the ability of irrigators to repay. The Act appears herein in chronological order.

**Sec. 3. [Recreation facilities—Fish and wildlife preservation.]**—(a) The Secretary is authorized as a part of the Whitestone Coulee unit to construct,

operate, and maintain or otherwise provide for basic public outdoor recreation facilities, to acquire or otherwise to include within the unit area such adjacent lands or interests therein as are necessary for public recreation use, to allocate water and reservoir capacity to recreation, and to provide for public use and enjoyment of unit lands, facilities, and water areas in a manner coordinated with the other unit purposes. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and additional development of unit lands or facilities, or to dispose of unit lands or facilities to Federal agencies or State or local public bodies by lease, transfer, exchange, or conveyance, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The costs of the aforesaid undertakings, including costs of investigation, planning, Federal operation and maintenance, and an appropriate share of the joint costs of the unit, shall be nonreimbursable. Nothing herein shall limit the authority of the Secretary granted by existing provisions of law relating to recreation development of water resources projects or the disposition of public lands for recreational purposes.

(b) 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 the project functions. (78 Stat. 955; 43 U.S.C. § 616uu)

**Sec. 4. [Appropriation.]**—There are hereby authorized to be appropriated for construction of the new works involved in the Whitestone Coulee unit, of the Okanogan-Similkameen division of the Chief Joseph Dam project \$5,312,000, plus or minus 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 cost indices and, in addition thereto, such sums as may be required to operate and maintain said division. (78 Stat. 956; 43 U.S.C. § 616vv)

#### EXPLANATORY NOTE

**Legislative History.** S. 2447, Public Law 88-599 in the 88th Congress. Reported in Senate from Interior and Insular Affairs, Mar. 5, 1964; S. Rept. No. 938. Passed Senate Mar. 6, 1964. Passed House,

amended, Sept. 1, 1964. Senate agrees to House amendments Sept. 8, 1964. Companion bill H.R. 5118 reported in House from Interior and Insular Affairs Aug. 11, 1964; H.R. Rept. No. 1747.

## WATERSHED CONTROL WORKS, RIO GRANDE CANALIZATION PROJECT

An act authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grande canalization project and authorizing appropriations for that purpose. (Act of September 18, 1964, Public Law 88-600, 78 Stat. 956)

[Agreements for watershed control works.]—For the purposes of facilitating and implementing operation and maintenance of the international Rio Grande canalization project, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to enter into agreements with the appropriate official or officials of local organizations, as defined in the Watershed Protection and Flood Prevention Act of August 4, 1954 (70 Stat. 1088), as amended (16 U.S.C.A. 1001, et seq.), for the maintenance by said local organizations either directly or indirectly through mutually satisfactory maintenance agreements with others, including the United States, of all those flood and arroyo sediment control dams, together with all related works, hereafter installed or constructed in the Rio Grande watershed between Caballo Dam and El Paso, Texas, in accordance with said Act, and which are necessary, in the opinion of said Commissioner, to facilitate and implement the operation and maintenance of said project.

Such maintenance agreements between the local organization and the United States shall provide the extent of contribution by the United States as may be mutually agreed by the two parties, based on the degree of benefits to be derived from said dams and related works, and the contribution by the United States may be either in the form of funds or performance of the actual operation and maintenance.

Control gates shall not be installed on any of the dams which, in the opinion of the United States Commissioner, International Boundary and Water Commission, United States and Mexico, are necessary to facilitate and implement the operation and maintenance of the Rio Grande canalization project.

Arrangements made between the United States and the local organizations shall be satisfactory to the Secretary of Agriculture for defraying cost of maintaining such work of improvement in accordance with regulations prescribed by said Secretary.

There is hereby authorized to be appropriated not in excess of \$23,000 per annum for contributions to maintenance authorized by this Act. (78 Stat. 956; 22 U.S.C. § 277d-29)

### EXPLANATORY NOTES

**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, Rio Grande Canalization Project.** The Rio Grande canalization project, referred to in text, was authorized by the Act of June 4, 1936, 49 Stat. 1463.

September 18, 1964

1806 WATERSHED WORKS, RIO GRANDE CANALIZATION

The Act 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 this

statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** S. 2370, Public Law 88-600 in the 88th Congress. Reported in Senate from Agriculture and Forestry May 7, 1964; S. Rept. No. 1021. Passed Senate June 23, 1964. Reported in House from Foreign Affairs July 1, 1964; H.R. Rept. No. 1533. Passed House, amended, July 21, 1964. Senate agrees to House amendments Sept. 9, 1964.

## H.E.W. APPROPRIATION ACT, 1965

[Extracts from] An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1965, and for other purposes. (Act of September 19, 1964, Public Law 88-605, 78 Stat. 959)

\* \* \* \* \*

TITLE II—DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARE

\* \* \* \* \*

Sec. 206. [Colorado River water quality studies—Approval by President's Science Advisory Committee.]—Except upon the approval of the President's Science Advisory Committee, none of the funds herein appropriated shall be used to conduct or assist in conducting, or carry on, undertake, or continue surveys, investigations, or any programs (including but not limited to, the payment of salaries, administrative expenses, the conduct of research activities and policing actions) in the field of salinity control or of irrigation water quality in the area drained by the Colorado River and its tributaries. (78 Stat. 979)

## EXPLANATORY NOTE

**Implementation.** On October 19, 1964, in response to section 206 above, the President's Science Advisory Committee approved continuation of the Department of Health, Education, and Welfare's "Colorado River Basin Enforcement Project" for a period of ninety days. Subsequently, the Committee appointed a special panel to investigate the project. On the basis of the panel's findings, the Chairman of the Committee informed the Secretary of Health, Education, and Welfare in a letter dated December 21, 1964, that " \* \* the Presi-

dent's Science Advisory Committee approves the continuation of the HEW activities in the Colorado River basin related to salinity control and irrigation water quality \* \* \*". Effective May 10, 1966, pursuant to Reorganization Plan No. 2 of 1966, the Federal Water Pollution Control Administration, which is conducting these activities in the Colorado River Basin, was transferred from HEW to the Department of the Interior. The reorganization plan appears herein following the Act of July 9, 1956.

[Short title.]—This title may be cited as the "Department of Health, Education, and Welfare Appropriation Act, 1965". (78 Stat. 979)

## 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 this statute does not deal primarily with the activities of the Bureau of Reclamation.

**Legislative History.** H.R. 10809, Public Law 88-605 in the 88th Congress. Reported in House from Appropriations Apr. 10, 1964; H.R. Rept. No. 1316. Passed House

Apr. 14, 1964. Reported in Senate from Appropriations Aug. 17, 1964; S. Rept. No. 1460. Passed Senate, amended, Aug. 19, 1964. Senate asks for a conference Aug. 19, 1964. House agrees to a conference Sept. 1, 1964. Conference report filed Sept. 2, 1964; H.R. Rept. No. 1880. House agrees to conference report Sept. 3, 1964. Senate agrees to conference report Sept. 3, 1964.

## PUBLIC LAND LAW REVIEW COMMISSION

An act for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes. (Act of September 19, 1964, Public Law 88-606, 78 Stat. 982)

### DECLARATION OF POLICY

[Section 1.]—It is hereby declared to be the policy of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public. (78 Stat. 982; 43 U.S.C. § 1391)

### DECLARATION OF PURPOSE

Sec. 2. Because the public land laws of the United States have developed over a long period of years through a series of Acts of Congress which are not fully correlated with each other and because those laws, or some of them, may be inadequate to meet the current and future needs of the American people and because administration of the public lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and the rules and regulations promulgated thereunder and to determine whether and to what extent revisions thereof are necessary. (78 Stat. 982; 43 U.S.C. § 1392)

### COMMISSION ON PUBLIC LAND LAW REVIEW

Sec. 3. (a) For the purpose of carrying out the policy and purpose set forth in sections 1 and 2 of this Act, there is hereby established a commission to be known as the Public Land Law Review Commission, hereinafter referred to as "the Commission."

(b) The Commission shall be composed of nineteen members, as follows:

(i) Three majority and three minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the President of the Senate;

(ii) Three majority and three minority members of the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House of Representatives;

(iii) Six persons to be appointed by the President of the United States from among persons who at the time appointment is to be made hereunder are not, and within a period of one year immediately preceding that time have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or

without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

(iv) One person, elected by majority vote of the other eighteen, who shall be the Chairman of the Commission.

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties. (78 Stat. 982; 43 U.S.C. § 1393)

#### DUTIES OF THE COMMISSION

Sec. 4. (a) The Commission shall (i) study existing statutes and regulations governing the retention, management, and disposition of the public lands; (ii) review the policies and practices of the Federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands; (iii) compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the foreseeable future; and (iv) recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy set forth in section 1 of this Act.

(b) The Commission shall, not later than December 31, 1968, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report or on June 30, 1969, whichever is earlier. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States. (78 Stat. 983; 43 U.S.C. § 1394)

#### DEPARTMENTAL LIAISON OFFICERS

Sec. 5. The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public

lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this Act. (78 Stat. 983; 43 U.S.C. § 1395)

#### ADVISORY COUNCIL

Sec. 6. (a) There is hereby established an Advisory Council, which shall consist of the liaison officers appointed under section 5 of this Act, together with 25 additional members appointed by the Commission who shall be representative of the various major citizens' groups interested in problems relating to the retention, management, and disposition of the public lands, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor, and public utilities. Any vacancy occurring on the Advisory Council shall be filled in the same manner as the original appointment.

(b) The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

(c) Members of the Advisory Council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the Council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

(d) The Chairman of the Commission shall call an organization meeting of the Advisory Council as soon as practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission. (78 Stat. 983; 43 U.S.C. § 1396)

#### GOVERNORS' REPRESENTATIVES

Sec. 7. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council in matters pertaining to this Act. (78 Stat. 984; 43 U.S.C. § 1397)

#### POWERS OF THE COMMISSION

Sec. 8. (a) The Commission or, on authorization of the Commission, any committee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matters which would

require the presence of the parties subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or transacts business.

A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 102-104, inclusive, of the Revised Statutes (2 U.S.C. 192-194) shall apply in case of any failure of any witness to comply with any subpoena or testimony when summoned under this section.

(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requires of any witness or of any governmental agency production of any materials which have theretofore been submitted to a government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held confidential by the Commission. (78 Stat. 984; 43 U.S.C. § 1398)

#### EXPLANATORY NOTE

**Reference in the Text.** Sections 102-104, inclusive, of the Revised Statutes (2 U.S.C. 192-194), referred to in the text, deals with persons who are called to be witnesses by the authority of either house of Congress and who either refuse or fail to testify.

#### APPROPRIATIONS, EXPENSES, AND PERSONNEL

**Sec. 9.** (a) There are hereby authorized to be appropriated such sums, but not more than \$4,000,000, as may be necessary to carry out the provisions of this Act and such moneys as may be appropriated shall be available to the Commission until expended.

(b) The Commission is authorized, without regard to the civil service laws and regulations and without regard to the Classification Act of 1949, as amended, to fix the compensation of its Chairman and appoint and fix the compensation of its staff director, and such additional personnel as may be necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this Act to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

(d) Service of an individual as a member of the Advisory Council, as the representative of a Governor, or employment by the Commission of an attorney or expert in any job or professional field on a part-time or full-time basis with or without compensation shall not be considered as service or employment bring-

ing such individuals within the provisions of the Act of October 23, 1962 (76 Stat. 1119). (78 Stat. 985; 43 U.S.C. § 1399)

DEFINITION OF "PUBLIC LANDS"

**Sec. 10.** As used in this Act, the term "public lands" includes (a) the public domain of the United States, (b) reservations, other than Indian reservations, created from the public domain, (c) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws, (d) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws, (e) national forests, (f) wildlife refuges and ranges, and (g) the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf. (78 Stat. 985; 43 U.S.C. § 1400)

EXPLANATORY NOTES

**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. 8070, Public Law 88-606 in the 88th Congress. Reported in House from Interior and Insular Affairs

Dec. 7, 1963; H.R. Rept. No. 1008. Passed House Mar. 10, 1964. Reported in Senate from Interior and Insular Affairs Aug. 15, 1964; S. Rept. No. 1444. Passed Senate, amended, Sept. 3, 1964. House agrees to Senate amendments Sept. 4, 1964.

## LAKE MEAD NATIONAL RECREATION AREA

An act to provide an adequate basis for administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes. (Act of October 8, 1964, Public Law 88-639, 78 Stat. 1039)

[**Sec. 1. Lake Mead National Recreation Area—Administration by the Secretary of the Interior.**]—In recognition of the national significance of the Lake Mead National Recreation Area, in the States of Arizona and Nevada, and in order to establish a more adequate basis for effective administration of such area for the public benefit, the Secretary of the Interior hereafter may exercise the functions and carry out the activities prescribed by this Act. (78 Stat. 1039; 16 U.S.C. § 460n)

**Sec. 2. [Boundaries—Map to be available for inspection.]**—Lake Mead National Recreation Area shall comprise that particular land and water area which is shown on a certain map, identified as “boundary map, RA-LM-7060-B, revised July 17, 1963”, which is on file and which shall be available for public inspection in the office of the National Park Service of the Department of the Interior. An exact copy of such map shall be filed with the Federal Register within thirty days following the approval of this Act, and an exact copy thereof shall be available also for public inspection in the headquarters office of the superintendent of the said Lake Mead National Recreation Area.

The Secretary of the Interior is authorized to revise the boundaries of such national recreation area, subject to the requirement that the total acreage of that area, as revised, shall be no greater than the present acreage thereof. In the event of such boundary revision, maps of the recreation area, as revised, shall be prepared by the Department of the Interior, and shall be filed in the same manner, and shall be available for public inspection also in accordance with the aforesaid procedures and requirements relating to the filing and availability of maps. The Secretary may accept donations of land and interests in land within the exterior boundaries of such area, or such property may be procured by the Secretary in such manner as he shall consider to be in the public interest.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

Establishment or revision of the boundaries of the said national recreation area, as herein prescribed, shall not affect adversely any valid rights in the area, nor shall it affect the validity of withdrawals heretofore made for reclamation or power purposes. All lands in the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to

the primary use thereof for reclamation and power purposes so long as they are withdrawn or needed for such purposes. There shall be excluded from the said national recreation area by the Secretary of the Interior any property for management or protection by the Bureau of Reclamation, which would be subject otherwise to inclusion in the said recreation area, and which the Secretary of the Interior considers in the national interest should be excluded therefrom. (78 Stat. 1039; 16 U.S.C. § 460n-1)

**Sec. 3. [Hualapai Indians' lands—Exceptions and qualifications.]**—The authorities granted by this Act shall be subject to the following exceptions and qualifications when exercised with respect to any tribal or allotted lands of the Hualapai Indians that may be included within the exterior boundaries of the Lake Mead National Recreation Area:

(a) The inclusion of Indian lands within the exterior boundaries of the area shall not be effective until approved by the Hualapai Tribal Council.

(b) Mineral developments or use of the Indian lands shall be permitted only in accordance with the laws that relate to Indian lands.

(c) Leases and permits for general recreational use, business sites, home sites, vacation cabin sites, and grazing shall be executed in accordance with the laws relating to leases of Indian lands, provided that all development and improvement leases so granted shall conform to the development program and standards prescribed for the Lake Mead National Recreation Area.

(d) Nothing in this Act shall deprive the members of the Hualapai Tribe of hunting and fishing privileges presently exercised by them, nor diminish those rights and privileges of that part of the reservation which is included in the Lake Mead Recreation Area. (78 Stat. 1039; 16 U.S.C. § 460n-2)

**Sec. 4. [Recreation and related activities.]**—(a) Lake Mead National Recreation Area shall be administered by the Secretary of the Interior for general purposes of public recreation, benefit, and use, and in a manner that will preserve, develop, and enhance, so far as practicable, the recreation potential, and in a manner that will preserve the scenic, historic, scientific, and other important features of the area, consistently with applicable reservations and limitations relating to such area and with other authorized uses of the lands and properties within such area.

(b) In carrying out the functions prescribed by this Act, in addition to other related activities that may be permitted hereunder, the Secretary may provide for the following activities, subject to such limitations, conditions, or regulations as he may prescribe, and to such extent as will not be inconsistent with either the recreational use or the primary use of that portion of the area heretofore withdrawn for reclamation purposes:

(1) General recreation use, such as bathing, boating, camping, and picnicking;

(2) Grazing;

(3) Mineral leasing;

(4) Vacation cabin site use, in accordance with existing policies of the Department of the Interior relating to such use, or as such policies may be revised hereafter by the Secretary. (78 Stat. 1040; 16 U.S.C. § 460n-3)

**Sec. 5. [Hunting, fishing, trapping.]**—The Secretary of the Interior shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable laws and regulations of the United States and the respective States: *Provided*, That the Secretary, after consultation with the respective State fish and game commissions, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. (78 Stat. 1040; 16 U.S.C. § 460n-4)

**Sec. 6. [Governing regulations—Penalties for violations.]**—Such national recreation area shall continue to be administered in accordance with regulations heretofore issued by the Secretary of the Interior relating to such areas, and the Secretary may revise such regulations or issue new regulations to carry out the purposes of this Act. In his administration and regulation of the area, the Secretary shall exercise authority, subject to the provisions and limitations of this Act, comparable to his general administrative authority relating to areas of the national park system.

The superintendent, caretakers, officers, or rangers of such recreation area are authorized to make arrests for violation of any of the regulations applicable to the area or prescribed pursuant to this Act, and they may bring the offender before the nearest commissioner, judge, or court of the United States having jurisdiction in the premises.

Any person who violates a rule or regulation issued pursuant to this Act shall be guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. (78 Stat. 1040; 16 U.S.C. § 460n-5)

**Sec. 7. [State and tribal jurisdiction.]**—Nothing in this Act shall deprive any State, or any political subdivision thereof, of its civil and criminal jurisdiction over the lands within the said national recreation area, or of its rights to tax persons, corporations, franchises, or property on the lands included in such area. Nothing in this Act shall modify or otherwise affect the existing jurisdiction of the Hualapai Tribe or alter the status of individual Hualapai Indians within that part of the Hualapai Indian Reservation included in said Lake Mead National Recreation Area. (78 Stat. 1041; 16 U.S.C. § 460n-6)

**Sec. 8. [Disposition of revenues and fees.]**—Revenues and fees obtained by the United States from operation of the national recreation area shall be subject to the same statutory provisions concerning the disposition thereof as are similar revenues collected in areas of the national park system with the exception, that those particular revenues and fees including those from mineral developments, which the Secretary of the Interior finds are reasonably attributable to Indian lands shall be paid to the Indian owner of the land, and with the further exception that other fees and revenues obtained from mineral development and from activities under other public land laws within the recreation area shall be disposed of in accordance with the provisions of the applicable laws. (78 Stat. 1041; 16 U.S.C. § 460n-7)

**Sec. 9. [Appointment of a Commissioner in Arizona—Trial and sentencing of petty offenders.]**—A United States commissioner shall be appointed for that portion of the Lake Mead National Recreation Area that is situated in Mohave County, Arizona. Such commissioner shall be appointed by the United States district court having jurisdiction thereover, and the commissioner shall serve as directed by such court, as well as pursuant to, and within the limits of, the authority of said court.

The functions of such commissioner shall include the trial and sentencing of persons committing petty offenses, as defined in title 18, section 1, United States Code: *Provided*, That any person charged with a petty offense may elect to be tried in the district court of the United States, and the commissioner shall apprise the defendant of his right to make such election, but shall not proceed to try the case unless the defendant, after being so apprised, signs a written consent to be tried before the commissioner. The exercise of additional functions by the commissioner shall be consistent with and be carried out in accordance with the authority, laws, and regulations, of general application to United States commissioners. The provisions of title 18, section 3402, of the United States Code, and the rules of procedure and practice prescribed by the Supreme Court pursuant thereto, shall apply to all cases handled by such commissioner. The probation laws shall be applicable to persons tried by the commissioner and he shall have power to grant probation. The commissioner shall receive the fees, and none other, provided by law for like or similar services. (78 Stat. 1041; 16 U.S.C. § 460n-8)

**Sec. 10. [Appropriation.]**—There are hereby authorized to be appropriated not more than \$1,200,000 for the acquisition of land and interests in land pursuant to section 2 of this Act. (78 Stat. 1041; 16 U.S.C. § 460n-9)

#### 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.** S. 653, Public Law 88-639 in the 88th Congress. Reported in Senate from Interior and Insular Affairs

July 31, 1963; S. Rept. No. 380. Passed Senate Aug. 2, 1963. Passed House, amended, Aug. 3, 1964. Senate agrees to House amendments Sept. 28, 1964. Companion bill H.R. 4010 reported in House from Interior and Insular Affairs Dec. 13, 1963; H.R. Rept. No. 1039.

### CLAIR ENGLE LAKE

An act to designate as Clair Engle Lake the reservoir created by the Trinity Dam, Central Valley project, California. (Act of October 13, 1964, Public Law 88-662, 78 Stat. 1093)

[**Designation of Clair Engle Lake.**]—The reservoir created by the Trinity Dam, Central Valley project, California, shall hereafter be known as Clair Engle Lake as an appropriate tribute to the outstanding leadership and great service which the late Clair Engle performed on behalf of the development of our natural resources in the State of California and the Nation, and especially his enlightened vision for the necessity to conserve and put to the best possible beneficial use the water and power resources of this Nation, and any law, regulation, document, or record of the United States in which such reservoir is designated or referred to shall hereafter be held to refer to such reservoir by the name of Clair Engle Lake. (78 Stat. 1093)

#### EXPLANATORY NOTES

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

**Cross Reference, Trinity Dam, Central Valley Project.** The Trinity Dam, Central Valley project, referred to in the text, is a feature of the Trinity River Division, Central Valley project, which was found feasible and authorized by the Secretary of the Interior on May 2, 1952, under the provisions of section 9(a) of the Reclamation Project Act of 1939, and approved by the President on January 2, 1953. The Act of August 12, 1955, 69 Stat. 719, authorized

the Secretary of the Interior to construct, operate and maintain the Trinity River Division. The Act appears herein in chronological order.

**Legislative History.** S. 3143, Public Law 88-662 in the 88th Congress. Reported in Senate from Interior and Insular Affairs Sept. 4, 1964; S. Rept. No. 1528. Passed Senate Sept. 8, 1964. Passed House Oct. 2, 1964. Companion bill H.R. 12471 reported in House from Interior and Insular Affairs Sept. 3, 1964; H.R. Rept. No. 1884.

## AMEND MOVABLE PROPERTY TITLE TRANSFER ACT

An act to amend the Act of July 29, 1954, as amended, to permit transfer of title to movable property to agencies which assume operation and maintenance responsibility for project works serving municipal and industrial functions. (Act of June 24, 1965, Public Law 89-48, 79 Stat. 172)

[**Sec. 1. Irrigation works—Title to movable property.**]—Section 1 of the Act of July 29, 1954 (68 Stat. 580), as amended by the Act of August 2, 1956 (70 Stat. 940), is further amended to read as follows:

“**SEC. 1.** That 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.” (79 Stat. 172; 43 U.S.C. § 499a)

**Sec. 2. [Water supply works—Transfer to municipal corporation.]**—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 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. (79 Stat. 172; 43 U.S.C. § 499b)

### EXPLANATORY NOTES

**References in the Text.** The Act of July 29, 1954 (68 Stat. 580), and August 2, 1956 (70 Stat. 940), referred to in the text, are both found herein in chronological order.

**Editor’s Note, Annotations.** Annotations of opinion, if any, are included under the Act of July 29, 1954.

**Legislative History.** S. 1000, Public Law

89-48 in the 89th Congress. Reported in Senate from Interior and Insular Affairs March 26, 1965; S. Rept. No. 141. Passed Senate March 29, 1965. Reported in House from Interior and Insular Affairs June 1, 1965; H.R. Rept. No. 435. Passed House, amended, June 7, 1965. Senate agrees to House amendments June 9, 1965.

## AMEND MANN CREEK PROJECT ACT

An act to amend the Act authorizing the Mann Creek Federal reclamation project, Idaho, in order to increase the amount authorized to be appropriated for such project (Act of August 16, 1962; 76 Stat. 388). (Act of June 30, 1965, Public Law 89-60, 79 Stat. 207)

[**Appropriation authorization.**]—Section 4 of the Act entitled “An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Mann Creek Federal reclamation project, Idaho, and for other purposes”, approved August 16, 1962 (76 Stat. 388; 43 U.S.C. 616j), is amended by striking out “\$3,490,000 (April 1961 prices)” and inserting in lieu thereof “\$4,180,000 (January 1965 prices) including \$120,000 heretofore appropriated for preauthorization investigations, plus or minus such amounts, if any, as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes.” (79 Stat. 207; 43 U.S.C. § 616j)

### EXPLANATORY NOTES

**Reference in the Text.** The act approved August 16, 1962 (76 Stat. 388; 43 U.S.C. 616j), referred to in the text, appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinion, if any, are included under the Act of August 16, 1962.

**Legislative History.** H.R. 6032, Public

Law 89-60 in the 89th Congress. Reported in House from Interior and Insular Affairs May 11, 1965; H.R. Rept. No. 335. Passed House May 17, 1965. Passed Senate June 17, 1965. Companion bill S. 1582 reported in Senate from Interior and Insular Affairs June 14, 1965; S. Rept. No. 326.

## FEDERAL WATER PROJECT RECREATION ACT

An act to provide uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects, and for other purposes. (Act of July 9, 1965, Public Law 89-72, 79 Stat. 213)

[**Sec. 1. Congressional policy.**]—It is the policy of the Congress and the intent of this Act that (a) in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, wherever any such project can reasonably serve either or both of these purposes consistently with the provisions of this Act, it shall be constructed, operated, and maintained accordingly; (b) planning with respect to the development of the recreation potential of any such project shall be based on the coordination of the recreational use of the project area with the use of existing and planned Federal, State, or local public recreation developments; and (c) project construction agencies shall encourage non-Federal public bodies to administer project land and water areas for recreation and fish and wildlife enhancement purposes and operate, maintain, and replace facilities provided for those purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife. (79 Stat. 213; 16 U.S.C. § 460l-12)

**Sec. 2. [Non-Federal administration—Cost sharing.]**—(a) If, before authorization of a project, non-Federal public bodies indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of the project allocated to either or both of said purposes, as the case may be, and all the costs of operation, maintenance, and replacement incurred therefor—

(1) the benefits of the project to said purpose or purposes shall be taken into account in determining the economic benefits of the project;

(2) costs shall be allocated to said purpose or purposes and to other purposes in a manner which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: *Provided*, That the costs allocated to recreation or fish and wildlife enhancement shall not exceed the lesser of the benefits from those functions or the costs of providing recreation or fish and wildlife enhancement benefits of reasonably equivalent use and location by the least costly alternative means; and

(3) not more than one-half the separable costs and all the joint costs

July 9, 1965

FEDERAL WATER PROJECT RECREATION ACT 1821

of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be nonreimbursable.

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without the required indication of intent. Execution of an agreement as aforesaid shall be a prerequisite to commencement of construction of any project to which this subsection is applicable.

(b) The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the project; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resource projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the project by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years. (79 Stat. 214; 16 U.S.C. § 460l-13)

NOTES OF OPINIONS

Local contribution 2  
Repayment period 1

1. Repayment period

Although the initial repayment contract under section 2(b)(2) must establish a fee schedule that is reasonably calculated to achieve repayment within 50 years, the Secretary may extend the time for repayment beyond 50 years when repayment has not been achieved within that period. Memorandum of Deputy Solicitor Weinberg, September 19, 1966.

2. Local contribution

In computing the 50 percent share of costs required by sections 7(a) and 3(b) to be contributed by non-Federal interests, recognition may be given under section 2(b)(1) to non-Federal lands or facilities if title thereto is transferred to the United States. The amount of the contribution can be taken as either the fair market value of the lands and facilities on the date of the contract or the actual cost of lands specifically acquired for transfer to the United States as payment. Memorandum of Associate Solicitor Meyer, September 23, 1966.

Sec. 3. [Basis for recreation and fish and wildlife enhancement.]—(a) No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in subsection 2(a) of this Act unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife en-

## 1822 FEDERAL WATER PROJECT RECREATION ACT

hancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.

(b) Notwithstanding the absence of an indication of intent as specified in subsection 2(a), lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

(1) If non-Federal public bodies execute an agreement within ten years after initial operation of the project (which agreement shall provide that the non-Federal public bodies will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for either or both of those purposes, as the case may be, and all costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be nonreimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the project, there is not an executed agreement as specified in paragraph (1) of this subsection, the head of the agency having jurisdiction over the project may utilize the lands for any lawful purpose within the jurisdiction of his agency, or may offer the land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value as approved by the head of the agency at the time of offer or, if a firm agreement by said owner or his immediate heirs is not executed within ninety days of the date of the offer, may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided, by the prior owner or his heirs preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential. (79 Stat. 214; 16 U.S.C. § 460l-14)

## NOTE OF OPINION

**1. Local contribution**

In computing the 50 percent share of costs required by sections 7(a) and 3(b) to be contributed by non-Federal interests,

recognition may be given under section 2(b)(1) to non-Federal lands or facilities if title thereto is transferred to the United States. The amount of the contribution can

July 9, 1965

FEDERAL WATER PROJECT RECREATION ACT

1823

be taken as either the fair market value of the lands and facilities on the date of the contract or the actual cost of lands specifically acquired for transfer to the United States as payment. Memorandum of Associate Solicitor Meyer, September 23, 1966.

**Sec. 4. [Lease of facilities and lands to non-Federal public bodies.]**—At projects, the construction of which has commenced or been completed as of the effective date of this Act, where non-Federal public bodies agree to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to bear the costs of operation, maintenance, and replacement of existing facilities serving those purposes, such facilities and appropriate project lands may be leased to non-Federal public bodies. (79 Stat. 215; 16 U.S.C. § 460l-15)

**Sec. 5. [Post authorization project development.]**—Nothing herein shall be construed as preventing or discouraging postauthorization development of any project for recreation or fish and wildlife enhancement or both by non-Federal public bodies pursuant to agreement with the head of the Federal agency having jurisdiction over the project. Such development shall not be the basis for any allocation or reallocation of project costs to recreation or fish and wildlife enhancement. (79 Stat. 215; 16 U.S.C. § 460l-16)

**Sec. 6. [Misc.: Reports, cost allocation, expenditures, TVA and other projects excluded, payments and repayments.]**—(a) The views of the Secretary of the Interior developed in accordance with section 3 of the Act of May 28, 1963 (77 Stat. 49), with respect to the outdoor recreation aspects shall be set forth in any report of any project or appropriate unit thereof within the purview of this Act. Such views shall include a report on the extent to which the proposed recreation and fish and wildlife development conforms to and is in accord with the State comprehensive plan developed pursuant to subsection 5(d) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897). (79 Stat. 216; 16 U.S.C. § 460l-17)

EXPLANATORY NOTE

**References in the Text.** The Act of (78 Stat. 897), enacted September 3, 1964, May 28, 1963 (77 Stat. 49), and the Land and Water Conservation Fund Act of 1965 referred to in the text are both found herein in chronological order.

(b) The first proviso of subsection 2(d) of the Act of August 12, 1958 (72 Stat. 563; 16 U.S.C. 662(d)), is amended to read as follows: "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 water resource project reports, (3) modification of the project, and (4) modification of project operations, but shall not include the operation of wildlife facilities." The second proviso of subsection 2(d) of said Act is hereby repealed. (79 Stat. 216; 16 U.S.C. § 662)

EXPLANATORY NOTE

**Reference in Text.** The Act of August 12, 1958, referred to in text, names and amends the Fish and Wildlife Coordination Act. The second proviso of section 2(d) of that Act, here repealed, among other things, provided that costs of Federal reclamation projects attributable to mitigation of damage to fish and wildlife resources were nonreimbursable. The 1958 Act appears herein in chronological order. The full text of the Fish and Wildlife Coordination Act, as amended, appears herein in chronological order under the Act of August 14, 1946.

## 1824 FEDERAL WATER PROJECT RECREATION ACT

(c) Expenditures for lands or interests in lands hereafter acquired by project construction agencies for the establishment of migratory waterfowl refuges recommended by the Secretary of the Interior at Federal water resource projects, when such lands or interests in lands would not have been acquired but for the establishment of a migratory waterfowl refuge at the project, shall not exceed \$28,000,000: *Provided*, That the aforementioned expenditure limitation in this subsection shall not apply to the costs of mitigating damages to migratory waterfowl caused by such water resource project. (79 Stat. 216; 16 U.S.C. § 460L-17)

(d) This Act shall not apply to the Tennessee Valley Authority, nor to projects constructed under authority of the Small Reclamation Projects Act, as amended, or under authority of the Watershed Protection and Flood Prevention Act, as amended. (79 Stat. 216; 16 U.S.C. § 406L-17)

## EXPLANATORY NOTE

**References in the Text.** The Small Reclamation Projects Act (enacted August 6, 1956), and the Watershed and Flood Prevention Act (enacted August 4, 1954), referred to in the text, both appear herein in chronological order.

(e) Sections 2, 3, 4, and 5 of this Act shall not apply to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, hurricane protection projects, or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife. (79 Stat. 216; 16 U.S.C. § 460L-17)

(f) As used in this Act, the term "nonreimbursable" shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges. (79 Stat. 216; 16 U.S.C. § 460L-17)

(g) Subsection 6(a)(2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) shall not apply to costs allocated to recreation and fish and wildlife enhancement which are borne by the United States as a nonreimbursable project cost pursuant to subsection 2(a) or subsection 3(b)(1) of this Act. (79 Stat. 216; 16 U.S.C. § 460L-17)

## EXPLANATORY NOTE

**Reference in the Text.** Subsection 6(a)(2) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), enacted September 3, 1964, referred to in the text, deals with moneys appropriated from the fund which are paid into miscellaneous receipts of the Treasury as a partial offset to costs allotted to recreation and fish and wildlife values at Federal water development projects. The Act appears herein in chronological order.

(h) All payments and repayment by non-Federal public bodies under the provisions of this Act shall be deposited in the Treasury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under subsection 3(b)(2) of this Act shall be deposited in the Land and Water Conservation Fund. (79 Stat. 216; 16 U.S.C. § 460L-17)

July 9, 1965

FEDERAL WATER PROJECT RECREATION ACT 1825

**Sec. 7. [Existing reservoirs—Other agencies.]—**(a) The Secretary is authorized, in conjunction with any reservoir heretofore constructed by him pursuant to the Federal reclamation laws or any reservoir which is otherwise under his control, except reservoirs within national wildlife refuges, to investigate, plan, construct, operate and maintain, or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public outdoor recreation or fish and wildlife use, and to provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes: *Provided*, That not more than \$100,000 shall be available to carry out the provisions of this subsection at any one reservoir. Lands, facilities and project modifications for the purposes of this subsection may be provided only after an agreement in accordance with subsection 3(b) of this Act has been executed.

NOTES OF OPINIONS

**Authority for development 1**  
**Limit on Federal expenditures 2**  
**Local contribution 3**

**1. Authority for development**

The Federal Water Project Recreation Act does not grant the Secretary authority to construct and operate recreation facilities and to acquire lands for recreation purposes at new water resource projects, and therefore such authority must be contained in the authorizing legislation for each new project. However, the Secretary continues to have the authority under the Fish and Wildlife Coordination Act to construct fish and wildlife enhancement facilities, and the intrinsic authority to construct minimum health and safety facilities. Memorandum of Acting Solicitor Weinberg, August 13, 1965.

**2. Limit on Federal expenditures**

The \$100,000 limit extends to that part of the Federal expenditure which is to be repaid by the non-Federal public body as well as to that part which is nonreim-

bursable. For example, if the total cost of the project is \$150,000, \$100,000 of Federal money is authorized to be expended on it, of which \$75,000 (one-half of total project cost) would be nonreimbursable and \$25,000 would be subject to repayment; the non-Federal public body would have to contribute \$50,000 in cash or in kind. Memorandum of Associate Solicitor Hogan, September 27, 1965.

**3. Local contribution**

In computing the 50 percent share of costs required by sections 7(a) and 3(b) to be contributed by non-Federal interests, recognition may be given under section 2(b) (1) to non-Federal lands or facilities if title thereto is transferred to the United States. The amount of the contribution can be taken as either the fair market value of the lands and facilities on the date of the contract or the actual cost of lands specifically acquired for transfer to the United States as payment. Memorandum of Associate Solicitor Meyer, September 23, 1966.

(b) The Secretary of the Interior is authorized to enter into agreements with Federal agencies or State or local public bodies for the administration of project land and water areas and the operation, maintenance, and replacement of facilities and to transfer project lands or facilities to Federal agencies or State or local public bodies by lease agreement or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(c) No lands under the jurisdiction of any other Federal agency may be included for or devoted to recreation or fish and wildlife purposes under the authority of this section without the consent of the head of such agency; and

July 9, 1965

1826 FEDERAL WATER PROJECT RECREATION ACT

the head of any such agency is authorized to transfer any such lands to the jurisdiction of the Secretary of the Interior for purposes of this section. The Secretary of the Interior is authorized to transfer jurisdiction over project lands within or adjacent to the exterior boundaries of national forests and facilities thereon to the Secretary of Agriculture for recreation and other national forest system purposes; and such transfer shall be made in each case in which the project reservoir area is located wholly within the exterior boundaries of a national forest unless the Secretaries of Agriculture and Interior jointly determine otherwise. Where any project lands are transferred hereunder to the jurisdiction of the Secretary of Agriculture, the lands involved shall become national forest lands: *Provided*, That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the project for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation. Nothing herein shall limit the authority of the Secretary of the Interior granted by existing provisions of law relating to recreation or fish and wildlife development in connection with water resource projects or to disposition of public lands for such purposes. (79 Stat. 216; 16 U.S.C. § 4601-18)

**Sec. 8. [Reclamation feasibility reports must be specifically authorized by law.]**—Effective on and after July 1, 1966, neither the Secretary of the Interior nor any bureau nor any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provision of law to the contrary notwithstanding. (79 Stat. 217; 16 U.S.C. § 4601-19)

**Sec. 9. [Cost allocations—Limitations.]**—Nothing contained in this Act shall be taken to authorize or to sanction the construction under the Federal reclamation laws or under any Rivers and Harbors or Flood Control Act of any project in which the sum of the allocations to recreation and fish and wildlife enhancement exceeds the sum of the allocations to irrigation, hydroelectric power, municipal, domestic and industrial water supply, navigation, and flood control, except that this section shall not apply to any such project for the enhancement of anadromous fisheries, shrimp, or for the conservation of migratory birds protected by treaty, when each of the other functions of such a project has, of itself, a favorable benefit-cost ratio. (79 Stat. 217; 16 U.S.C. § 4601-20)

**Sec. 10. [Definitions.]**—As used in this Act:

(a) The term "project" shall mean a project or any appropriate unit thereof.

(b) The term "separable costs," as applied to any project purpose, means the difference between the capital cost of the entire multiple-purpose project and the capital cost of the project with the purpose omitted.

(c) The term "joint costs" means the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes.

(d) The term "feasibility report" shall mean any report of the scope required by the Congress when formally considering authorization of the project of which the report treats.

July 9, 1965

FEDERAL WATER PROJECT RECREATION ACT 1827

(e) The term "capital cost" includes interest during construction, wherever appropriate. (79 Stat. 218; 16 U.S.C. § 4601-21)

**Sec. 11. [Entrance and users fees—Amendments.]**—Section 2, subsection (a) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) is hereby amended by striking out the words "notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury:" and inserting in lieu thereof the words "notwithstanding any other provision of law:" and by striking out the words "or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law" and inserting in lieu thereof "or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes". (79 Stat. 218; 16 U.S.C. § 4601-5)

EXPLANATORY NOTE

**Reference in the Text.** The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), enacted September 3, 1964, referred to in the text, appears herein in chronological order.

**Sec. 12. [Short title.]**—This Act may be cited as the "Federal Water Project Recreation Act". (79 Stat. 218; 16 U.S.C. § 4601-12)

EXPLANATORY NOTES

**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. 1229, Public Law 89-72 in the 89th Congress. Reported in Senate from Interior and Insular Affairs April 7, 1965; S. Rept. No. 149. Passed Senate April 13, 1965. Passed House, amended, May 18, 1965. Senate asks for

a conference May 20, 1965. House agrees to a conference May 27, 1965. Conference report filed June 22, 1965; H.R. Rept. No. 538. House agrees to conference report June 23, 1965. Senate agrees to conference report June 25, 1965. Companion bill H.R. 5269 reported in House from Interior and Insular Affairs April 27, 1965, H.R. Rept. No. 254.

## WATER RESOURCES PLANNING ACT

An act to provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of a water resources council and river basin commissions, and by providing financial assistance to the States in order to increase State participation in such planning. (Act of July 22, 1965, Public Law 89-80, 79 Stat. 244)

### SHORT TITLE

[Section 1.]—This Act may be cited as the "Water Resources Planning Act." (79 Stat. 244; 42 U.S.C. § 1962)

### STATEMENT OF POLICY

Sec. 2. In order to meet the rapidly expanding demands for water throughout the Nation, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned. (79 Stat. 244; 42 U.S.C. § 1962)

### EFFECT ON EXISTING LAWS

Sec. 3. Nothing in this Act shall be construed—

(a) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin

Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission. (79 Stat. 244; 42 U.S.C. § 1962-1)

## TITLE I—WATER RESOURCES COUNCIL

**Sec. 101. [Membership of Council.]**—There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President. (79 Stat. 245; 42 U.S.C. § 1962a)

**Sec. 102. [Duties of the Council.]**—The Council shall—

(a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and

(b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs. (79 Stat. 245; 42 U.S.C. § 1962a-1)

**Sec. 103. [Regional or river basin plans—Standards and procedures for Federal participation.]**—The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission. (79 Stat. 245; 42 U.S.C. § 1962a-2)

**Sec. 104. [Review of river basin commission plans—Criteria, recommendations.]**—Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 204(3) of this Act, the Council shall review the plan or revision with special regard to—

## WATER RESOURCES PLANNING ACT

- (1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;
- (2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and
- (3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

- (a) formulate such recommendations as it deems desirable in the national interest; and
- (b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects. (79 Stat. 245; 42 U.S.C. § 1962a-3)

**Sec. 105. [Administrative provisions.]—**(a) For the purpose of carrying out the provisions of this Act, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and Classification Act of 1949, as amended; (5) procure services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), at rates not to exceed \$100 per diem for individuals; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this Act.

(b) Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

(d) Upon request of the Council, the head of any Federal department or agency is authorized (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) The Council shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such

personnel, and (3) the use and expenditures of funds. (79 Stat. 245; 42 U.S.C. § 1962a-4)

## TITLE II—RIVER BASIN COMMISSIONS

### CREATION OF COMMISSIONS

**Sec. 201.** (a) The President is authorized to declare the establishment of a river basin water and related land resources commission upon request therefor by the Council, or request addressed to the Council by a State within which all or part of the basin or basins concerned are located if the request by the Council or by a State (1) defines the area, river basin, or group of related river basins for which a commission is requested, (2) is made in writing by the Governor or in such manner as State law may provide, or by the Council, and (3) is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located and, in the event the Upper Colorado River Basin is involved, by at least three of the four States of Colorado, New Mexico, Utah, and Wyoming or, in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington. Such concurrences shall be in writing.

(b) Each such commission for an area, river basin, or group of river basins shall, to the extent consistent with section 3 of this Act—

(1) serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

(2) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources: *Provided*, That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause (2) of this subsection. (79 Stat. 246; 42 U.S.C. § 1962b)

### MEMBERSHIP OF COMMISSIONS

**Sec. 202.** Each river basin commission shall be composed of members appointed as follows:

(a) A chairman appointed by the President who shall also serve as chairman and coordinating officer of the Federal members of the commission and who shall represent the Federal Government in Federal-State relations on the commission and who shall not, during the period of his service on the commission,

hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government;

(b) One member from each Federal department or independent agency determined by the President to have a substantial interest in the work to be undertaken by the commission, such member to be appointed by the head of such department or independent agency and to serve as the representative of such department or independent agency;

(c) One member from each State which lies wholly or partially within the area, river basin, or group of river basins for which the commission is established, and the appointment of each such member shall be made in accordance with the laws of the State which he represents. In the absence of governing provisions of State law, such State members shall be appointed and serve at the pleasure of the Governor;

(d) One member appointed by any interstate agency created by an interstate compact to which the consent of Congress has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is created;

(e) When deemed appropriate by the President, one member, who shall be appointed by the President, from the United States section of any international commission created by a treaty to which the consent of the Senate has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is established. (79 Stat. 247; 42 U.S.C. § 1962b-1)

#### ORGANIZATION OF COMMISSIONS

**Sec. 203.** (a) Each river basin commission shall organize for the performance of its functions within ninety days after the President shall have declared the establishment of such commission, subject to the availability of funds for carrying on its work. A commission shall terminate upon decision of the Council or agreement of a majority of the States composing the commission. Upon such termination, all property, assets, and records of the commission shall thereafter be turned over to such agencies of the United States and the participating States as shall be appropriate in the circumstances: *Provided*, That studies, data, and other materials useful in water and related land resources planning to any of the participants shall be kept freely available to all such participants.

(b) State members of each commission shall elect a vice chairman, who shall serve also as chairman and coordinating officer of the State members of the commission and who shall represent the State governments in Federal-State relations on the commission.

(c) Vacancies in a commission shall not affect its powers but shall be filled in the same manner in which the original appointments were made: *Provided*, That the chairman and vice chairman may designate alternates to act for them during temporary absences.

(d) In the work of the commission every reasonable endeavor shall be made to arrive at a consensus of all members on all issues; but failing this, full opportunity shall be afforded each member for the presentation and report of

individual views: *Provided*, That at any time the commission fails to act by reason of absence of consensus, the position of the chairman, acting in behalf of the Federal members, and the vice chairman, acting upon instructions of the State members, shall be set forth in the record: *Provided further*, That the chairman, in consultation with the vice chairman, shall have the final authority, in the absence of an applicable bylaw adopted by the commission or in the absence of a consensus, to fix the times and places for meetings, to set deadlines for the submission of annual and other reports, to establish subcommittees, and to decide such other procedural questions as may be necessary for the commission to perform its functions. (79 Stat. 248; 42 U.S.C. § 1962b-2)

#### DUTIES OF THE COMMISSIONS

**Sec. 204.** Each river basin commission shall—

(1) engage in such activities and make such studies and investigations as are necessary and desirable in carrying out the policy set forth in section 2 of this Act and in accomplishing the purposes set forth in section 201(b) of this Act;

(2) submit to the Council and the Governor of each participating State a report on its work at least once each year. Such report shall be transmitted through the President to the Congress. After such transmission, copies of any such report shall be sent to the heads of such Federal, State, interstate, and international agencies as the President or the Governors of the participating States may direct;

(3) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed, and to the head of the United States section of any international commission if the plan, portion or revision deals with a boundary water or a river crossing a boundary, or any tributary flowing into such boundary water or river, over which the international commission has jurisdiction or for which it has responsibility. Each such department and agency head, Governor, interstate agency, and United States section of an international commission shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the reports so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate

July 22, 1965

agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and

(4) submit to the Council at the time of submitting such plan, any recommendations it may have for continuing the functions of the commission and for implementing the plan, including means of keeping the plan up to date. (79 Stat. 248; 42 U.S.C. § 1962b-3)

#### POWERS AND ADMINISTRATIVE PROVISIONS OF THE COMMISSIONS

**Sec. 205.** (a) For the purpose of carrying out the provisions of this title, each river basin commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not to exceed \$100 per diem, and retain and compensate such professional or technical service firms as it deems advisable on a contract basis;

(5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;

(6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(7) purchase, hire, operate, and maintain passenger motor vehicles; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this Act.

(b) The chairman of a river basin commission, or any member of such commission designated by the chairman thereof for the purpose, is authorized to administer oaths when it is determined by a majority of the commission that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of each river basin commission shall be made available for public inspection during ordinary office hours.

(d) Upon request of the chairman of any river basin commission, or any member or employee of such commission designated by the chairman thereof for the purpose, the head of any Federal department or agency is authorized (1) to furnish to such commission such information as may be necessary for

carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) The chairman of each river basin commission shall, with the concurrence of the vice chairman, appoint the personnel employed by such commission, and the chairman shall, in accordance with the general policies of such commission with respect to the work to be accomplished by it and the timing thereof, be responsible for (1) the supervision of personnel employed by such commission, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditure of funds available to such commission. (79 Stat. 249; 42 U.S.C. § 1962b-4)

#### COMPENSATION OF COMMISSION MEMBERS

**Sec. 206.** (a) Any member of a river basin commission appointed pursuant to section 202 (b) and (e) of this Act shall receive no additional compensation by virtue of his membership on the commission, but shall continue to receive, from appropriations made for the agency from which he is appointed, the salary of his regular position when engaged in the performance of the duties vested in the commission.

(b) Members of a commission, appointed pursuant to section 202 (c) and (d) of this Act, shall each receive such compensation as may be provided by the States or the interstate agency respectively, which they represent.

(c) The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for grade GS-18 of the Classification Act of 1949, as amended; or when engaged in the performance of the commission's duties on an intermittent basis such compensation shall be not more than \$100 per day and shall not exceed \$12,000 in any year. (79 Stat. 250; 42 U.S.C. § 1962b-5)

**Sec. 207.** (a) Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission's expenses shall be otherwise apportioned as the commission may determine. Each commission shall prepare a budget annually and transmit it to the Council and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Council under the Budgeting and Accounting Act of 1921, as amended, and may include an amount for advance to a commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated to or otherwise received by a commission shall be credited to the commission's account in the Treasury of the United States.

(b) A commission may accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and

services from any State or the United States or any subdivision or agency thereof, or intergovernmental agency, and may receive, utilize, and dispose of the same.

(c) The commission shall keep accurate accounts of all receipts and disbursements. The accounts shall be audited at least annually in accordance with generally accepted auditing standards by independent certified or licensed public accountants, certified or licensed by a regulatory authority of a State, and the report of the audit shall be included in and become a part of the annual report of the commission.

(d) The accounts of the Commission shall be open at all reasonable times for inspection by representatives of the jurisdictions and agencies which make appropriations, donations, or grants to the commission. (79 Stat. 250; 42 U.S.C. § 1962b-6)

### TITLE III—FINANCIAL ASSISTANCE TO THE STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

**Sec. 301. [Appropriations authorization for State grants—Coordination of Federal and State programs.]—**(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council for the next fiscal year beginning after the date of enactment of this Act, and for the nine succeeding fiscal years thereafter, \$5,000,000 in each such year for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

(b) The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this title, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this title with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this Act. (79 Stat. 251; 42 U.S.C. § 1962c)

#### EXPLANATORY NOTE

**Reference in the Text.** Section 701 of the Housing Act of 1954 (enacted August 2, 1954), 68 Stat. 640, referred to in the text, authorizes grants to State, metropolitan, or regional planning agencies for planning assistance, including surveys, land use studies, urban renewal plans, technical services and other planning work.

#### ALLOTMENTS

**Sec. 302.** (a) From the sums appropriated pursuant to section 301 for any fiscal year the Council shall from time to time make allotments to the States, in accordance with its regulations, on the basis of (1) the population, (2) the land area, (3) the need for comprehensive water and related land resources planning programs, and (4) the financial need of the respective States. For the

purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the States shall be determined on the basis of the official records of the United States Geological Survey.

(b) From each State's allotment under this section for any fiscal year the Council shall pay to such State an amount which is not more than 50 per centum of the cost of carrying out its State program approved under section 303, including the cost of training personnel for carrying out such program and the cost of administering such program. (79 Stat. 251; 42 U.S.C. § 1962c-1)

#### STATE PROGRAMS

**Sec. 303.** The Council shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

(1) provides for comprehensive planning with respect to intrastate or interstate water resources, or both, in such State to meet the needs for water and water-related activities taking into account prospective demands for all purposes served through or affected by water and related land resources development, with adequate provision for coordination with all Federal, State, and local agencies, and nongovernmental entities having responsibilities in affected fields;

(2) provides, where comprehensive statewide development planning is being carried on with or without assistance under section 701 of the Housing Act of 1954, or under the Land and Water Conservation Fund Act of 1965, for full coordination between comprehensive water resources planning and other statewide planning programs and for assurances that such water resources planning will be in conformity with the general development policy in such State;

(3) designates a State agency (hereinafter referred to as the "State agency") to administer the program;

(4) provides that the State agency will make such reports in such form and containing such information as the Council from time to time reasonably requires to carry out its functions under this title;

(5) sets forth the procedure to be followed in carrying out the State program and in administering such program; and

(6) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

The Council shall not disapprove any program without first giving reasonable notice and opportunity for hearing to the State agency administering such program. (79 Stat. 252; 42 U.S.C. § 1962c-2)

#### EXPLANATORY NOTES

**Reference in the Text.** Section 701 of the Housing Act of 1954 (enacted August 2, 1954), 68 Stat. 640, referred to in the text, authorizes grants to State, metropolitan, or

regional planning agencies for planning assistance, including surveys, land use studies, urban renewal plans, technical services and other planning work.

## WATER RESOURCES PLANNING ACT

**Reference in the Text.** The Land and Water Conservation Fund Act of 1965 (enacted September 3, 1964), referred to in the text, authorizes financial assistance to States for outdoor recreation purposes, but a comprehensive statewide outdoor recreation plan is required prior to the consideration by the Secretary of the Interior of financial assistance. The Act appears herein in chronological order.

## REVIEW

**Sec. 304.** Whenever the Council after reasonable notice and opportunity for hearing to a State agency finds that—

(a) the program submitted by such State and approved under section 303 has been so changed that it no longer complies with a requirement of such section; or

(b) in the administration of the program there is a failure to comply substantially with such a requirement,

the Council shall notify such agency that no further payments will be made to the State under this title until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such State under this title. (79 Stat. 252; 42 U.S.C. § 1962c-3)

## PAYMENTS

**Sec. 305.** The method of computing and paying amounts pursuant to this title shall be as follows:

(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each State under the provisions of this title for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Council may find necessary.

(2) The Council shall pay to the State, from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such State for any prior period under this title was greater or less than the amount which should have been paid to such State for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine. (79 Stat. 253; 42 U.S.C. § 1962c-4)

## DEFINITION

**Sec. 306.** For the purpose of this title the term "State" means a State, the District of Columbia, Puerto Rico, or the Virgin Islands. (79 Stat. 253; 42 U.S.C. § 1962c-5)

## RECORDS

**Sec. 307.** (a) Each recipient of a grant under this Act shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant

was made and the amount and nature 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.

(b) The Chairman of the Council 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 recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this Act. (79 Stat. 253; 42 U.S.C. § 1962c-6)

## TITLE IV—MISCELLANEOUS

### AUTHORIZATION OF APPROPRIATIONS

**Sec. 401.** There are authorized to be appropriated not to exceed \$300,000 annually, to carry out the provision of title I of this Act, not to exceed \$6,000,000 annually to carry out the provisions of title II, and not to exceed \$400,000 annually for the administration of title III: *Provided*, That, with respect to title II, not more than \$750,000 annually shall be available for any single river basin commission. (79 Stat. 253; 42 U.S.C. § 1962d)

### RULES AND REGULATIONS

**Sec. 402.** The Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this Act which are administered by it. (79 Stat. 254; 42 U.S.C. § 1962d-1)

### DELEGATION OF FUNCTIONS

**Sec. 403.** The Council is authorized to delegate to any member or employee of the Council its administrative functions under section 105 and the detailed administration of the grant program under title III. (79 Stat. 254; 42 U.S.C. § 1962d-2)

### UTILIZATION OF PERSONNEL

**Sec. 404.** The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this Act. (79 Stat. 254; 42 U.S.C. § 1962d-3)

### EXPLANATORY NOTES

**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. 21, Public Law 89-80 in the 89th Congress. Reported in Senate from Interior and Insular Affairs February 24, 1965; S. 68. Passed Senate February 25, 1965. Passed House, amended, March 31, 1965. Senate disagrees to House

amendments and asks for a conference April 9, 1965. House agrees to conference April 13, 1965. Conference report filed July 8, 1965; H.R. Rept. No. 603. House agrees to conference report July 13, 1965. Senate agrees to conference report July 14, 1965. Companion bill H.R. 1111. Reported from Interior and Insular Affairs March 15, 1965; H.R. Rept. No. 169.

## PUEBLO INDIAN IRRIGATION CHARGES, MIDDLE RIO GRANDE CONSERVANCY DISTRICT

An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands. (Act of July 27, 1965, Public Law 89-94, 79 Stat. 285)

[Payment of Pueblo Indian irrigation charges extended to 1975.]—The provisions of the Act of August 27, 1935 (49 Stat. 887), as amended by section 5 of the Act of June 20, 1938 (52 Stat. 779), by the Act of April 24, 1946 (60 Stat. 121), and by the Act of May 29, 1956 (70 Stat. 221), authorizing the Secretary of the Interior to provide by agreement with the Middle Rio Grande Conservancy District, a subdivision of the State of New Mexico, for the payment of operation and maintenance charges on newly reclaimed Pueblo Indian lands and lands purchased by the United States by virtue of the Act of June 7, 1924 (43 Stat. 636), as amended, for certain Pueblo Indians, are hereby extended for an additional period of ten years to 1975. (79 Stat. 285)

### EXPLANATORY NOTES

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

**Background.** The Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, was created in 1927 for planning, constructing and operating a coordinated irrigation and flood control project, including the rehabilitation of existing irrigation works that included some of the oldest in the United States. Reclamation of Indian lands within the District was authorized under the Act of March 13, 1928, 45 Stat. 312. The Act of August 27, 1935, 49 Stat. 887, authorized the Secretary of the Interior to enter into an agreement with the District to pay operation and maintenance charges assessed against certain Indian lands for a period of 5 years. This authority was subsequently extended to 1945, 1955, and 1965 successively by the Act of June 20, 1938, 52 Stat. 779; the Act of April 24, 1946, 60 Stat. 121; and the Act of May 29, 1956, 70 Stat. 221. The Act of July 27, 1965, above, extends this authority to 1975.

On September 24, 1951, the Bureau of Reclamation contracted with the District to rehabilitate and extend the project

works; and the amendatory contract of January 4, 1955, set February 1, 1955, as the date for the Bureau of Reclamation to take over operation and maintenance of the works, with the District responsible for making and collecting assessments against land and property owners. These contracts do not make any changes in the working relationships between the Federal Government and the District with respect to operation and maintenance charges assessed against Indian lands.

The Federal project, named the Middle Rio Grande project, was undertaken under the Federal reclamation laws, as amended and supplemented, including the Flood Control Acts of June 30, 1948, 62 Stat. 1179, and May 17, 1950, 64 Stat. 176. The relevant provisions from these two Acts appear herein in chronological order.

**Legislative History.** S. 1462, Public Law 89-94 in the 89th Congress. Reported in the Senate from Interior and Insular Affairs March 25, 1965, S. Rept. No. 140. Passed Senate March 29, 1965. Reported in House from Interior and Insular Affairs, March 30, 1965, H.R. Rept. No. 575. Passed House July 12, 1965.

## GARRISON DIVERSION UNIT, MISSOURI RIVER BASIN PROJECT

An act to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior. (Act of August 5, 1965, Public Law 89-108, 79 Stat. 433)

[Sec. 1. Garrison diversion unit authorized.]—The general plan for the Missouri-Souris unit of the Missouri River Basin project, heretofore authorized in section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887), as modified by the report of the Secretary of the Interior contained in House Document Numbered 325, Eighty-sixth Congress, second session, is confirmed and approved under the designation "Garrison diversion unit," and the construction of a development providing for the irrigation of two hundred and fifty thousand acres, municipal and industrial water, fish and wildlife conservation and development, recreation, flood control, and other project purposes shall be prosecuted by the Department of the Interior substantially in accordance with the plans set out in the Bureau of Reclamation report dated November 1962 (revised February 1965) supplemental report to said House Document Numbered 325. (79 Stat. 433)

### EXPLANATORY NOTE

Reference in the Text. Section 9 of the (58 Stat. 887), referred to in the text, ap-  
Flood Control Act of December 22, 1944 appears herein in chronological order.

Sec. 2. [Recreation and fish and wildlife enhancement.]—(a) Subject to the provisions of subsections (b), (c), (d), and (e) of this section, the Secretary is authorized in connection with the Garrison diversion unit (i) to construct, operate, and maintain or provide for the construction, operation, and maintenance of public outdoor recreation and fish and wildlife enhancement facilities, (ii) to acquire or otherwise to include within the unit area such adjacent lands or interests in land as are necessary for present or future public recreation or fish and wildlife use, (iii) to allocate water and reservoir capacity to recreation and fish and wildlife enhancement, and (iv) to provide for the public use and enjoyment of unit lands, facilities, and water areas in a manner coordinated with other unit purposes. The Secretary is further authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and replacement of unit facilities, and to transfer unit lands or facilities to Federal agencies or State or local public bodies by lease or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(b) All costs allocated to fish and wildlife enhancement and incurred in connection with waterfowl refuges and waterfowl production areas proposed for Federal administration shall be nonreimbursable.

(c) (1) If, before commencement of construction of the unit, non-Federal public bodies agree to administer for recreation or fish and wildlife enhance-

ment or for both of these purposes pursuant to the plan for the development of the unit approved by the Secretary land and water areas which are not included within Federal waterfowl refuges and waterfowl production areas and to bear not less than one-half the separable costs of the unit allocated to either or both of said purposes, as the case may be, and attributable to such areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be nonreimbursable.

(2) In the absence of such a preconstruction agreement recreation and fish and wildlife enhancement facilities (other than minimum facilities for the public health and safety at reservoir access points and facilities related to Federal waterfowl refuges and waterfowl production areas) shall not be provided, and the allocation of unit costs shall reflect only the number of visitor days and the value per visitor day estimated to result from such diminished recreation development without reference to lands which may be provided pursuant to subsection (e) of this section.

(d) The non-Federal share of the separable capital costs of the unit allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the Secretary: (i) payment, or provision of lands, interests therein, or facilities for the unit; or (ii) repayment, with interest, within fifty years of first use of unit recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the unit by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

(e) Notwithstanding the absence of preconstruction agreements as specified in subsection (c) of this section lands may be acquired in connection with construction of the unit to preserve the recreation and fish and wildlife enhancement potential of the unit.

(1) If non-Federal public bodies agree within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement pursuant to the plan for development of the unit approved by the Secretary land and water areas which are not included within Federal waterfowl refuges and waterfowl production areas and to bear not less than one-half the costs of lands acquired therefor pursuant to this subsection and facilities and project modifications provided for those purposes and all costs of operation, maintenance, and replacement incurred therefor, the remainder of the costs of such lands, facilities, and project modifications shall be nonreimbursable. Such agreement and subsequent development shall not be the basis for any allocation of joint costs of the unit to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the unit, there is not an executed agreement as specified in paragraph (1) of this subsection, the Secretary may utilize the lands for any lawful purpose within the jurisdiction of the Department of the Interior, or may transfer custody of the land to another

Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

(f) Subject to the limitations hereinbefore stated, joint capital costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable.

(g) Costs of means and measures to prevent loss of and damage to fish and wildlife shall be treated as unit costs and allocated among all unit purposes.

(h) As used in this Act, the term "nonreimbursable" shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges. (79 Stat. 433)

**Sec. 3. [Physical and financial integration with comprehensive Missouri River plan.]**—The Garrison diversion unit shall be integrated physically and financially with the other Federal works 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 shall give consideration to returning to the Missouri River to the fullest extent practicable such of the return flows as are not required for beneficial purposes. (79 Stat. 434)

#### EXPLANATORY NOTE

**Reference in the Text.** Section 9 of the (58 Stat. 887), referred to in the text, Flood Control Act of December 22, 1944 appears herein in chronological order.

**Sec. 4. (a) [Interest rates for Garrison diversion unit.]**—The interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the Garrison diversion unit as authorized in this Act 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.

**(b) [Interest rates for Army power facilities in Missouri River Basin project.]**—From and after July 1, 1965, the interest rate on the unamortized balance of the investment allocated to commercial power in facilities constructed or under construction on June 30, 1965, by the Department of the Army in the Missouri River Basin, the commercial power from which is marketed by the Department of the Interior, and in the transmission and marketing facilities associated therewith, shall be 2½ per centum per annum. (79 Stat. 435)

**Sec. 5. [Basic agricultural commodities—Water delivery restriction.]**—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

August 5, 1965

1844 GARRISON DIVERSION UNIT, MISSOURI BASIN

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. (79 Stat. 435)

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.

**Sec. 6. [Appropriation authorization.]**—There is hereby authorized to be appropriated for construction of the Garrison diversion unit as authorized in this Act, the sum of \$207,000,000, 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 types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit. (79 Stat. 435)

EXPLANATORY NOTES

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

**Legislative History.** H.R. 237, Public Law 89-108 in the 89th Congress. Reported in House from Interior and Insular Affairs

May 4, 1965; H.R. Rept. No. 282. Passed House June 16, 1965. Passed Senate July 22, 1965. Companion bill S. 34. Reported in Senate from Interior and Insular Affairs, July 20, 1965; S. Rept. No. 470.

## LAKE MEREDITH

Joint Resolution to designate the lake to be formed by the waters impounded by Sanford Dam, Canadian River project, Texas, as "Lake Meredith". (Act of August 31, 1965, Public Law 89-153, 79 Stat. 587.)

[**Designation of Lake Meredith.**]—The lake to be formed by the waters impounded by Sanford Dam, Canadian River project, Texas, shall hereafter be known as "Lake Meredith" in honor of A. A. Meredith. 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 as "Lake Meredith". (79 Stat. 587)

### EXPLANATORY NOTES

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

**Reference in the Text.** The Canadian River project, referred to in the text, was authorized by the Act of December 29, 1950, 64 Stat. 1124. The Act appears herein in chronological order.

**Legislative History.** H.J. Res. 95, Public

Law 89-153 in the 89th Congress. Reported in House from Interior and Insular Affairs March 15, 1965; H.R. Rept. No. 173. Passed House April 5, 1965. Reported in Senate from Interior and Insular Affairs August 12, 1965; S. Rept. No. 578. Passed Senate August 13, 1965.

## ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

An act to authorize the establishment of the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument. (Act of August 31, 1965, Public Law 89-154, 79 Stat. 587)

[**Sec. 1. Property to be acquired.**]—The Secretary of the Interior may designate, acquire and administer as a national monument lands and interests in lands comprising the Alibates Flint Quarries and the Texas Panhandle Pueblo Culture sites, together with any structures and improvements thereon, located in and around Potter County, Texas. (79 Stat. 587; 16 U.S.C. § 431)

**Sec. 2. (a) [National monument created.]**—The property acquired under the provisions of the first section of this Act shall be set aside as a national monument for the benefit and enjoyment of the people of the United States and shall be designated as the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument. The Secretary of the Interior shall administer, protect, and develop such monument, subject to the provisions of the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916, as amended and supplemented, and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935, as amended.

**(b) [Improvements.]**—In order to provide for the proper development and maintenance of such national monuments, the Secretary of the Interior is authorized to construct and maintain therein such markers, buildings, and other improvements, and such facilities for the care and accommodation of visitors, as he may deem necessary. (79 Stat. 587; 16 U.S.C. § 431)

**Sec. 3. [Appropriations.]**—There is hereby authorized to be appropriated not to exceed \$5,000 for the acquisition of land and not to exceed \$260,000 for the development of the area. (79 Stat. 587; 16 U.S.C. § 431)

### EXPLANATORY NOTES

**Cross Reference, Sanford Reservoir.** The area established as a national monument by this act is in the vicinity of Sanford Reservoir of the Canadian River Project. General recreation development of the reservoir area was authorized by the Act of August 31, 1964, 78 Stat. 744. The Canadian River project was authorized by the Act of December 29, 1950, 64 Stat. 1124. Both the 1964 and 1950 Acts appear 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.** H.R. 881, Public Law 89-154 in the 89th Congress. Reported in House from Interior and Insular Affairs, March 10, 1965; H.R. Rept. No. 148. Passed House April 5, 1965. Reported in Senate from Interior and Insular Affairs, August 12, 1965; S. Rept. No. 581. Passed Senate, amended, August 16, 1965. House agrees to Senate amendments August 17, 1965.

## AUBURN-FOLSOM SOUTH UNIT, CENTRAL VALLEY PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Auburn-Folsom South unit, American River division, Central Valley project, California, under Federal reclamation laws. (Act of September 2, 1965, Public Law 89-161, 79 Stat. 615)

[Sec. 1. Construction—Principal works.]—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 (hereinafter referred to as the “Secretary”), 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 Auburn-Folsom South unit, American River division. The principal works of the unit shall consist of—

(1) the Auburn Dam and Reservoir with maximum water surface elevation of one thousand one hundred and forty feet above mean sea level, and capacity of approximately two and one-half million acre-feet;

(2) a hydroelectric powerplant at Auburn Dam with initial installed capacity of approximately two hundred and forty thousand kilowatts and necessary electric transmission system for interconnection with the Central Valley project power system: *Provided*, That provision may be made for the ultimate development of the hydroelectric capacity (now estimated at approximately four hundred thousand kilowatts) and such installation may be made when duly authorized by an Act of Congress: *Provided further*, That no facilities except those required for interconnecting the Auburn powerplant and the Folsom switchyard and those interconnecting the Folsom switchyard and the Elverta substation, shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of a firm offer of a fifty-year contract from a local public or private agency, can be obtained at less cost to the Federal Government than by construction and operation of Government facilities;

(3) the Sugar Pine Dam and Reservoir;

(4) the County Line Dam and Reservoir;

(5) necessary diversion works, conduits, and other appurtenant works for the delivery of water supplies to projects on the Forest Hill Divide in Placer County and in the Folsom-Malby area in Sacramento and El Dorado Counties;

(6) the Folsom South canal and such related structures, including pumping plants, regulating reservoirs, floodways, channels, levees, and other appurtenant works for the delivery of water as the Secretary determines will best serve the needs of Sacramento and San Joaquin Counties: *Provided*, That the Secretary is authorized to include in such canal and related operating structures such additional works or capacity as he deems

necessary and economically justified to provide for the future construction of the East Side division of the Central Valley project, and the incremental costs of providing additional works or capacity in the Folsom South canal to serve the East Side division of the Central Valley project shall be assigned to deferred use for repayment from Central Valley project revenues. In the event that the East Side division is authorized, such costs shall be deemed a part of the cost of that division and shall be reallocated as the Secretary deems right and proper. (79 Stat. 615; 43 U.S.C. § 616aaa)

**Sec. 2. [Integration with other Central Valley features.]**—Subject to the provisions of this Act, the operation of the Auburn-Folsom South unit, American 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. Auburn and County Line Dams 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 (58 Stat. 887; 33 U.S.C. 709). (79 Stat. 616; 43 U.S.C. § 616bbb)

#### EXPLANATORY NOTE

**Reference in the Text.** Extracts from the 1944, including section 7 which is referred Flood Control Act of 1944 (58 Stat. 887; to in the text, appear herein in chronological order. 33 U.S.C. 709), enacted December 22,

**Sec. 3. [Recreation and fish and wildlife enhancement facilities.]**—(a) Subject to the provisions of subsections (b), (c), (d), and (e) of this section, the Secretary is authorized in connection with the Auburn-Folsom South unit (i) to construct, operate, and maintain or provide for the construction, operation, and maintenance of public outdoor recreation and fish and wildlife enhancement facilities, (ii) to acquire or otherwise to include within the unit area such adjacent lands or interests in land as are necessary for present or future public recreation or fish and wildlife use, (iii) to allocate water and reservoir capacity to recreation and fish and wildlife enhancement, and (iv) to provide for the public use and enjoyment of unit lands, facilities, and water areas in a manner coordinated with other unit purposes. The Secretary is further authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, and replacement of unit facilities, and to transfer unit lands or facilities to Federal agencies or State or local public bodies by lease or exchange, upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(b) Costs of recreation facilities at Sugar Pine Reservoir shall be nonreimbursable, and the provisions of subsections (c), (d), and (e) of this section shall not be applicable to such facilities.

(c) (1) If, before commencement of construction of the unit, non-Federal public bodies agree to administer unit land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan

September 2, 1965

AUBURN-FOLSOM SOUTH UNIT, CENTRAL VALLEY 1849

for the development of the unit approved by the Secretary and to bear not less than one-half the separable costs of the unit allocated to either or both of said purposes, as the case may be, and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated shall be nonreimbursable.

(2) In the absence of such a preconstruction agreement recreation and fish and wildlife enhancement facilities (other than minimum facilities for the public health and safety at reservoir access points) shall not be provided, and the allocation of unit costs shall reflect only the number of visitor days and the value per visitor day estimated to result from such diminished recreation development without reference to lands which may be provided pursuant to subsection (e) of this section.

(d) The non-Federal share of the separable capital costs of the unit allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the Secretary: (i) payment, or provision of lands, interests therein, or facilities for the unit; or (ii) repayment, with interest, within fifty years of first use of unit recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the unit by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

(e) Notwithstanding the absence of preconstruction agreements as specified in subsection (c) of this section lands may be acquired in connection with construction of the unit to preserve its recreation potential, its fish and wildlife enhancement potential, or both.

(1) If non-Federal public bodies agree within ten years after initial unit operation to administer unit land and water areas for recreation and fish and wildlife enhancement pursuant to the plan for development of the unit approved by the Secretary and to bear not less than one-half the costs of land acquired therefor pursuant to this subsection and facilities and project modifications provided for those purposes and all costs of operation, maintenance, and replacement incurred therefor, the remainder of the costs of such lands, facilities, and project modification shall be nonreimbursable. Such agreement and subsequent development shall not be the basis for any allocation of joint costs of the unit to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the unit, there is not an executed agreement as specified in paragraph (1) of this subsection, the Secretary may utilize the lands for any lawful purpose within the jurisdiction of the Department of the Interior, or may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes

September 2, 1965

1850 AUBURN-FOLSOM SOUTH UNIT, CENTRAL VALLEY

for which the project was constructed, and in every case preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

(f) Subject to the limitations hereinbefore stated, joint capital costs allocated to recreation and fish and wildlife enhancement shall be nonreimbursable.

(g) Costs of means and measures to prevent loss of and damage to fish and wildlife shall be treated as unit costs and allocated among all unit purposes.

(h) As used in this Act, the term "nonreimbursable" shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges. (79 Stat. 616; 43 U.S.C. § 616ccc)

**Sec. 4. [State and local interests to be consulted.]**—In locating and designing the works and facilities authorized for construction by this Act, and in acquiring or withdrawing any lands as authorized by this Act, the Secretary shall give due consideration to the reports upon the California water plan prepared by the State of California, and shall consult the local interests who may be affected by the construction and operation of said works and facilities or by the acquisition or withdrawal of lands, through public hearings or in such manner as in his discretion may be found best suited to a maximum expression of the views of such local interests. (79 Stat. 618; 43 U.S.C. § 616ddd)

**Sec. 5. [Act not to be construed as allocating water.]**—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 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. (79 Stat. 618; 43 U.S.C. § 616eee)

**Sec. 6. [Appropriations.]**—There is hereby authorized to be appropriated for construction of the Auburn-Folsom South unit, American River division, the sum of \$425,000,000 (1965 prices), 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 types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the project. (79 Stat. 618; 43 U.S.C. § 616fff)

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.

**Legislative History.** H.R. 485, Public Law 89-161 in the 89th Congress. Reported in House from Interior and Insular Affairs May 6, 1965; H.R. Rept. No. 295. Passed House June 16, 1965. Passed Senate August 20, 1965. Companion bill S. 599. Reported in Senate from Interior and Insular Affairs June 10, 1965; S. Rept. No. 312.

## SOUTHERN NEVADA WATER PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Southern Nevada water project, Nevada, and for other purposes. (Act of October 22, 1965, Public Law 89-292, 79 Stat. 1068)

**[Sec. 1. Construction—Water principally for municipal and industrial use—Principal features.]**—The Secretary of the Interior is authorized to construct, operate, and maintain the Southern Nevada water project, Nevada, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), except as those laws are inconsistent with this Act, for the principal purpose of delivering water for municipal and industrial use. The principal features of the Southern Nevada water project shall consist of intake facilities, pumping plants, aqueduct and laterals, transmission lines, substations, and storage and regulatory facilities required to provide water from Lake Mead on the Colorado River for distribution to municipalities and industrial centers within Clark County, Nevada. (79 Stat. 1068; 43 U.S.C. § 616ggg)

**Sec. 2. [Cost allocations.]**—(a) The Secretary shall make appropriate allocations of project costs to municipal and industrial water supply and, if appropriate, to fish and wildlife and recreation: *Provided*, That all operation and maintenance costs for the Southern Nevada water project shall be allocated to municipal and industrial water supply. Construction costs of the River Mountains dam and reservoir allocated to fish and wildlife and recreation shall be nonreimbursable in accordance with the Federal Water Project Recreation Act (79 Stat. 213).

### EXPLANATORY NOTE

**Reference in the Text.** The Federal the text, appears herein in chronological order.  
Water Project Recreation Act (79 Stat. 213), enacted July 9, 1965, referred to in

(b) Allocations of project costs made to municipal and industrial water supply shall be repayable to the United States in not more than fifty years under either the provisions of the Federal reclamation laws or under the provisions of Water Supply Act of 1958 (title III of Public Law 85-500, 72 Stat. 319 and Acts amendatory thereof or supplementary thereto): *Provided*, That, in either case, repayment of costs allocated to municipal and industrial water supply shall include interest on the unamortized balance of such allocations 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 securities outstanding on the date of this Act and adjusted to the nearest one-eighth of 1 per centum. (79 Stat. 1068; 43 U.S.C. § 616hhh)

### EXPLANATORY NOTE

**Reference in the Text.** The Water Supply Act of 1958 (Title III of Public Law 85-500, 72 Stat. 319 and Acts amendatory thereof or supplementary thereto), referred to in the text, was enacted July 3, 1958. Extracts therefrom appear herein in chronological order.

## SOUTHERN NEVADA WATER PROJECT

**Sec. 3. [Water delivery and repayment contract.]**—(a) The Secretary is authorized to enter into a contract with the State of Nevada, acting through the Colorado River Commission of Nevada or other duly authorized State agency, for the delivery of water and for repayment of the reimbursable construction costs.

(b) Construction of the project shall not be commenced until a suitable contract has been executed by the Secretary and the Colorado River Commission or other duly authorized State agency.

(c) Such contract may be entered into without regard to the last sentence of section 9, subsection (c), of the Reclamation Project Act of 1939.

## EXPLANATORY NOTE

**Cross Reference, Reclamation Project Act of 1939.** The last sentence of section 9 (c) of the Reclamation Project Act of August 4, 1939, referred to in the text, provides that no contract for water supply,

electric power, etc., may be made if it will impair the efficiency of the project for irrigation purposes. The Act appears herein in chronological order.

(d) Upon execution of the contract referred to in section 3(a) above, and upon completion of construction of the project, the Secretary shall transfer to said Colorado River Commission of Nevada or other duly authorized State agency the care, operation, and maintenance of the intake, pumping plants, aqueducts, reservoirs, and related features of the Southern Nevada water project upon the terms and conditions set out in the said contract.

## EXPLANATORY NOTE

**Reference in the Text.** The Colorado River Commission of Nevada, referred to in the text, is a State authority. Section 16, and note following, of the Boulder Canyon Project Act of December 21, 1928, deal with

the rights of such Commissions with respect to the authority of the Secretary of the Interior under the act. The 1928 Act appears herein in chronological order.

(e) When all of the costs allocable to reimbursable purposes incurred by the United States on constructing, operating, and maintaining the project, together with appropriate interest charges, have been returned to the United States by the State of Nevada, said State shall have the permanent right to use the intake, pumping plants, aqueducts, reservoirs, and related features of the Southern Nevada water supply project in accordance with said contract. (79 Stat. 1068; 43 U.S.C. § 616iii)

**Sec. 4. [Construction costs to supply water to defense bases are nonreimbursable.]**—Such amount of the costs of construction as are allocated to the furnishing of a water supply to Nellis Air Force Base or other defense installations shall be nonreimbursable. (79 Stat. 1069; 43 U.S.C. § 616jjj)

**Sec. 5. [Water use subject to previous laws, treaty.]**—The use of all water diverted for this project from the Colorado River system shall be subject to and controlled by the Colorado River compact, the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617t), and the Mexican Water Treaty (Treaty Series 994) (59 Stat. 1219). (79 Stat. 1069; 43 U.S.C. § 616kkk)

## EXPLANATORY NOTE

**References in the Text.** The Colorado River Compact and the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617t), referred to in the text, appear herein in chronological order under the date of

December 21, 1928. The Mexican Water Treaty (Treaty series 994) (59 Stat. 1219), also referred to in the text, appears herein under the date of its signing at Washington, February 3, 1944.

**Sec. 6. [Intrastate priorities.]**—The contract for delivery of water and repayment of reimbursable construction costs of the Southern Nevada Water Project required by section 3 of this Act shall provide that if, within five years from the date of this Act, Basic Management, Inc., or its assignees applies for a contract for the storage and delivery of water in accordance with the provisions of section 5 of the Boulder Canyon Project Act (45 Stat. 1060, as amended; 43 U.S.C. 617d) and the regulations of the Secretary of the Interior issued pursuant to said Act, the rights of the party contracting pursuant to section 3 of this Act shall be subordinate to those of Basic Management, Inc., or its assignees to the extent of 41,266 acre-feet per annum or so much thereof as is required for beneficial consumptive use by it, its right to the storage and delivery of the same having been properly maintained in accordance with the terms of its contract. Nothing contained in this Act shall be construed as affecting the satisfaction of present perfected rights as defined by the decree of the United States Supreme Court in *Arizona v. California*, 376 U.S. 340. (79 Stat. 1069; Act of July 19, 1966, 80 Stat. 312; 43 U.S.C. § 616*lll*)

## EXPLANATORY NOTES

**1966 Amendment.** The Act of July 19, 1966, 80 Stat. 312, which appears herein in chronological order, amended section 6 to read as it appears above. The original text of the section follows, as does the statement issued by President Johnson expressing his desire for section 6 to be amended. "Sec. 6. In all water supply contracts for the use of water in Nevada under this Act or section 5 of the Boulder Canyon Project Act (45 Stat. 1057) the Secretary shall recognize the intrastate priorities of water rights to the use of water existing on the date of enactment of this Act: *Provided, however*, That nothing in this Act shall be construed as validating any right diminished or lost because of abandonment, nonuse, or lack of due diligence, nor shall anything in this Act be construed as affecting the satisfaction of present perfected rights as defined by the decree of the United States Supreme Court in *Arizona against California et al.* (376 U.S. 340)."

**Presidential Statement.** At the time of signing this bill, President Johnson issued the following statement:

"I have approved S. 32, 'To authorize the Secretary of the Interior to construct, operate, and maintain the Southern Nevada

water project, Nevada, and for other purposes.'

"The Southern Nevada water supply project which would be authorized by this bill consists of a system of distribution pipelines and related facilities to furnish water to Las Vegas, several other Nevada towns, and Nellis Air Force Base. I have supported Federal authorization of this project as the appropriate means for assisting this area to meet its growing water supply problems.

"However, during the course of this legislation through the Congress a rider in the form of section 6 was added to it without consultation with any executive agency.

"Section 6 provides as follows: 'In all water supply contracts for the use of water in Nevada under this Act or section 5 of the Boulder Canyon Project Act (45 Stat. 1057) the Secretary shall recognize the intrastate priorities of water rights to the use of water existing on the date of enactment of this Act: *Provided, however*, That nothing in this Act shall be construed as validating any right diminished or lost because of abandonment, nonuse, or lack of due diligence, nor shall anything in this

Act be construed as affecting the satisfaction of present perfected rights as defined by the decree of the United States Supreme Court in *Arizona against California et al.* (376 U.S. 340).'

"Although these provisions are couched in general terms, the scant legislative history of the bill indicates that they are intended to be applicable to one company only. While there may be some equities which would justify special consideration for this company, I am advised by the Secretary of the Interior that these provisions might well have a much broader sweep. In fact, it appears that they might affect in unforeseeable

ways the water rights of a number of individuals and firms amounting to 60,000 to 70,000 additional acre feet.

"In these circumstances I have asked the Secretary of the Interior to develop legislation which would amend section 6 to limit its effect to that intended by the Congress. I am confident that those members concerned with this legislation will agree that the uncertainties surrounding the broader than intended effect of section 6 make its amendment desirable."

The company referred to is Basic Management, Inc.

**Sec. 7. [Appropriation.]**—There is hereby authorized to be appropriated for construction of the Southern Nevada water project, Nevada, the sum of \$81,003,000 (September 1965 prices) 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 types of construction involved herein. (79 Stat. 1069; 43 U.S.C. § 616 mmm).

#### EXPLANATORY NOTE

**Legislative History.** S. 32, Public Law 89-292 in the 89th Congress. Reported in Senate from Interior and Insular Affairs June 15, 1965; S. Rept. No. 332. Passed Senate June 17, 1965. Passed House,

amended, October 7, 1965. Senate agrees to House amendment October 7, 1965. Companion bill H.R. 2020. Reported in House from Interior and Insular Affairs September 16, 1965; H.R. Rept. No. 1011.

FLOOD CONTROL ACT OF 1965

[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 October 27, 1965, Public Law 89-298, 79 Stat. 1073)

\* \* \* \* \*

TITLE II—FLOOD CONTROL

\* \* \* \* \*

Sec. 204. [Authorization of projects.]—

\* \* \* \* \*

ARKANSAS RIVER BASIN

[Permanent pool, John Martin Reservoir.]—The John Martin Reservoir project (formerly known as Caddoa Reservoir), Arkansas River, Colorado, as authorized by the Act of June 22, 1936 (49 Stat. 1570), is modified to authorize and direct the Chief of Engineers to use not to exceed ten thousand acre-feet of reservoir flood control storage space for the purpose of establishing and maintaining a permanent pool for fish and wildlife and recreational purposes, at such times as storage space may not be available for such permanent pool within the conservation pool as defined in article III F, Arkansas River compact (63 Stat. 145) except that—

(1) The State of Colorado shall purchase and make available any water rights necessary under State law to establish and thereafter maintain the permanent pool.

(2) The rights of irrigators in Colorado and Kansas to those waters available to them under the terms of the Arkansas River compact and under the laws of their respective States shall not be diminished or impaired by anything contained in this paragraph.

(3) Nothing in this paragraph shall be construed so as to give any preference to the permanent pool over other project purposes.

(4) No permanent pool as herein defined shall be maintained except upon written terms and conditions acceptable and agreed to (A) by the Chief of Engineers in the interest of flood control, and (B) by the Colorado State Engineer, the Arkansas River Compact Administration, and the Colorado Water Conservation Board, in the interest of establishing, maintaining, and operating the permanent pool for recreational and fish and wildlife purposes.

(5) Nothing in this paragraph shall be construed so as to limit the authority of the Chief of Engineers to operate John Martin Reservoir for the primary purposes of the prevention of floods and the preservation of life and property. (79 Stat. 1078)

## EXPLANATORY NOTES

**Reference in the Text.** The Act of June 22, 1936 (49 Stat. 1570), referred to in the text, is the 1936 Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes. The Act does not appear herein.

**Reference in the Text.** The consent of the Congress to the Arkansas River Compact (63 Stat. 145), referred to in the text, was given by the Act of May 31, 1949, which includes the text of the compact. The Act appears herein in chronological order.

\* \* \* \* \*

## SACRAMENTO RIVER BASIN

\* \* \* \* \*

**[Lakeport Reservoir.]**—The project for the Lakeport Dam and Reservoir with supplemental channel improvements, Scotts Creek, Cache Creek Basin, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 259, Eighty-ninth Congress, at an estimated cost of \$9,360,000. (79 Stat. 1083)

\* \* \* \* \*

## COLUMBIA RIVER BASIN

**[Lower Grande Ronde and Catherine Creek.]**—The projects for the Lower Grande Ronde and Catherine Creek dams and reservoirs, Grande Ronde River and tributaries, Oregon, are hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 280, Eighty-ninth Congress, at an estimated cost of \$20,440,000. The Chief of Engineers shall construct, operate, and maintain such projects.

**[Willow Creek.]**—The project for flood protection on Willow Creek, Oregon, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 233, Eighty-ninth Congress, at an estimated cost of \$6,680,000. (79 Stat. 1084)

\* \* \* \* \*

**Sec. 208. [Framework plans for developing water resources of major regions and basins.]**—The Secretary of the Army is hereby authorized and directed to cause surveys for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects, to be made under the direction of the Chief of Engineers, in drainage areas of the United States and its territorial possessions, which include the localities specifically named in this section. After the regular or formal reports made on any survey authorized by this section are submitted to Congress, no supplemental or additional report or estimate shall be made unless authorized by law except that the Secretary of the Army may cause a review of any examination or survey to be made and a report thereon submitted to Congress, if such review is required by the national defense or by changed physical or economic conditions.

Watersheds of streams in the North Atlantic region draining northward in New York toward the Saint Lawrence River below the international boundary and draining directly into the Atlantic Ocean above the Virginia-North Carolina State line with respect to a framework plan for developing the water resources of the region.

All streams flowing into the sounds of North Carolina between Cape Lookout and the Virginia line except those portions of the Neuse, Pamlico, and Roanoke Rivers above the estuarine reaches.

Watersheds of streams in the South Atlantic region draining directly to the Atlantic Ocean below the Virginia-North Carolina State line and draining directly into the Gulf of Mexico east of Lake Pontchartrain with respect to a framework plan for developing the water resources of the region.

The Rio Grande and its tributaries with respect to a framework plan for flood control and other purposes.

Watersheds of streams, washes, lakes, and their tributaries, which drain areas of the great basin region of Oregon, California, Nevada, Utah, Idaho, and Wyoming with respect to a framework plan for flood control and other purposes.

The Colorado River and tributaries above Lees Ferry, Arizona, with respect to a framework plan for flood control and other purposes.

The Colorado River and tributaries below Lees Ferry, Arizona, with respect to a framework plan for flood control and other purposes.

Watersheds of streams in the Pacific Northwest region which drain directly into the Pacific Ocean along the coastlines of Washington and Oregon with respect to a framework plan for developing the water resources of the region.

Watersheds of streams in California which drain directly into the Pacific Ocean and of streams, washes, lakes, and their tributaries, which drain areas in the eastern portion of the California region with respect to a framework plan for developing the water resources of the region. (79 Stat. 1085)

\* \* \* \* \*

**Sec. 216. [San Francisco Bay—Water quality control study].**—The Secretary of the Army is hereby authorized and directed to cause to be made, under the direction of the Chief of Engineers, an investigation and study of San Francisco Bay, California, including San Pablo Bay, Suisun Bay, and other adjacent bays and tributaries thereto, with a view toward determining the feasibility of, and extent of Federal interest in, measures for waste disposal and water quality control and allied purposes. (79 Stat. 1088)

\* \* \* \* \*

**Sec. 222. [Short title].**—Title II of this Act may be cited as the "Flood Control Act of 1965". (79 Stat. 1089)

\* \* \* \* \*

#### EXPLANATORY NOTES

**Not Codified.** Sections 204, 208, 216, and 222 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. 2300, Public Law 89-298 in the 89th Congress. Reported in Senate from Public Works July 19, 1965; S. Rept. No. 464. Passed Senate July 27, 1965. Reported in House September 9,

1965; H.R. Rept. No. 973. Passed House, amended, September 22, 1965. Senate asks for a conference September 23, 1965. House agrees to a conference September 24, 1965. Conference Report filed October 18, 1965; H.R. Rept. No. 1170. Senate agrees to conference report October 19, 1965. House agrees to conference report October 20, 1965. H. Res. 588. Reported in House from Rules September 16, 1965; H.R. Rept. No. 1021 (companion bill).

**PUBLIC WORKS APPROPRIATION ACT, 1966**

[Extracts from] An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, the Delaware River Basin Commission, and the Interoceanic Canal Commission, for the fiscal year ending June 30, 1966, and for other purposes. (Act of October 28, 1965, Public Law 89-299, 79 Stat. 1096)

\* \* \* \* \*

**TITLE II—DEPARTMENT OF THE INTERIOR**

**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, \* \* \*

[San Luis interceptor drain—Conditions—Terminal point.]—*Provided further*, That the final point of discharge for the interceptor drain for the San Luis unit shall not be determined until (1) completion of a pollution study by the Department of Health, Education, and Welfare, (2) development of a plan to minimize any detrimental effect of the San Luis drainage waters on San Francisco Bay, and (3) agreement is reached by the Secretary with the State of California, subject to the approval of the President, limiting the Federal share of the costs of the drain to Antioch to not more than 60 per centum thereof, and if found necessary to extend the drain beyond Antioch, the Federal share of such extension shall be determined on the basis of an equitable apportionment of the additional costs between the Federal Government and the non-Federal entities who are to use the facilities: *Provided further*, That no funds shall be made available under this appropriation for the construction in Contra Costa County, California, of any portion of the interceptor drain in connection with the San Luis unit which terminates at any point east of Port Chicago: (79 Stat. 1101)

**EXPLANATORY NOTES**

**Provision Repeated.** The same two provisos are found in the most recent appropriation act, the Act of October 15, 1966, 80 Stat. 1007, with the addition of the following at the end after Port Chicago: "except for piers and abutments at a crossing site of the drain over the intake channel of the

pumping plant for the California aqueduct."  
**Earlier Provision.** The same limitation on the terminal point as in the second proviso appears in the preceding year's appropriation act, the Act of August 30, 1964, 78 Stat. 686.

[Delivery of water to Mexico.]—*Provided further*, That not to exceed \$2,200,000 shall be available for construction of additional facilities associated with

October 28, 1965

PUBLIC WORKS APPROPRIATION ACT, 1966

1859

delivery of Colorado River water to Mexico, and to be nonreimbursable: (79 Stat. 1101)

[Replacement of Paradise Valley Diversion Dam.]—*Provided further*, That not to exceed \$450,000 shall be available for replacement of the Paradise Valley Diversion Dam on the Milk River project, Montana, with facilities to serve the lands of the Paradise Valley Irrigation District, to be repaid in full under terms and conditions satisfactory to the Secretary of the Interior. (79 Stat. 1101)

\* \* \* \* \*

UPPER COLORADO RIVER STORAGE PROJECT

[Page Accommodation School.]—For the Upper Colorado River Storage Projects, as authorized by the Act of April 11, 1956 (43 U.S.C. 620d), to remain available until expended, \* \* \* *Provided further*, That \$163,000 of the funds herein appropriated for the Upper Colorado River Basin Fund shall be available for operation of the Page, Arizona, Accommodation School, and to be nonreimbursable and nonreturnable. (79 Stat. 1102)

EXPLANATORY NOTE

**Provision Repeated.** A similar provision act, the Act of October 15, 1966, 80 Stat. is found in the most recent appropriation 1008.

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Public Works Appropriation Act, 1966". (79 Stat. 1110)

EXPLANATORY NOTES

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

**Legislative History.** H.R. 9220, Public Law 89-299 in the 89th Congress. Reported in House from Appropriations June 17, 1965; H.R. Rept. No. 527. Passed House June 22, 1965. Reported in Senate from Appropriations August 19, 1965; S. Rept.

No. 632. Passed Senate, amended, August 23, 1965. Senate asks for conference August 23, 1965. House agrees to a conference Oct. 12, 1965. Conference report filed October 13, 1965; H.R. Rept. No. 1163. House agrees to conference report Oct. 14, 1965. Senate agrees to conference report Oct. 15, 1965.

## ANADROMOUS AND GREAT LAKES FISHERIES

An act to authorize the Secretary of the Interior to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish, and for other purposes. (Act of October 30, 1965, Public Law 89-304, 79 Stat. 1125)

**[Sec. 1. Secretary authorized to conclude cooperative agreements with States to conserve anadromous and Great Lakes fish—Cost sharing—Management agreements.]—**(a) For the purpose of conserving, developing, and enhancing within the several States the anadromous fishery resources of the Nation that are subject to depletion from water resources developments and other causes, or with respect to which the United States has made conservation commitments by international agreements, and for the purpose of conserving, developing, and enhancing the fish in the Great Lakes that ascend streams to spawn, the Secretary of the Interior is authorized to enter into cooperative agreements with one or more States, acting jointly or severally, that are concerned with the development, conservation, and enhancement of such fish, and, whenever he deems it appropriate, with other non-Federal interests. Such agreements shall describe (1) the actions to be taken by the Secretary and the cooperating parties, (2) the benefits that are expected to be derived by the States and other non-Federal interests, (3) the estimated cost of these actions, (4) the share of such costs to be borne by the Federal Government and by the States and other non-Federal interests: *Provided*, That the Federal share, including the operation and maintenance costs of any facilities constructed by the Secretary pursuant to this Act, which he annually determines to be a proper Federal cost, shall not exceed 50 per centum of such costs exclusive of the value of any Federal land involved: *Provided further*, That the non-Federal share may be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money, (5) the term of the agreement, (6) the terms and conditions for disposing of any real or personal property acquired by the Secretary during or at the end of the term of the agreement, and (7) such other terms and conditions as he deems desirable.

(b) The Secretary may also enter into agreements with the States for the operation of any facilities and management and administration of any lands or interests therein acquired or facilities constructed pursuant to this Act. (79 Stat. 1125; 16 U.S.C. § 757a)

**Sec. 2. [The Secretary is authorized to make surveys and studies, clear streams, build fish hatcheries, etc.—Reports to be provided to States and Congress—Water resources projects limited to those needed for fish conservation—Authority to acquire and exchange lands and accept donations of land and money.]—**The Secretary, in accordance with any agreement entered into pursuant to section 1 (a) of this Act, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance activities; (3) to construct,

install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of this Act; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of anadromous fishery resources and the fish in the Great Lakes that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That this Act shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Secretary to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility, or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under this Act and subject to the cost-sharing and appropriations provisions of this Act; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of this Act. Title to lands or interests therein acquired pursuant to this Act shall be in the United States. (79 Stat. 1125; 16 U.S.C. § 757b)

**Sec. 3. [Lands administered by other Federal agencies.]**—Activities authorized by this Act to be performed on lands administered by other Federal departments or agencies shall be carried out only with the prior approval of such departments or agencies. (79 Stat. 1126; 16 U.S.C. § 757c)

**Sec. 4. [Appropriations—State allotments.]**—(a) There is authorized to be appropriated for the period ending on June 30, 1970, not to exceed \$25,000,000 to carry out the purposes of this Act.

(b) Not more than \$1,000,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State. (79 Stat. 1126; 16 U.S.C. § 757d)

**Sec. 5. [Columbia River Basin excluded.]**—This Act shall not be construed to affect, modify, or apply to the same area as the provisions of the Act of May 11, 1938 (52 Stat. 345), as amended (16 U.S.C. 755-757). (79 Stat. 1126; 16 U.S.C. § 757e)

## EXPLANATORY NOTE

**Reference in the Text.** The Act of May 11, 1938, 52 Stat. 345, as amended, 16 U.S.C. §§ 755-757, authorizes a program for the Columbia River Basin exclusively which is similar to the national program authorized herein. The Act appears herein in chronological order.

**Sec. 6. [Stream pollution abatement.]**—The Secretary of the Interior shall, on the basis of studies carried out pursuant to this Act and section 5 of the Fish and Wildlife Coordination Act (48 Stat. 402), as amended (16 U.S.C. 665), make recommendations to the Secretary of Health, Education, and Welfare concerning the elimination or reduction of polluting substances detrimental to fish and wildlife in interstate or navigable waters or the tributaries thereof. Such recommendations and any enforcement measures initiated pursuant thereto by the Secretary of Health, Education, and Welfare shall be designed to enhance the quality of such waters, and shall take into consideration all other legitimate uses of such waters. (79 Stat. 1126; 16 U.S.C. § 757f)

## EXPLANATORY NOTES

**Reference in the Text.** The Fish and Wildlife Coordination Act (48 Stat. 402), as amended (16 U.S.C. 665), was enacted August 14, 1946. The Act, including section 5 referred to in the text, 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.** H.R. 23, Public Law 89-304 in the 89th Congress. Reported in House from Merchant Marine and Fisheries, September 15, 1965; H.R. Rept. No. 1007. Passed House September 20, 1965. Reported in Senate from Commerce, October 11, 1965, S. Rept. No. 860. Passed Senate, amended, October 13, 1965. House agrees to Senate amendments October 14, 1965.

## WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

An act to establish the Whiskeytown-Shasta-Trinity National Recreation Area in the State of California, and for other purposes. (Act of November 8, 1965, Public Law 89-336, 79 Stat. 1295)

[**Sec. 1. Recreation area established.—Administration.**]—In order to provide, in a manner coordinated with the other purposes of the Central Valley project, for the public outdoor recreation use and enjoyment of the Whiskeytown, Shasta, Clair Engle, and Lewiston reservoirs and surrounding lands in the State of California by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Whiskeytown-Shasta-Trinity National Recreation Area in the State of California (hereinafter referred to as the “recreation area”). The boundaries of the recreation area, which consists of the Whiskeytown unit, the Shasta unit, and the Clair Engle-Lewiston unit, shall be those shown in drawing numbered BOR-WST 1004, dated July 1963, entitled “Proposed Whiskeytown-Shasta-Trinity National Recreation Area”, which is on file and available for public inspection in the office of the Director of the Bureau of Outdoor Recreation, Department of the Interior. The Whiskeytown unit shall be administered by the Secretary of the Interior; and the Shasta and Clair Engle-Lewiston units shall be administered by the Secretary of Agriculture, except that lands or waters needed or used for the operation of the Central Valley project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation. The two Secretaries shall coordinate their planning and administration of the respective units in such manner as to provide integrated management policies for the recreation area as a whole for the purposes of this Act in order to bring about uniformity to the fullest extent feasible in the administration and use of the recreation area. (79 Stat. 1295; 16 U.S.C. § 460q)

### ACQUISITION OF PROPERTY

**Sec. 2. (a)** Within the boundaries of the portion of the recreation area under his jurisdiction and outside such boundaries when required for the construction or improvement of access roads thereto, each Secretary is authorized to acquire lands, waters, or other property, or any interest therein, in such manner, including exchange as hereinafter provided, as he considers to be in the public interest to carry out the purposes of this Act. In connection with any such acquisition, each Secretary may permit the grantor a reservation of all or any part of the minerals or of any other interest or right of use in such lands or waters on such terms and conditions as the Secretary may deem appropriate. Any property or interest therein owned by the State of California or any political subdivision thereof within the recreation area may be acquired under the authority of this

Act only with the concurrence of the owner. Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the appropriate Secretary for use by him in carrying out the purposes of this Act.

The Secretary of the Interior, in order to assure public access to Clear Creek and to provide hiking and horseback riding trails for the public, may, as he deems necessary for these purposes acquire such easements or other interests on either or both sides of Clear Creek between the south boundary of the Whiskeytown unit and the highway at Igo, California.

The Secretary of Agriculture is authorized to acquire scenic easements or such other interests, including ownership of the land therein, as he determines to be appropriate to protect and assure the appearance of a strip of land not to exceed six hundred and sixty feet on each side of the centerline of Federal Aid Secondary Highway Numbered 1089 between the points where said highway crosses the south line of sections 19 and 20, township 35 north, range 8 west, and where it crosses the south line of section 18, township 36 north, range 7 west, on the northwesterly side of the Clair Engle-Lewiston unit: *Provided*, That such easements or interests shall not be acquired without the consent of the owners so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that, in the judgment of the Secretary of Agriculture, conforms to the zoning standards set forth in regulations issued pursuant to subsection (e).

The two Secretaries shall engage in mutual consultation with respect to such acquisition and to exchange transactions so as to promote uniform policies therefor insofar as practicable, taking into consideration the purposes of the recreation area as a whole, the responsibility of the Secretary of the Interior for the administration of federally owned minerals and of the Central Valley project, and the responsibility of the Secretary of Agriculture for the administration of national forests.

(b) When the public interests will be benefited thereby, the Secretary of the Interior and the Secretary of Agriculture are each authorized to accept title to any non-Federal property within any part of the recreation area and in exchange therefor convey to the grantor of such property any federally owned property under his jurisdiction within the State of California which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary of the Interior or the Secretary of Agriculture, as the case may be, may accept cash from or pay cash to the grantor in such exchange in order to equalize the value of the properties exchanged. The Secretary of Agriculture shall obtain the concurrence of the Secretary of the Interior with respect to the value of any mineral interests in any such exchange proposed to be made by the Secretary of Agriculture.

(c) Any owner or owners of improved residential property on the date of its acquisition by either Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the property by himself and members of his

immediate family for noncommercial residential purposes for a term ending at the death of such owner, the death of his spouse, or the day his last surviving child reaches the age of thirty, whichever is the latest. The value of the right retained shall be taken into consideration by the respective Secretary in determining the value of the property being acquired.

(d) Privately owned "improved property" or interests therein shall not be acquired under this Act without the consent of the owner so long as an appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is approved by the Secretary having jurisdiction of the unit wherein the property is located. The term "improved property" as used in this Act shall mean any building or group of related buildings the actual construction of which was begun before February 7, 1963, together with not more than three acres of the land in the same ownership on which the building or group of buildings is situated: *Provided*, That the respective Secretary may exclude from improved property any shore or waters, together with so much of the land adjoining such shore or waters as he deems necessary for public access thereto.

(e) Prior to the approval of any zoning ordinance for the purposes of this section, the Secretary of the Interior and the Secretary of Agriculture shall jointly issue regulations, which may be amended from time to time, specifying standards for such zoning ordinances. Standards specified in such regulations shall have the object of (1) prohibiting new commercial or industrial uses, other than commercial or industrial uses which the Secretaries consider to be consistent with the purposes of this Act; (2) promoting the protection and development of properties for purposes of this Act by means of use, acreage, frontage, setback, density, height, or other requirements; and (3) providing that the appropriate Secretary shall receive notice of any variance granted under, or any exception made to, the application of the zoning ordinance. Following issuance of such regulations, each Secretary shall approve any zoning ordinance or any amendment to an approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(f) The suspension of the respective Secretary's authority to acquire any improved property without the owner's consent shall automatically cease if (1) such property is made the subject of a variance or exception to any applicable zoning ordinance that does not conform to any applicable standard contained in regulations issued pursuant to this section; or (2) if such property is put to any use which does not conform to any applicable zoning ordinance.

(g) Each Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire without the owner's consent is suspended.

(h) Within the Shasta and Clair Engle-Lewiston units any owner of unimproved property who proposes to develop his property or a part thereof for service to the public may submit to the Secretary of Agriculture a development

plan which shall set forth the manner in which and the time by which the property is to be developed and the use to which it is proposed to be put. If upon review of such plan the Secretary determines that the development and use of the property in the manner prescribed conforms to a zoning ordinance approved in accordance with the provisions of this section and that such use and development would serve the purposes of this Act, the Secretary of Agriculture may in his discretion issue to such owner a certificate to that effect. Upon the issuance of any such certificate and so long as such property is developed, maintained, and used in conformity therewith, the authority of the Secretary of Agriculture to acquire such property or any interest therein without the consent of the owner shall be suspended. This subsection shall not apply to any property which the Secretary of Agriculture determines to be needed for easements and rights-of-way for access, utilities, or facilities, or for administrative sites, campgrounds, or other areas needed for use by the United States for visitors to the national recreation area. (79 Stat. 1295; 16 U.S.C. § 460q-1)

#### ESTABLISHMENT OF UNITS: BOUNDARY DESCRIPTIONS

Sec. 3. (a) When the Secretary of Agriculture determines that sufficient lands, waters, or interest therein are owned or have been acquired by the United States within the boundaries of the Shasta unit or within the boundaries of the Clair Engle-Lewiston unit to permit efficient initial development and administration for the purposes of this Act, he shall publish in the Federal Register a notice to that effect and a detailed description of the boundaries of such unit.

(b) When the Secretary of the Interior determines that sufficient lands, waters, or interest therein are owned or have been acquired by the United States within the boundaries of the Whiskeytown unit to permit efficient initial development and administration for the purposes of this Act, he shall publish in the Federal Register a notice to that effect and a detailed description of the boundaries of the unit.

(c) Following the publication of any such notice, the respective Secretaries may continue to acquire the remaining property within the recreation area. (79 Stat. 1297; 16 U.S.C. § 460q-2)

#### ADMINISTRATION: PRIORITIES

Sec. 4. (a) Each Secretary is authorized and directed to administer the portion of the recreation area under his jurisdiction in a manner coordinated with the other purposes of the Central Valley project and with the purposes of the recreation area as a whole and in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of renewable natural resources as in the judgment of the respective Secretary will promote or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment. Such administration shall be carried out under land and water use management

plans which each Secretary shall prepare and may from time to time revise in consultation with the other.

(b) In the administration of the portion of the recreation area under his jurisdiction—

(1) the Secretary of Agriculture shall utilize statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this Act; and

(2) the Secretary of the Interior may utilize such statutory authorities relating to areas of the national park system and such statutory authority otherwise available to him for the conservation and development of natural resources as he deems appropriate to carry out the purposes of this Act. (79 Stat. 1298; 16 U.S.C. § 460q-3)

#### HUNTING AND FISHING

Sec. 5. Each Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the recreation area in accordance with the applicable laws of the State of California and of the United States; *Provided*, That each Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment not compatible with hunting or fishing. Regulations prescribing any such restrictions shall be issued after consultation with the California Department of Fish and Game. (79 Stat. 1298; 16 U.S.C. § 460q-4)

#### MINERAL DEVELOPMENT

Sec. 6. The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands under his jurisdiction within the recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387), and from those under the jurisdiction of the Secretary of Agriculture within the recreation area in accordance with the provisions of section 3 of the Act of September 1, 1949 (63 Stat. 683; 30 U.S.C. 192c), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the purposes of the Central Valley project or the administration of the recreation area: *Provided*, That any lease or permit respecting such minerals in lands administered by the Secretary of Agriculture shall be issued only with his consent and subject to such conditions as he may prescribe.

All receipts derived from permits and leases issued under the authority of this section on lands administered by the Secretary of Agriculture shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for other receipts from the lands

affected by the lease or permit, except that any receipts derived from permits or leases issued on those or other lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals from public lands under the jurisdiction of the Secretary of the Interior shall be disposed of in the same manner as moneys received from the sale of public lands. (79 Stat. 1298; 16 U.S.C. § 460q-5)

## EXPLANATORY NOTES

**References in the Text.** Section 10 of the Act of August 4, 1939, as amended, 53 Stat. 1196, 43 U.S.C. § 387, referred to in the text, authorizes the Secretary of the Interior to permit the removal from certain lands or interests in lands of sand, gravel and other minerals and building materials with or without competitive bidding. Removals may be permitted without charge by a public agency for use on roads and streets within a reclamation project. Authority is also given to the granting of necessary leases, licenses, easements and rights-of-way. The 1939 Act appears herein in chronological order.

**Reference in the Text.** Section 3 of the Act of September 1, 1949, 63 Stat. 683, 30 U.S.C. § 192c, referred to in the text, authorizes the Secretary of the Interior to issue leases or permits for the exploration, development and utilization of mineral deposits in certain lands in the Shasta National Forest. Such leases or permits in lands administered by the Secretary of Agriculture may be issued only with his consent and subject to such conditions as he may prescribe.

## STATE JURISDICTION

**Sec. 7.** Nothing in this Act shall deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area or of its right to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area. (79 Stat. 1299; 16 U.S.C. § 460q-6)

## ADDITIONS TO THE SHASTA AND TRINITY NATIONAL FORESTS

**Sec. 8.** The exterior boundaries of the Shasta National Forest in the State of California are hereby extended to include the lands described in the Act of March 19, 1948 (62 Stat. 83), and sections 22 and 27, township 35 north, range 1 west, Mount Diablo base and meridian. The exterior boundaries of the Trinity National Forest in the State of California are hereby extended to include all of sections 4, 5, and 8, the east half and the northwest quarter of section 6, the east half of section 7, the northwest quarter of section 17, and the northeast quarter of section 18, township 33 north, range 8 west, Mount Diablo base and meridian. Subject to any valid claim or entry now existing and hereafter legally maintained, all public lands of the United States and all lands of the United States heretofore or hereafter acquired or reserved for use in connection with the Shasta, Clair Engle, or Lewiston Reservoirs of the Central Valley project within the exterior boundaries of the Shasta and Trinity National Forests which have not heretofore been added to and made a part of such forests, and all lands of the United States acquired for the purposes of the recreation area in the Shasta or Clair Engle-Lewiston units are hereby added to and made a part of

the respective national forests within which they are situated: *Provided*, That lands within the flow lines of any reservoir operated and maintained by the Department of the Interior or otherwise needed or used for the operation of the Central Valley project shall continue to be administered by the Secretary of the Interior to the extent he determines to be required for such operation. (79 Stat. 1299; 16 U.S.C. § 460q-7)

**Sec. 9. [Disposal of revenues.]**—Revenues and fees obtained by the United States from operation of the national recreation area shall be subject to the same statutory provisions concerning the disposition thereof as are similar revenues collected in areas of the national park system except that fees and revenues obtained from mineral development and from activities under other public land laws within the recreation area shall be disposed of in accordance with the provisions of the applicable laws. (79 Stat. 1300; 16 U.S.C. § 460q-8)

**Sec. 10. [Appropriation.]**—There are hereby authorized to be appropriated for the acquisition of lands and interests in land pursuant to the provisions of this Act not more than \$21,600,000. There are also authorized to be appropriated not more than \$22,700,000 for the development of recreation facilities pursuant to the provisions of this Act. (79 Stat. 1300; 16 U.S.C. § 460q-9)

#### 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. 797, Public Law 89-336 in the 89th Congress. Reported

in House from Interior and Insular Affairs June 21, 1965; H.R. Rept. No. 535. Passed House July 12, 1965. Reported in Senate from Interior and Insular Affairs Oct. 20, 1965; S. Rept. No. 922. Passed Senate Oct. 21, 1965.

### THIRD POWERPLANT, GRAND COULEE DAM

An act to authorize the Secretary of the Interior to construct, operate, and maintain a third powerplant at the Grand Coulee Dam, Columbia Basin project, Washington, and for other purposes. (Act of June 14, 1966, Public Law 89-448, 80 Stat. 200)

[**Sec. 1. Third powerplant at Grand Coulee Dam authorized—Interest rates.**]—(a) The Secretary of the Interior is hereby authorized to construct, operate, and maintain a third powerplant with a rated capacity of approximately three million six hundred thousand kilowatts, and necessary appurtenant works, including a visitor center, at Grand Coulee Dam as an addition to and an integral part of the Columbia Basin Federal reclamation project. The construction cost of the third powerplant allocated to power and associated with each stage of development shall be repaid with interest within fifty years from the time that stage becomes revenue producing. The interest rate used for computing interest during construction and interest on the unpaid balance of the cost allocated to power shall be determined by the Secretary of the Treasury as of the beginning of the fiscal year in which the initial request for appropriations for the construction of the third powerplant is made, by computing the average interest rate payable by the Treasury on all interest-bearing marketable public debt obligations of the United States then outstanding which, upon original issue, had terms to maturity of fifteen years or more, and by adjusting such average rate to the next lowest multiple of one-eighth of one per centum.

(b) Construction of the third powerplant may be undertaken in such stages as in the determination of the Secretary will effectuate the fullest, most beneficial, and most economic utilization of the waters of the Columbia River. (80 Stat. 200)

#### EXPLANATORY NOTE

**Authorization.** The construction of the Grand Coulee Dam was authorized by section 2 of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1039). It was reauthorized and the project named the

Columbia Basin Federal reclamation project by the Act of March 10, 1943. Extracts from the 1935 Act and the full text of the 1943 Act appear herein in chronological order.

**Sec. 2. [Consolidated financial statement for Columbia River power system—Adjustment of rates—Financial assistance to Pacific Northwest reclamation projects from net revenues of Federal Columbia River power systems.]—**

(a) The Secretary of the Interior shall prepare, maintain, and present annually to the President and the Congress a consolidated financial statement for all projects heretofore or hereafter authorized, including the third powerplant at Grand Coulee Dam, from or by means of which commercial power and energy is marketed through the facilities of the Federal Columbia River power system and for all other projects associated therewith to the extent that the costs of these projects are required by law to be charged to and returned from net revenues derived from the power and energy, or any power and energy, so marketed, and he shall, if said consolidated statement indicates that the reimbursable construc-

June 14, 1966

THIRD POWERPLANT, GRAND COULEE DAM

1871

tion costs of the projects, or any of the projects, covered thereby which are chargeable to and returnable from the commercial power and energy so marketed are likely not to be returned within the period prescribed by law, take prompt action to adjust the rates charged for such power and energy to the extent necessary to assure such return. Section 9, subsection (c) of the Act of August 20, 1937 (50 Stat. 736), as amended (16 U.S.C. 832h) is hereby repealed.

Subject to the provisions of subsection (b) of this section, that portion of the construction cost of any project hereafter authorized to be constructed, operated, and maintained by the Secretary of the Interior under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) within the Pacific Northwest which, though allocated to irrigation, is beyond the ability of the irrigation water users to repay within the repayment period prescribed by law for that project and cannot be returned within the same period from other project sources of revenue shall be charged to and returned within that period from net revenues derived from the marketing of commercial power and energy through the Federal Columbia River power system, unless otherwise provided by law. As used in this Act, the term "Pacific Northwest" has the meaning ascribed to it in section 1 of the Act of August 31, 1964 (78 Stat. 756).

(b) It is declared to be the policy of the Congress that reclamation projects hereafter authorized in the Pacific Northwest to receive financial assistance from the Federal Columbia River power system shall receive such assistance only from the net revenues of that system as provided in this subsection, and that their construction shall be so scheduled that such assistance, together with similar assistance for previously authorized reclamation projects (including projects not now receiving such assistance for which the Congress may hereafter authorize financial assistance) will not cause increases in the rates and charges of the Bonneville Power Administration. It is further declared to be the policy of the Congress that the total assistance to all irrigation projects, both existing and future, in the Pacific Northwest shall not average more than \$30,000,000 annually in any period of twenty consecutive years. Any analyses and studies authorized by the Congress for reclamation projects in the Pacific Northwest shall be prepared in accordance with the provisions of this section. As used in this section, the term "net revenues" means revenues as determined from time to time which are not required for the repayment of (1) all costs allocated to power at projects in the Pacific Northwest then existing or authorized, including the cost of acquiring power by purchase or exchange, and (2) presently authorized assistance from power to irrigation at projects in the Pacific Northwest existing and authorized prior to the date of enactment of this subsection.

(c) On December 20, 1974, and thereafter at intervals coinciding with anniversary dates of Federal Power Commission general review of the rates and charges of the Bonneville Power Administration, the Secretary of the Interior shall recommend to the Congress any changes in the dollar limitations herein placed upon financial assistance to Pacific Northwest reclamation projects that he believes justified by changes in the cost-price levels existing on July 1,

## 1872      THIRD POWERPLANT, GRAND COULEE DAM

1966, or by other relevant changes of circumstances. (80 Stat. 200; Act of Sept. 7, 1966, 80 Stat. 707; 16 U.S.C. §§ 835 j, k, l, and m)

## EXPLANATORY NOTES

**1966 Amendment.** Section 6 of the Act of September 7, 1966, 80 Stat. 707, 714, amended section 2 to express the policy of Congress with respect to financial assistance to Pacific Northwest reclamation projects from net revenues of the Federal Columbia River power system. The amendment inserted "(a)" after "Sec. 2" and added subsections "(b)" and "(c)." It also struck the word "That" at the beginning of the third sentence of the section and inserted in lieu thereof: "Subject to the

provisions of subsection (b) of this section, that". The amending Act appears herein in chronological order.

**References in the Text.** The Act of August 20, 1937, referred to in the first paragraph, is the Bonneville Project Act. Subsection 9(c) requires an annual report. The Act of August 31, 1964, referred to in the second paragraph, is the Pacific Northwest Power Marketing Act. Both the 1937 and 1964 Acts appear herein in chronological order.

**Sec. 3. [Appropriations.]**—There is hereby authorized to be appropriated, for construction of the third powerplant and necessary appurtenant works including a visitor center at Grand Coulee Dam, the sum of \$390,000,000, based on estimated costs as of April 1966, 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 types of construction involved herein. (80 Stat. 201)

## EXPLANATORY NOTES

**Not Codified.** Sections 1 and 3 of this Act are not codified in the U.S. Code.

**Legislative History.** S. 1761, Public Law 89-448 in the 89th Congress. Reported in Senate from Interior and Insular Affairs, June 10, 1965; S. Rept. No. 314. Passed

Senate June 16, 1965. Passed House, amended, April 19, 1966. Senate agrees to House amendments, June 2, 1966. Companion bill H.R. 7406; H.R. Rept. No. 1409.

## AMEND SOUTHERN NEVADA PROJECT ACT

An act to amend section 6 of the Southern Nevada Project Act (Act of October 22, 1965, 79 Stat. 1068). (Act of July 19, 1966, Public Law 89-510, 80 Stat. 312)

[**Water delivery rights priorities.**]—Section 6 of the Southern Nevada Project Act (Act of October 22, 1965; 79 Stat. 1068) is hereby amended to read as follows:

“**SEC. 6.** The contract for delivery of water and repayment of reimbursable construction costs of the Southern Nevada Water Project required by section 3 of this Act shall provide that if, within five years from the date of this Act, Basic Management, Inc., or its assignees applies for a contract for the storage and delivery of water in accordance with the provisions of section 5 of the Boulder Canyon Project Act (45 Stat. 1060, as amended; 43 U.S.C. 617d) and the regulations of the Secretary of the Interior issued pursuant to said Act, the rights of the party contracting pursuant to section 3 of this Act shall be subordinate to those of Basic Management, Inc., or its assignees to the extent of 41,266 acre-feet per annum or so much thereof as is required for beneficial consumptive use by it, its right to the storage and delivery of the same having been properly maintained in accordance with the terms of its contract. Nothing contained in this Act shall be construed as affecting the satisfaction of present perfected rights as defined by the decree of the United States Supreme Court in *Arizona v. California*, 367 U.S. 340.” (80 Stat. 312, 43 U.S.C. § 616*lll*)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of October 22, 1965.

**Legislative History.** S. 2999, Public Law 89-510 in the 89th Congress. Reported in Senate from Interior and Insular Affairs April 1, 1966, S. Rept. No. 1094. Passed Senate April 6, 1966. Reported in House

from Interior and Insular Affairs May 31, 1966, H.R. Rept. No. 1561. Passed House, amended, June 6, 1966. Senate agrees to House amendments with amendments, June 24, 1966. House concurs in Senate amendments to House amendments, June 29, 1966.

**INCREASED AUTHORIZATION, MISSOURI RIVER BASIN PROJECT**

An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior. (Act of July 19, 1966, Public Law 89-515, 80 Stat. 322)

[Appropriation authorization increased—Limitations.]—There is hereby authorized to be appropriated for fiscal years 1967 and 1968 the sum of \$60,000,000 for continuing the works in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress), as amended and supplemented by subsequent Acts of Congress. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Missouri River Basin project, whether included in said comprehensive plan or not. (80 Stat. 322)

**EXPLANATORY NOTES**

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

**Reference in the Text.** The Act of December 22, 1944 (the Flood Control Act of 1944), referred to in the text, appears herein in chronological order. The note following section 9(e) of the Act is a complete listing of appropriations authorized for works undertaken or planned in the

Missouri River Basin by the Secretary of the Interior.

**Legislative History.** H.R. 14312, Public Law 89-515 in the 89th Congress. Reported in the House from Interior and Insular Affairs May 31, 1966, H.R. Rept. No. 1560. Passed House June 6, 1966. Passed Senate June 30, 1966. Companion bill S. 3186. Reported in Senate from Interior and Insular Affairs June 28, 1966, S. Rept. No. 1340.

## ARIZONA-CALIFORNIA BOUNDARY COMPACT

An act to consent to the interstate compact defining the boundary between the States of Arizona and California. (Act of August 11, 1966, Public Law 89-531, 80 Stat. 340)

[Sec. 1. Consent of Congress given to Compact.]—The consent of Congress is given to the interstate compact defining the boundary between the States of Arizona and California, ratified by the State of Arizona in an act approved by the Governor of such State on April 2, 1963, and by the State of California in an act approved by the Governor of such State on June 11, 1963. Such compact reads as follows:

### “INTERSTATE COMPACT DEFINING THE BOUNDARY BETWEEN THE STATES OF ARIZONA AND CALIFORNIA

#### “ARTICLE I. PURPOSE

“The boundary between the States of Arizona and California on the Colorado River has become indefinite and uncertain because of meanderings in the main channel of the Colorado River with the result that a state of confusion exists as to the true and correct location of the boundary, and the enforcement and administration of the laws of the two states and of the United States have been rendered difficult.

“The purpose of this compact is to fix by reference to stations of longitude and latitude the location of the boundary line between Arizona and California on the Colorado River from the southern boundary of the state of Nevada to the point on the international boundary which is common to the boundaries of Arizona and California and the United Mexican States.

#### “ARTICLE II. DESCRIPTION

“The boundary between the states of Arizona and California on the Colorado River from the point where the oblique boundary between California and Nevada intersects the thirty-fifth degree of north latitude, said point being common to the boundaries of the states of Arizona, California and Nevada, to the point on the international boundary which is common to the boundaries of Arizona, California and the United Mexican States, shall be in accordance with the following description in general terms of 34 points on the boundary:

#### “GENERAL DESCRIPTION OF BOUNDARY BETWEEN ARIZONA AND CALIFORNIA.—

“Point No. 1. The intersection of the boundary line common to California and Nevada and the centerline of the channel of the Colorado River as constructed by the U.S. Bureau of Reclamation, said point being common to the boundaries of Arizona, California, and Nevada, where the 35th degree of north latitude intersects the centerline of said channel; thence downstream along and with the centerline of said channel to the southerly end of said construction to

"Point No. 2, which is located in the center of the channel of the Colorado River approximately one-half mile northerly from the A.T. & S.F. Railway Bridge at Topock; thence downstream on a straight line to

"Point No. 3, which lies in the Colorado River vertically below the centerline of the A.T. & S.F. Railway tracks at a point midway face-to-face of abutments of the A.T. & S.F. Railway Bridge at Topock, Arizona; thence on a straight line downstream to

"Point No. 4, which lies in the Colorado River vertically below the centerline of U.S. Highway 66 at a point where said centerline intersects the center of the center pier of the highway bridge; thence on a straight line to

"Point No. 5, which lies in the Colorado River vertically below the center of the span of the gas line bridge owned by the El Paso Natural Gas Co. and the Pacific Gas and Electric Co., crossing the Colorado River at Topock, Arizona; thence downstream in a southerly direction through Havasu Lake along a line midway between the right and left shore lines of said lake as they exist at mean operating level (elevation 448.00 above Mean Sea Level) as controlled at Parker Dam to

"Point No. 6, which is the center of the overflow section of Parker Dam across the Colorado River; thence downstream midway between the shore lines on the right and left banks of the Colorado River to

"Point No. 7, which lies in the center of the Colorado River approximately 2,050 feet upstream from the earth fill of Headgate Rock Dam; thence on a straight line to

"Point No. 8, which is the center of the earth fill of Headgate Rock Dam; thence on a straight line to

"Point No. 9, which lies on the centerline of the river approximately 3,625 feet westerly from Point No. 8; thence on a straight line to

"Point No. 10, which lies in the center of the Colorado River at a point where the parallel of  $34^{\circ}10'$  north latitude intersects said centerline; thence on a straight line to

"Point No. 11, which lies in the Colorado River vertically below the centerline of Arizona Highway No. 72 midway between the abutments of the highway bridge; thence down the Colorado River midway between the right and left shore lines across islands which may exist between those waterlines to

"Point No. 12, which is at the center of the earth fill section of the Palo Verde Diversion Dam; thence down to the Colorado River midway between the shore lines on the right and left banks to

"Point No. 13, which is vertically below the center of the centerspan of the highway bridge across the Colorado River at Ehrenberg, Arizona (U.S. Highway 60-70); thence down the Colorado River midway between the shore lines on the right and left banks to

"Point No. 14, which is the center of the Cibola Bridge midway between abutments; thence down the Colorado River midway between the shore

lines on the right and left banks, ignoring future channelization by the U.S. Bureau of Reclamation to

“Point No. 15, which lies on the centerline of the Colorado River approximately 8,400 feet northward of the center of the overflow section of Imperial Dam; thence on a straight line to

“Point No. 16, which is the center of the overflow section of Imperial Dam; thence on a straight line normal to the longitudinal axis of Imperial Dam to

“Point No. 17, which lies at the intersection of the last described line with a line extending northeasterly from the center of the overflow section of Laguna Dam and normal to the longitudinal axis of the said Laguna Dam; thence southeasterly on a straight line to

“Point No. 18, which is at the center of the overflow section of Laguna Dam; thence on a straight line to

“Point No. 19, which lies on the centerline of the Colorado River approximately 5800 feet southwesterly of Point 18; thence down the Colorado River midway between the shore lines on the right and left banks, around a curve to the eastward to

“Point No. 20, which lies on the centerline of the Colorado River where said centerline intersects the section line between Sections 4 and 9, Township 8 South, Range 22 West, Gila and Salt River Meridian; thence departing from the river on a westerly course along the extension of the above-mentioned section line about 0.65 mile to

“Point No. 21, which will be the northwest corner of the northeast quarter of Section 8, Township 8 South, Range 22 West, Gila and Salt River Meridian, which shall be resurveyed in establishing this boundary; thence southerly along the centerline of said Section 8 about one-half mile to

“Point No. 22, which is the northeast corner of the southwest quarter of Section 8, Township 8 South, Range 22 West, Gila and Salt River Meridian; thence westerly about one and one-half miles to

“Point No. 23, which is the west quarter corner of Section 7, Township 8 South, Range 22 West, Gila and Salt River Meridian; thence southerly about one-half mile to

“Point No. 24, which is the southwest corner of Section 7, Township 8 South, Range 22 West, Gila and Salt River Meridian; thence westerly about one mile to

“Point No. 25, which is the southwest corner of Section 12, Township 8 South, Range 23 West, Gila and Salt River Meridian; thence southerly about one-half mile to

“Point No. 26, which is the west quarter corner of Section 13, Township 8 South, Range 23 West, Gila and Salt River Meridian; thence westerly about 1.93 miles to

“Point No. 27, which lies on the east shoulder of the north-south road through the Indian School approximately 370 feet due east of the northwest corner of the southwest quarter of the southwest quarter of Section 25, Township 16 South, Range 22 East, San Bernardino Meridian; thence

southerly along and with the easterly shoulder line of the said north-south road approximately 700 feet to

“Point No. 28, which lies on the easterly shoulder line of said north-south road due east of the northeast corner of the stone retaining wall around the Indian School Hospital; thence due west to

“Point No. 29, which is the base of the northeast corner of said retaining wall; thence southerly along and with the westerly shoulder of said north-south road to

“Point No. 30, which lies on the westerly shoulder line of said north-south road 330 feet south of and approximately 110 feet east of the northeast corner of Section 35, Township 16 South, Range 22 East, San Bernardino Meridian; thence due west approximately 110 feet to

“Point No. 31, which lies on the east line of Section 35, Township 16 South, Range 22 East, San Bernardino Meridian, exactly 330 feet south of the northeast corner of said Section 35; thence southerly along the east line of said section 35 to

“Point No. 32, which lies at the center of the Colorado River, i.e., midway between the north and south shore lines just downstream from the centerline of the old U.S. Highway 80 bridge across the Colorado River; thence down the centerline of the Colorado River midway between the shore lines on the right and left banks to

“Point No. 33, which is a point in the Colorado River vertically below the center of the new U.S. Highway 80 Bridge; thence down the centerline of the Colorado River midway between the shore lines on the right and left banks to

“Point No. 34, which is the intersection of the centerline of the Colorado River and the International Boundary Line between California and the United Mexican States, which point is common to the boundaries of Arizona, the United Mexican States, and California.

These points will be marked on existing bridges and dams and where appropriate will be monumented. Between each of these points will be a number of subpoints not monumented. The total number of points and subpoints will approximate 234. The United States Coast and Geodetic Survey will locate the above mentioned 34 points on the boundary by precise geodetic surveys. The Coast and Geodetic Survey will locate the remaining approximately 200 unmonumented subpoints by precise photogrammetric methods and will provide a list of the geographic positions and state coordinate positions (transverse Mercator system for Arizona and Lambert system for California) of each of the 234 points on the boundary. The approximately 200 unmonumented subpoints will be identified on copies of the aerial photographs by the States of Arizona and California to define the boundary; the Coast and Geodetic Survey will then locate the point so identified by analytic aerotriangulation (photogrammetric methods).

“When the survey and boundary description has been completed by the United States Coast and Geodetic Survey and the Boundary Commissions of Arizona and California have each certified that it is in conformity with the General Description of Boundary between Arizona and California set forth

August 11, 1966

ARIZONA-CALIFORNIA BOUNDARY COMPACT

1879

herein, it shall be attached hereto and marked Exhibit "A" and made a part hereof as though fully incorporated herein as the permanent description of the boundary between the states of Arizona and California.

"ARTICLE III. RATIFICATION AND EFFECTIVE DATE

"This compact shall become operative when it has been ratified and approved by the legislatures of the states of Arizona and California, and approved by the Congress of the United States.

"Executed in duplicate this 12th day of March, A.D., One Thousand Nine Hundred and Sixty-three, at Sacramento, California.

"FOR THE STATE OF ARIZONA

"WAYNE M. AKIN,

"Chairman of the Arizona Interstate Stream Commission, Chairman.

"ROBERT W. PICKRELL,

"Attorney General, Member.

"OBED M. LASSEN,

"State Land Commissioner, Member.

"Attested:

"HOWARD F. THOMPSON,

"Executive Secretary, Colorado River Boundary Commission of Arizona.

"FOR THE STATE OF CALIFORNIA

"F. J. HORTIG,

"Executive Officer, State Lands Commission, Chairman.

"STANLEY MOSK,

"Attorney General, Member.

"WILLIAM E. WARNE,

"Director, Department of Water Resources, Member.

"Attested:

"BERRIEN E. MOORE,

"Executive Secretary, Colorado River Boundary Commission of California". (80 Stat. 340)

Sec. 2. [Reservation of powers.]—The right to alter, amend, or repeal this Act is expressly reserved. (80 Stat. 344)

EXPLANATORY NOTES

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

**Cross Reference, Consent of Congress to Negotiate Compact.** The Act of August 8, 1956, 70 Stat. 1124, granted the consent of Congress to Arizona and California to negotiate the boundary compact approved by this Act. The 1956 Act appears herein in chronological order.

**Relevant State Laws.** The State of Ari-

zona ratified and approved the compact by Chapter 77, Arizona Laws 1963, approved April 2, 1963 (see note following 41 A.R.S. 522, as amended). The State of California ratified and approved the compact by Chapter 859, California Statutes 1963, approved June 11, 1963 (see note following California Government Code, Section 175). In addition to provisions covering the procedural actions required for consummation

of the compact, each of these amendments includes provisions relative to the preservation of "the titles, rights or claims of any person, public or private, natural or artificial" to any of the lands affected by the compact and the recordation of instruments affecting title to lands previously recorded in the opposite state.

**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. 3249, Public Law 89-531 in the 89th Congress. Reported in Senate from Judiciary, June 9, 1966; S. Rept. No. 1255. Passed Senate June 13, 1966. Reported in House from Judiciary, July 19, 1966; H.R. Rept. No. 1734. Passed House August 1, 1966.

**AMENDED CONTRACT, EL PASO COUNTY WATER  
IMPROVEMENT DISTRICT NO. 1**

An act to approve a contract negotiated with the El Paso County Water Improvement District Numbered 1, Texas, to authorize the execution, and for other purposes. (Act of August 23, 1966, Public Law 89-543, 80 Stat. 350)

[Amendatory repayment contract approved.]—The proposed contract designated "FST031765" negotiated by the Secretary of the Interior with the El Paso County Water Improvement District Numbered 1, Texas, to extend the period for repayment of reimbursable costs incurred on the Rio Grande project for construction and for rehabilitation and betterment work and to establish a variable repayment schedule for such costs allocated to this district is approved and the Secretary of the Interior is hereby authorized to execute such contract on behalf of the United States. (80 Stat. 350)

**EXPLANATORY NOTES**

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

**Authorization.** The construction of the Elephant Butte Dam (formerly Engle Dam) on the Rio Grande was authorized by the Act of February 25, 1905. Construction of the Rio Grande project was authorized by the Secretary of the Interior on December 2, 1905, pursuant to the Reclamation Act of June 17, 1902. Both the 1902 and 1905 Acts appear herein in chronological order.

**Legislative History.** H.R. 11671, Public Law 89-543 in the 89th Congress. Reported in House from Interior and Insular Affairs, July 12, 1966; H.R. Rept. No. 1693. Passed House July 18, 1966. Reported in Senate from Interior and Insular Affairs, Aug. 4, 1966; S. Rept. No. 1429. Passed Senate, amended, August 8, 1966. House agrees to Senate amendment August 11, 1966.

## AMEND SMALL RECLAMATION PROJECTS ACT

An act to amend the Small Reclamation Projects Act of 1956. (Act of September 2, 1966, Public Law 89-553, 80 Stat. 376)

[**Sec. 1. Small Reclamation Projects Act amendments.**]—The Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended (43 U.S.C. 422a et seq.) is hereby further amended as follows:

(1) In section 2, by striking out the second sentence of subsection (d) and the first two provisos thereto and inserting in lieu thereof the following: “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:” and by striking out “*And provided further,*” and inserting in lieu thereof “*Provided,*”; (80 Stat. 376; 43 U.S.C. § 422b)

(2) In section 4, by adding at the end of subsection (a) the following: “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.”; (80 Stat. 376; 43 U.S.C. § 422d)

(3) In section 4, subsection (b), by striking out the word “construction” from the phrase which now reads “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 striking out the remainder of said subsection; (80 Stat. 376; 43 U.S.C. § 422d)

(4) In section 5, by striking out the present text of items (a), (b), and (c) and inserting in lieu thereof the following:

“(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 func-

tions, 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;” (80 Stat. 376; 43 U.S.C. § 422e)

(5) In 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.)”; (80 Stat. 377; 43 U.S.C. § 422h)

(6) In section 10, by striking out “\$100,000,000” and inserting in lieu thereof “\$200,000,000”. (80 Stat. 377; 43 U.S.C. § 422j)

**Sec. 2. [Prior loans or grants unaffected.]**—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. (80 Stat. 377; 43 U.S.C. § 422b)

#### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of August 6, 1956.

**Legislative History.** S. 602, Public Law 89-553 in the 89th Congress. Reported in Senate from Interior and Insular Affairs June 21, 1965; S. Rept. 336. Passed Senate July 1, 1965. Passed House, amended, September 7, 1965. Senate asks for a conference September 16, 1965. House agrees to conference May 2, 1966. Conference report

filed June 16, 1966; H.R. Rept. No. 1627. House disagreed to conference report and asked for further conference, July 21, 1966. Senate agrees to further conference August 11, 1966. Further conference report filed August 17, 1966; H.R. Rept. No. 1858. Senate agrees to further conference report August 18, 1966. House agrees to further conference report August 22, 1966. Companion bill H.R. 4851; H.R. Rept. No. 894.

## MANSON UNIT, CHIEF JOSEPH DAM PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, and for other purposes. (Act of September 7, 1966, Public Law 89-557, 80 Stat. 704)

[**Sec. 1. Manson unit, Chelan division, Chief Joseph Dam project, authorized.**]**—**For the purposes of supplying irrigation water for approximately five thousand eight hundred acres of land, undertaking the rehabilitation and betterment of works serving a major portion of these lands, conservation and development of fish and wildlife resources, and enhancement of recreation opportunities, the Secretary of the Interior is authorized to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto). The principal works of the unit shall consist of dams and related works for enlargement of Antilon Lake storage, related canals, conduits, and distribution systems, and works incidental to the rehabilitation of the existing irrigation system. (80 Stat. 704; 43 U.S.C. § 616vv-1)

**Sec. 2. [Repayment—Assistance from power revenues—Construction costs defined—Power rates for irrigation pumping.]**—Irrigation repayment contracts shall provide for repayment of the obligation assumed thereunder with respect to any contract unit over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. The term “construction costs”, as used herein, shall include any irrigation operation, maintenance, and replacement costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the irrigators to pay during that period. Power and energy required for irrigation water pumping for the Manson unit shall be made available by the Secretary from the Federal Columbia River power system at charges determined by the Secretary. (80 Stat. 704; 43 U.S.C. § 616vv-2)

**Sec. 3. [Fish and wildlife development and enhancement and recreation.]**—The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Manson unit shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213). (80 Stat. 704; 43 U.S.C. § 616vv-3)

**Sec. 4. [Water delivery limitations.]**—For a period of ten years from the date of enactment of this Act, no water shall be delivered to any water user on the Manson unit, Chelan division, 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

September 7, 1966

MANSON UNIT, CHIEF JOSEPH DAM PROJECT 1885

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. (80 Stat. 704; 43 U.S.C. § 616vv-4)

**Sec. 5. [Appropriation authorization.]**—There are hereby authorized to be appropriated for construction of the new works involved in the Manson unit, \$13,344,000 (April 1965 prices), plus or minus 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 cost indexes and, in addition thereto, such sums as may be required to operate and maintain said unit. (80 Stat. 705; 43 U.S.C. § 616vv-5)

EXPLANATORY NOTES

**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.** S. 490, Public Law 89-557 in the 89th Congress. Reported in Senate from Interior and Insular Affairs February 9, 1965; S. Rept. No. 61. Passed Senate February 10, 1965. Passed House, amended, March 30, 1966. Senate agrees to House amendment August 25, 1966. Companion bill H.R. 2829; H.R. Rept. No. 1321.

## FEASIBILITY STUDIES

An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals. (Act of September 7, 1966, Public Law 89-561, 80 Stat. 707)

[Sec. 1. Studies of proposals pending before Congress authorized.]—The Secretary of the Interior is hereby authorized—

(a) to perform such additional analysis and studies as may be required on the following proposals which are pending before the Congress:

### Region 1

Chief Joseph Dam project, Chelan division, Manson unit, along Lake Chelan in north-central Washington;

Columbia Basin project, third powerplant, on the Columbia River at Grand Coulee Dam in Washington;

Rogue River Basin project, Merlin division, on Jumpoff Joe Creek, a tributary of the Rogue River, in southwestern Oregon;

Tualatin project, first phase, on the Tualatin River, near the city of Portland, Oregon;

Walla Walla project, Touchet division, on the Touchet River in southeastern Washington;

Yakima project, Kennewick division extension, near the mouth of the Yakima River in south-central Washington.

### Region 3

Lower Colorado River Basin project, in the Lower Colorado River Basin in Arizona, California, New Mexico, Nevada, and Utah.

### Region 5

Canton project on the Canadian River below the existing Canton Reservoir in northwestern Oklahoma;

Columbus Bend project on the Lower Colorado River Basin in Texas;

Palmetto Bend project on the Lavaca and Navidad Rivers in Texas.

### Region 7

Missouri River Basin project, Midstate division, on the north side of the Platte River in central Nebraska;

Missouri River Basin project, North Loup division, on the North Loup and Loup Rivers in east-central Nebraska; and

(b) to complete his analysis and studies and to prepare and process reports on the following proposals, which he anticipates will be completed or substantially completed on or before June 30, 1966:

## Region 1

Challis project, Challis Creek division, on Challis Creek in southern Idaho;

Rathdrum Prairie project, Prairie division, East Greenacres unit in Idaho, along the Idaho-Washington State line east of Spokane, Washington;

Rogue River Basin project, Illinois Valley division, on the Illinois River, a tributary of the Rogue River, in southwestern Oregon;

Southwest Idaho water development project, Mountain Home division, in the Snake River Basin near the cities of Boise and Mountain Home, Idaho;

Umpqua River project, Olalla division, on Olalla and Lookingglass Creeks in the south Umpqua Basin in southwestern Oregon;

Upper Snake River project, upper Star Valley division, on Salt River and Cow Creek, near the town of Afton, Wyoming;

Willamette River project, Monmouth-Dallas division, on the west side of the Willamette River in the vicinity of Monmouth and Dallas, Oregon;

Willamette River project, Red Prairie division, along the South Yamhill River near the town of Sheridan, Oregon;

Yakima project, Bumping Lake enlargement, on Bumping River in the Yakima River Basin in Washington.

## Region 2

Central Valley project, Cosumnes River division, initial phase, in and adjacent to the Cosumnes River Basin east of Sacramento, California;

Central Valley project, Delta division, peripheral canal, in the Sacramento-San Joaquin Delta in California;

Central Valley project, Delta division, Kellogg unit, south of the city of Antioch, California;

Central Valley project, east side division, initial phase, on the east side of the San Joaquin Valley from the American River on the north to the foothills of the Tehachapi Mountains south of the Kern River;

Central Valley project, Sacramento River division, West Sacramento canal unit, on the west side of the Sacramento River Valley and in the Putah Creek Basin in California;

Central Valley project, San Felipe division, in the Santa Clara and Pajaro River Basins in the central coastal area of California;

Sespe Creek project, on the Santa Clara River and tributaries in southern California;

Walker River project on the Walker River in west-central California and east-central Nevada.

## Region 4

Bear River project, first phase, on the Bear River and its tributaries in north-central Utah and southeastern Idaho.

## FEASIBILITY STUDIES

## Region 5

Chikaskia project on the Chikaskia River in south-central Kansas and north-central Oklahoma;

Cuero project on the Guadalupe River in south-central Texas;

Liberty Bottoms project on the Red River below Denison Dam in south-central Oklahoma;

San Luis Valley project, Closed Basin division, in the Rio Grande Basin in south-central Colorado.

## Region 6

Missouri River Basin project, James division, Oahe unit (exclusive of Mitchell area), involving the diversion of water from the existing Oahe Reservoir into the James River Valley;

Missouri River Basin project, South Dakota pumping division, Tower, Greenwood, and Yankton units, on the Missouri River in southeastern South Dakota;

Missouri River Basin project, South Dakota pumping division, Wagner unit on the Missouri River in the vicinity of Fort Randall Dam in southeastern South Dakota;

Missouri River Basin project, Three-Forks division, Jefferson and Whitehall units on the Big Hole and Jefferson Rivers above Canyon Ferry Dam in southwestern Montana;

Missouri River Basin project, Three-Forks division, West Bench unit, on the Big Hole River in southwestern Montana near the town of Dillon;

Missouri River Basin project, White division, Pine Ridge unit, on the White River in southwestern South Dakota.

## Region 7

Mirage Flats project on the upper Niobrara River near Hay Springs, Nebraska;

Missouri River Basin project, Cedar Rapids division, on the Cedar and Loup Rivers near Spalding, Nebraska;

Missouri River Basin project, lower Niobrara division, O'Neill unit, on the lower Niobrara River in north-central Nebraska;

Missouri River Basin project, Smoky Hill division, Ellis unit, on Big Creek in west-central Kansas;

Missouri River Basin project, South Platte division, Narrows Unit, on the South Platte River near Fort Morgan, Colorado. (80 Stat. 707)

Sec. 2. [Continuation of feasibility studies already underway authorized.]—The Secretary is authorized to continue feasibility studies on the following proposals, which are presently under study and which will require further study:

## Region 1

Burnt River project, Dark Canyon division, on the Burnt River in west-central Oregon;

Chief Joseph Dam project, Okanogan-Similkameen division, Okanogan unit, on the Okanogan River in north-central Washington;

Deschutes project, Central division, in the Deschutes and Crooked River Basins in central Oregon;

Flathead River project, encompassing the Flathead River Basin in northwestern Montana;

Grande Ronde project on the Grande River in northeastern Oregon;

Rogue River Basin project, Applegate Valley division, on Applegate Creek, a tributary of the Rogue River, near the city of Grants Pass, Oregon;

Rogue River Basin project, Medford division, on the Rogue River in the vicinity of the town of Medford, Oregon;

Southwest Idaho water development project, Garden Valley division, along the Payette River and in the general vicinity of Boise, Idaho;

Southwest Idaho water development project, Weiser River division, in the Weiser River Basin in Idaho;

Umatilla Basin project, encompassing the Umatilla River Basin, centering near the town of Pendleton, Oregon;

Upper Snake River project, American Falls Dam replacement on the Snake River near the city of American Falls, Idaho;

Upper Snake River project, Lynn Crandall division, on the Snake River below Palisades Dam in southern Idaho;

Upper Snake River project, Salmon Falls division, south of the Snake River, near the city of Twin Falls, Idaho;

Upper Snake River project, Snake Plains recharge division, encompassing the Snake River Plains area north of the Snake River in southern Idaho;

Walla Walla project, Marcus Whitman and Milton-Freewater divisions, in the Walla Walla River Basin in northeastern Oregon and southeastern Washington;

Willamette River project, Carlton division, on the Yamhill River in northwestern Oregon;

Willamette River project, Molalla division, on the Molalla and Pudding Rivers in northwestern Oregon;

Yakima project, Ahtanum unit, on Ahtanum Creek in the Yakima River Basin in Washington.

## Region 2

Central Valley project, American River division, Placerville Ridge unit, between the South Fork American River and the North Fork Cosumnes River east of Sacramento, California;

Central Valley project, American River division, Pleasant Oaks unit, between the South Fork American River and the North Fork Cosumnes River east of Sacramento, California;

Central Valley project, Cosumnes River division, Fair Play unit, on the Middle Fork Cosumnes River east of Sacramento, California;

Central Valley project, East Side division, ultimate phase, on the east side of the San Joaquin Valley from the American River on the north to the foothills of the Tehachapi Mountains south of the Kern River;

Central Valley project, Pit River division, Allen Camp unit, on the Pit River northeast of Redding, California;

Central Valley project, Stanislaus River division, Sonora-Keystone unit, on the Stanislaus River in the general vicinity of Sonora, California;

Lompoc project on the lower Santa Ynez River in southern California;

North Coast project, Eel River division, English Ridge unit, on the upper Eel River and in the Putah Creek and adjacent areas north of San Francisco Bay, California;

North Coast project, Eel River division, Knights Valley unit in the Russian River Basin and adjacent areas north of San Francisco Bay, California;

North Coast project, Eel River division, ultimate phase, in the Eel River Basin in northwestern California with facilities for the diversion of excess water into the Central Valley Basin;

North Coast project, Lower Klamath River division, in the Lower Klamath River Basin in northwestern California with facilities for the diversion of excess water into the Central Valley Basin;

North Coast project, Lower Trinity River division (exclusive of Paskenta-Newville Reservoir), encompassing that portion of the Trinity River Basin below the existing Lewiston Dam of the Central Valley project, the upper portion of the Mad and Van Duzen Rivers and the west side tributaries of the Sacramento River in California;

North Coast project, lower Trinity River division, Paskenta-Newville Dam and Reservoir on Stony and Thomes Creeks in the Sacramento River Basin in California;

Ventura River project extension in the Ventura River Basin near Ventura, California;

Washoe project, Hope Valley division, on the Carson River in California and Nevada;

Washoe project, Newlands extension division, on the lower Carson River near the city of Fallon, Nevada.

### Region 3

Black River-Springerville-Saint Johns project on the Black River and Little Colorado River near Springerville and Saint Johns, Arizona;

Boulder Canyon project, All-American Canal system water salvage, Coachella division, on the Coachella Canal in southern California;

Boulder Canyon project, All-American Canal system water salvage, Imperial division, on the All-American Canal and the Imperial Valley distribution system in southern California;

Flagstaff-Williams project, near the cities of Flagstaff and Williams, Arizona;

Kingman project, on the Colorado River and near the city of Kingman, Arizona;

Moapa Valley pumping project in the Muddy River Basin in southern Nevada;

San Pedro-Santa Cruz project in the San Pedro and Santa Cruz River Basins in southeastern Arizona;

Upper Gila River project on the Gila River and its tributaries in western New Mexico and eastern Arizona.

#### Region 4

Bear River project, second phase, on the Bear River and its tributaries in north-central Utah and southeastern Idaho;

Central Utah project, ultimate phase, Uintah unit, on the Whiterock and Uinta Rivers in northeastern Utah.

#### Region 5

Brantley project on the Pecos River upstream from Carlsbad, New Mexico;

Cibolo project on Cibolo Creek in the San Antonio River Basin in Texas;

Eastern New Mexico water supply project in northeastern New Mexico;

Nueces River project on Frio River in the Nueces River Basin in the vicinity of Corpus Christi, Texas;

Portales project near the town of Portales in eastern New Mexico;

Rio Grande water salvage project, New Mexico division, on the Rio Grande River between the Colorado-New Mexico State line and the existing Caballo Reservoir;

Texas Basins project, encompassing the gulf coastal streams of Texas extending from the Sabine River on the north to the Rio Grande on the south.

#### Region 6

Missouri River Basin project, Big Horn Basin division, Shoshone extension unit, Polecat Bench area, in northwestern Wyoming near the city of Powell;

Missouri River Basin project, Cannonball division, Mott unit, on the Cannonball River in southwestern North Dakota;

Missouri River Basin project, Helena-Great Falls division, Fort Benton unit, on the Missouri River in north-central Montana near the town of Fort Benton;

Missouri River Basin project, Musselshell division, Lower Musselshell unit on the lower reaches of the Musselshell River near the town of Mosby, Montana;

Missouri River Basin project, Powder division, Kaycee unit, on the Middle Fork and main stem of the Powder River in northeastern Wyoming;

## FEASIBILITY STUDIES

Missouri River Basin project, Marias division, Marias-Milk unit, in the Marias and Milk River Basins in north-central Montana;

Missouri River Basin project, South Dakota pumping division, Pollock-Herleid unit, on the Missouri River in north-central South Dakota;

Missouri River Basin project, Sun-Teton division, Sun-Teton unit, on the Sun and Teton Rivers in the vicinity of Great Falls, Montana;

Missouri River Basin project, Yellowstone division, Billings pump unit, at the city of Billings, Montana;

Missouri River Basin project, Yellowstone division, Cracker Box and Stipek units, along the Yellowstone River near the town of Glendive, Mon-

## Region 7

Missouri River Basin project, Blue division, Little Blue unit, along the Little Blue River in south-central Nebraska;

Missouri River Basin project, Blue division, Sunbeam unit, on the West Fork of the Big Blue River in southeastern Nebraska;

Missouri River Basin project, Laramie division, Wheatland unit, on the Laramie River in southeastern Wyoming;

Missouri River Basin project, Mount Evans division, Upper South Platte unit, on the South Platte River near the city of Denver, Colorado;

Missouri River Basin project, Oregon Trail division, La Prele unit, on La Prele Creek, near the town of Douglas, Wyoming.

## Alaska

Lake Grace project on Grace Creek on Revillagigedo Island, Alaska;

Takatz Creek project on Takatz Creek on Baranof Island near Sitka, Alaska. (80 Stat. 709)

**Sec. 3. [New feasibility studies authorized.]**—The Secretary is authorized to engage in feasibility studies on the following proposals:

## Region 1

Umpqua River project, Azalea division on Cow Creek, a tributary of the Umpqua River in southwestern Oregon;

Chehalis River project, Adna division, in the Upper Chehalis River Basin near the cities of Centralia and Chehalis, Washington;

Upper Owyhee project, Jordan Valley division, on Jordan Creek in the Upper Owyhee River Basin in southeastern Oregon and southwestern Idaho;

Upper Snake River project, Big Wood division, in southern Idaho in the Big Wood River Basin near the towns of Ketchum and Sun Valley;

Upper Snake River project, Oakley Fan division, south of the Snake River near Burley, Idaho;

Tualatin project, second phase, in the Tualatin River Basin twenty miles west of Portland, Oregon;

Southwest Idaho Water Development project, Bruneau division in the vicinity of Bruneau in southwest Idaho;

Chief Joseph Dam project, Okanogan-Similkameen division, Oroville-Tonasket unit, Washington.

#### Region 2

North Coast project, Eureka division, encompassing the lower reaches of the Mad, Van Duzen, and Eel Rivers in northwestern California;

Lake Tahoe project in the Lake Tahoe Basin in eastern California and western Nevada and the American River Basin in California.

#### Region 3

Boulder Canyon project, All-American Canal system water salvage, East Mesa unit on the East Mesa of the Imperial Valley in southern California;

Mojave River project in the Mojave River Basin in southern California;

Morongu-Yucca-Upper Coachella Valley project in Riverside County, California;

Santa Margarita project on the Santa Margarita River in southern California.

#### Region 4

Colorado River Basin, power peaking capacity, in the Colorado River Basin in Arizona, Colorado, and Utah, and in the eastern part of Bonneville Basin along the Wasatch Mountains in Utah;

Price River project, Price River Basin in eastern Utah.

#### Region 5

Mimbres project in the Mimbres River Basin in southwestern New Mexico.

#### Region 6

Missouri River Basin project, James division, Oahe unit, Mitchell section, near the city of Mitchell, South Dakota;

Missouri River Basin project, North Dakota pumping division, Horsehead Flats and Winona units on the east side of the Missouri River in the general vicinity of Linton, North Dakota;

Missouri River Basin project, Lower Bighorn division, Hardin unit on the Bighorn River near Hardin, Montana;

Missouri River Basin project, South Dakota pumping division, Grass Rope and Fort Thompson units on the Missouri River in the vicinity of the towns of Lower Brule and Fort Thompson, South Dakota.

#### Region 7

Missouri River Basin project, Bostwick division, Scandia unit, near the town of Belleville in north-central Kansas;

Missouri River project, Oregon Trail division, Glendo inundated water rights irrigation unit, near Glendo Reservoir in eastern Wyoming;

## FEASIBILITY STUDIES

Missouri River Basin project, Smoky Hill division, Kanopolis unit on the Smoky Hill River below the existing Kanopolis Dam in central Kansas;

Missouri River Basin project, Elkhorn division, Highland unit, on the Upper Elkhorn River in northeastern Nebraska;

Missouri River Basin project, Solomon division, Glen Elder irrigation unit, on the Solomon River in the vicinity of the towns of Downs and Delphos, Kansas;

Missouri River Basin project, Kanaska division, Nelson Buck union<sup>1</sup> on Beaver Creek in northwestern Kansas. (80 Stat. 712)

<sup>1</sup> Textual Error. Should be "unit".

**Sec. 4. [Feasible proposals and alternate plans to be submitted to Congress.]**—The Secretary, pursuant to the authority contained in sections 2 and 3 of this Act, shall submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within one year after completion of the final feasibility plan those studies of proposals determined to be feasible, with whatever alternate studies that may have been developed for the construction, operation, and maintenance of each water resource project or proposal in all instances where practical alternatives are known to the Secretary. The Secretary shall provide all the data and information developed on short-term and long-term benefits and costs necessary for the comprehensive and integrated development of each water resource project or proposal, including any and all factors directly, indirectly, ancillary, and/or incidental to the comprehensive development of each water resource project or proposal. (80 Stat. 714)

**Sec. 5. [Acceleration of studies financed by non-Federal sources.]**—The Secretary may accelerate feasibility studies authorized by law when and to the extent that the costs of such studies shall have been advanced by non-Federal sources. (80 Stat. 714; 42 U.S.C. § 1962d-6)

**Sec. 6. [Financial assistance to Pacific Northwest reclamation projects from net revenues of Federal Columbia River power system.]**—Section 2 of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain a third powerplant at the Grand Coulee Dam, Columbia Basin project, Washington, and for other purposes", approved June 14, 1966 (80 Stat. 200) is amended—

- (1) by inserting "(a)" after "SEC. 2";
- (2) by striking out "That" at the beginning of the third sentence and inserting in lieu thereof "Subject to the provisions of subsection (b) of this section, that"; and
- (3) by inserting at the end of such section two new subsections as follows:

"(b) It is declared to be the policy of the Congress that reclamation projects hereafter authorized in the Pacific Northwest to receive financial assistance from the Federal Columbia River power system shall receive such assistance only from the net revenues of that system as provided in this subsection, and that their construction shall be so scheduled that such assistance, together with similar assistance for previously authorized reclamation projects (including projects not now

receiving such assistance for which the Congress may hereafter authorize financial assistance) will not cause increases in the rates and charges of the Bonneville Power Administration. It is further declared to be the policy of the Congress that the total assistance to all irrigation projects, both existing and future, in the Pacific Northwest shall not average more than \$30,000,000 annually in any period of twenty consecutive years. Any analyses and studies authorized by the Congress for reclamation projects in the Pacific Northwest shall be prepared in accordance with the provisions of this section. As used in this section, the term "net revenues" means revenues as determined from time to time which are not required for the repayment of (1) all costs allocated to power at projects in the Pacific Northwest then existing or authorized, including the cost of acquiring power by purchase or exchange, and (2) presently authorized assistance from power to irrigation at projects in the Pacific Northwest existing and authorized prior to the date of enactment of this subsection.

"(c) On December 20, 1974, and thereafter at intervals coinciding with anniversary dates of Federal Power Commission general review of the rates and charges of the Bonneville Power Administration, the Secretary of the Interior shall recommend to the Congress any changes in the dollar limitations herein placed upon financial assistance to Pacific Northwest reclamation projects that he believes justified by changes in the cost-price levels existing on July 1, 1966, or by other relevant changes of circumstances." (80 Stat. 714, 715; 16 U.S.C. §§ 835 j, k, l, m)

#### EXPLANATORY NOTES

**Not Codified.** Sections 1 through 4 of this Act are not codified in the U.S. Code.

**Cross Reference, Authorization of Studies Required.** Section 8 of the Federal Water Project Recreation Act, approved July 9, 1965, requires specific authorization by law for the preparation of any feasibility report for a water resource project under reclamation law. The Act appears herein in chronological order.

**Editor's Note, Annotations.** Annotations of opinions, if any, concerning section 6 of this Act are found under the Act of June 14, 1966.

**Legislative History.** S. 3034, Public Law 89-561 in the 89th Congress. Reported in Senate from Interior and Insular Affairs, July 11, 1966; S. Rept. No. 1368. Passed Senate July 12, 1966. Passed House, amended, July 18, 1966. Senate asks for a conference, July 27, 1966. House agrees to conference August 1, 1966. Conference report filed August 23, 1966; H.R. Rept. No. 1865. House agrees to conference report August 24, 1966. Senate agrees to conference report August 25, 1966. Companion bill H.R. 13419; H.R. Rept. No. 1686.

## ADJUST ACQUIRED ESTATE, VEGA DAM

An act to provide adjustments in order to make uniform the estate acquired for the Vega Dam and Reservoir, Collbran project, Colorado, by authorizing the Secretary of the Interior to reconvey mineral interests in certain lands. (Act of September 16, 1966, Public Law 89-579, 80 Stat. 793).

**[Sec. 1. Reconveyance of mineral interests.]**—In order to provide adjustments in the interests in land heretofore acquired for the Vega Dam and Reservoir, Collbran project, Colorado, and thereby make uniform the estate acquired to fulfill necessary real estate requirements of the project, the Secretary of the Interior is authorized to reconvey to the former owner thereof any mineral interest, including oil and gas, heretofore acquired for said project, whenever the Secretary shall determine that the retention of such mineral interest is not required for public purposes and he shall have received an application for reconveyance as hereinafter provided. (80 Stat. 793)

**Sec. 2. [Notice to former owner.]**—The Secretary shall give notice to the former owner of such mineral interest of the availability of the interest for reconveyance under the provisions of this Act. The former owner shall thereafter file an application within ninety days of the date of notice if he desires to have the interest reconveyed to him. (80 Stat. 793)

**Sec. 3. [Price of reconveyance.]**—Any mineral interest reconveyed under this Act shall be transferred for an amount determined by the Secretary to be equal to the price at which the mineral interest was acquired by the United States. (80 Stat. 793)

**Sec. 4. [Definition of "former owner."]**—As used in this Act the term "former owner" means the person from whom any mineral interest was acquired by the United States or, if such person is deceased, his spouse; or if such spouse is deceased, his children or heirs at law. (80 Stat. 793)

**Sec. 5. [Delegation of Secretary's authority.]**—The Secretary of the Interior may delegate any authority conferred upon him by this Act to any officer or employee of the Department of the Interior. Such officer or employee shall exercise the authority so delegated under regulations prescribed by the Secretary. (80 Stat. 793)

### EXPLANATORY NOTES

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

**Authorization.** The Collbran project, Colorado, was authorized by the Act of July 3, 1952, 66 Stat. 325. The Act appears herein in chronological order.

**Legislative History.** H.R. 399, Public

Law 89-579 in the 89th Congress. Reported in House from Interior and Insular Affairs, May 28, 1965; H.R. Rept. No. 429. Passed House June 7, 1965. Reported in Senate from Interior and Insular Affairs, August 30, 1966; S. Rept. No. 1541. Passed Senate August 31, 1966.

## LOWER RIO GRANDE SALINITY PROBLEM

An act to authorize conclusion of an agreement with Mexico for joint measures for solution of the Lower Rio Grande salinity problem. (Act of September 19, 1966, Public Law 89-584, 80 Stat. 808)

[Sec. 1. Agreement with Mexico authorized for construction of drainage canal.]—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized, notwithstanding any other provision of law and subject to the conditions provided in this Act, to conclude an agreement or agreements with the appropriate official or officials of the Government of the United Mexican States for the construction, operation, and maintenance by the United Mexican States under the supervision of the International Boundary and Water Commission, United States and Mexico, of a drainage conveyance canal through Mexican territory for the discharge of waters of El Morillo and other drains in the United Mexican States into the Gulf of Mexico in the manner, and having substantially the characteristics, described in said Commission's minute numbered 223, dated November 30, 1965. The agreement or agreements shall provide that the costs of construction, including costs of design and right-of-way and the costs of operation and maintenance, shall be equally divided between the United Mexican States and the United States. Before concluding the agreement or agreements, the Secretary of State shall receive satisfactory assurances from private citizens or a responsible local group that they or it will pay to the United States Treasury one-half of the actual United States costs of such construction, including costs of design and right-of-way, and one-half of the actual costs of operation and maintenance allocated under such agreement or agreements to the United States. Payments to the United States Treasury under this section shall be covered into the Treasury as miscellaneous receipts. (80 Stat. 808; 22 U.S.C. § 277d-30)

Sec. 2. [Appropriation authorized.]—To defray costs that accrue to the United States under the agreement or agreements referred to in the first section of this Act for the construction, operation, and maintenance of drainage conveyance canal projects, there are authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, the following amounts:

- (1) Not to exceed \$690,000 for costs of construction.
- (2) Upon completion of construction, not to exceed \$20,000 annually for costs of operation and maintenance. (80 Stat. 808; 22 U.S.C. § 277d-31)

### EXPLANATORY NOTES

**International Boundary Commission.** The International Boundary Commission was created 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 signed February 3, 1944 (effective November 8, 1945), 59 Stat. 1219. The 1944 Treaty appears herein in chronological order as of the date it was signed.

September 19, 1966

1898

## LOWER RIO GRANDE SALINITY PROBLEM

**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. 2747, Public Law 89-584 in the 89th Congress. Reported in Senate from Foreign Relations, August 19,

1966; S. Rept. No. 1485. Passed Senate August 22, 1966. Passed House, amended, September 1, 1966. Senate agrees to House amendment September 7, 1966. Companion bill H.R. 11880; H.R. Rept. No. 1744. H. Res. 977; H.R. Rept. No. 1876.

## TUALATIN PROJECT

An act to authorize the Secretary of the Interior to construct, operate, and maintain the Tualatin Federal reclamation project, Oregon, and for other purposes. (Act of September 20, 1966, Public Law 89-596, 80 Stat. 822)

**[Sec. 1. Tualatin project authorized.]**—In order to supply irrigation water to approximately seventeen thousand acres of land in the Tualatin River Valley, Oregon, to develop municipal and industrial water supplies, to provide facilities for river regulation and control of floods, to enhance recreation opportunities, to provide for the conservation and development of fish and wildlife resources, and for other purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Tualatin Federal reclamation project in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto). The principal features of the said project shall be a dam and reservoir on Scroggin Creek, canals, pumping plants and water distribution facilities. (80 Stat. 822; 43 U.S.C. § 616nnn)

**Sec. 2. [Repayment—Power revenue assistance.]**—Irrigation repayment contracts shall provide, with respect to any contract unit, for repayment of the irrigation construction costs assigned for repayment to the irrigators over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. Power and energy required for irrigation water pumping for the Tualatin project shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him. (80 Stat. 822; 43 U.S.C. § 616ooo)

**Sec. 3. [Recreation and fish and wildlife.]**—The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Tualatin project shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). (80 Stat. 822; 43 U.S.C. § 616ppp)

**Sec. 4. [Repayment—Interest rates—Highway transportation costs of the project to be nonreimbursable.]**—(a) Costs of the project allocated to municipal water supply shall be repayable, with interest, by the municipal water users over a period of not more than fifty years from the date that water is first delivered for that purpose, pursuant to contracts with municipal corporations, or other organizations, as defined in section 2(g) of the Reclamation Project Act of 1939 (53 Stat. 1187). Contracts may be entered into with water users' organizations pursuant to the provisions of this Act without regard to the last sentence of subsection 9(c) of the Reclamation Project Act of 1939, supra.

## TUALATIN PROJECT

(b) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, 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 interest rate to the nearest multiple of one-eighth of 1 per centum if the computed average interest rate is not a multiple of one-eighth of 1 per centum.

(c) Costs of the project allocated to highway transportation shall be non-reimbursable in accordance with section 208 of the Flood Control Act of 1962 (76 Stat. 1196). (80 Stat. 822; 43 U.S.C. § 616qqq)

## EXPLANATORY NOTES

**Reference in the Text.** Section 208 of the Flood Control Act of 1962 (76 Stat. 1196), referred to in the text, deals, among other things, with the use of existing roads as access roads to Federal water project construction sites and the reconstruction or replacement of such roads, and provides that the Federal share of the cost of reconstruction or replacement shall be nonreimbursable. Extracts from the Act (enacted October 23, 1962), including section 208 referred to, appear 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 section 3 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.

**Sec. 5. [Crop production limitations.]**—For a period of ten years from the date of enactment of this Act, no water shall be delivered to any water user on the Tualatin project 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. (80 Stat. 822; 43 U.S.C. § 616rrr)

## 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.

**Sec. 6. [Appropriation authorized.]**—There is hereby authorized to be appropriated for the construction of the Tualatin project the sum of \$20,900,000 (January 1965 prices) 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 types of construction involved therein, and, in

September 20, 1966

TUALATIN PROJECT

1901

addition thereto, such sums as may be required to operate and maintain said project. (80 Stat. 823; 43 U.S.C. § 616sss)

EXPLANATORY NOTE

**Legislative History.** S. 254, Public Law 89-596 in the 89th Congress. Reported in Senate from Interior and Insular Affairs, March 29, 1965; S. Rept. No. 142. Passed Senate April 1, 1965. Passed House, amended, March 30, 1966. Senate asks for conference June 1, 1966. House agrees to

conference July 21, 1966. Conference report filed September 1, 1966; H.R. Rept. No. 1324. House agrees to conference report September 6, 1966. Senate agrees to conference report, September 7, 1966. Companion bill H.R. 707; H.R. Rept. No. 1324. H. Res. 799; H.R. Rept. No. 1378.

## AMEND COMPENSATION FOR CANAL RIGHTS-OF-WAY ACT

An act to amend the Act of September 2, 1964. (Act of October 4, 1966, Public Law 89-624, 80 Stat. 873)

[**Sec. 1. Compensation authorized to be paid owners of private land utilized for ditches or canals.**]**—**The Act of September 2, 1964 (78 Stat. 808; 43 U.S.C. 945(a)), is amended to read “Notwithstanding the existence of any reservation of right-of-way to the United States for canals under the Act of August 30, 1890 (26 Stat. 371, 391; 43 U.S.C. 945), or any State statute, the Secretary of the Interior shall pay just compensation, including severance damages, to the owners of private land utilized for ditches or canals in connection with any reclamation project, or any unit or any division of a reclamation project, provided the construction of said ditches or canals commenced after January 1, 1961, and such compensation shall be paid notwithstanding the execution of any agreements or any judgments entered in any condemnation proceeding, prior to the effective date of this Act. (80 Stat. 873; 43 U.S.C. § 945a)

### EXPLANATORY NOTES

**Reference in the Text.** The Act of September 2, 1964 (78 Stat. 808; 43 U.S.C. 945(a)), which is amended by this Act, appears herein in chronological order. The United States Code citation in the previous sentence is taken literally from the Act above, but is incorrect and should read

“43 U.S.C. 945a”—without the “a” being in parentheses.

**Reference in the Text.** The Act of August 30, 1890 (26 Stat. 371, 391; 43 U.S.C. 945), referred to in the text, appears herein in chronological order.

[**Sec. 2. [Jurisdiction conferred on United States District Court.]**]**—**Jurisdiction of an action brought by the United States or the landowner for the determination of just compensation pursuant to this Act is hereby conferred on the United States district court in the district in which any such land is situated, without limitation to the amount of compensation sought by such suit. The procedure for such an action shall be governed by the Federal Rules of Civil Procedure for the condemnation of real and personal property. (80 Stat. 874; 43 U.S.C. § 945b)

[**Sec. 3. [Effective date.]**]**—**The amendment made by this Act shall apply to any condemnation action pending in any district court of the United States on the date of enactment of this Act and to any such action instituted after that date.” (80 Stat. 874; 43 U.S.C. § 945a, note)

### EXPLANATORY NOTES

**Editor's Note, Annotations.** Annotations of opinions, if any, are found under the Act of September 2, 1964.

**Legislative History.** H.R. 9976, Public Law 89-624 in the 89th Congress. Reported in House from Interior and Insular

Affairs July 29, 1966; H.R. Rept. No. 1784. Passed House August 15, 1966. Reported in Senate from Interior and Insular Affairs September 20, 1966; S. Rept. No. 1619. Passed Senate September 21, 1966.

## INTERNATIONAL FLOOD CONTROL PROJECT, TIJUANA RIVER

An act to authorize the conclusion of an agreement for the joint construction by the United States and Mexico of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico, and for other purposes. (Act of October 10, 1966, Public Law 89-640, 80 Stat. 884)

[**Sec. 1. Agreement with Mexico authorized for construction of the Tijuana River flood control project.**]—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of an international flood control project for the Tijuana River, which shall be located and have substantially the characteristics described in "Report on an International Flood Control Project, Tijuana River Basin", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico. (80 Stat. 884; 22 U.S.C. § 277d-32)

**Sec. 2. [Appropriation authorized.]**—If agreement is concluded pursuant to section 1 of this Act, the said United States Commissioner is authorized to construct, operate, and maintain the portion of such project assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States Section, not to exceed \$12,600,000 for the construction of such project and such sums as may be necessary for its maintenance and operation. No part of any appropriation under this Act shall be expended for construction on any land, site, or easement, except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States. (80 Stat. 884; 22 U.S.C. § 277d-33)

### EXPLANATORY NOTES

**International Boundary Commission.** The International Boundary Commission was created 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 signed February 3, 1944 (effective November 8, 1945), 59 Stat. 1219. The 1944 Treaty appears herein in chronological order as of the date it was signed.

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. 2540, Public Law 89-640 in the 89th Congress. Reported in Senate from Foreign Relations, March 4, 1966; S. Rept. No. 1049. Passed Senate March 8, 1966. Passed House, amended, September 22, 1966. Senate agrees to House amendment, September 27, 1966. Companion bill H.R. 13825; H.R. Rept. No. 1745. H. Res. 1006; H.R. Rept. 1959.

## BIGHORN CANYON NATIONAL RECREATION AREA

An act to provide for the establishment of the Bighorn Canyon National Recreation Area, and for other purposes. (Act of October 15, 1966, Public Law 89-664, 80 Stat. 913)

[Sec. 1. Bighorn Canyon National Recreation Area authorized—Boundaries of the area to be published in the Federal Register.]—(a) In order to provide for public outdoor recreation use and enjoyment of the proposed Yellow-tail Reservoir and lands adjacent thereto in the States of Wyoming and Montana by the people of the United States and for preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters, there is hereby established the Bighorn Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Proposed Bighorn Canyon National Recreation Area", LNPMW-010A-BC, November 1964, which is on file in the Office of the National Park Service, Department of the Interior.

(b) As soon as practicable after approval of this Act, the Secretary of the Interior shall publish in the Federal Register a detailed description of the boundaries of the area which shall encompass, to the extent practicable, the lands and waters shown on the drawing referred to in subsection (a) of this section. The Secretary may subsequently make adjustments in the boundary of the area, subject to the provisions of subsection 2(b) of this Act, by publication of an amended description in the Federal Register. (80 Stat. 913; 16 U.S.C. § 460t)

Sec. 2. [Acquisition of land—Crow Indian lands not to be included in the area unless requested by the Council of the Tribe—Term "shoreline" defined.]—

(a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or otherwise, lands and interests in lands within the boundaries of the area. The Secretary is further authorized to acquire, by any of the above methods, not to exceed ten acres of land or interests therein outside of the boundaries of the area in the vicinity of Lovell, Wyoming, for development and use, pursuant to such special regulations as he may promulgate, as a visitor contact station and administrative site. In the exercise of his exchange authority the Secretary may accept title to any non-Federal property within the area and convey in exchange therefor any federally owned property under his jurisdiction in the States of Montana and Wyoming which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. Property so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged. Any property or interest therein owned by the State of Montana or the State of Wyoming or any political subdivision thereof within the recreation area may be acquired only by donation or exchange.

(b) No part of the tribal mountain lands or any other lands of the Crow Indian Tribe of Montana shall be included within the recreation area unless requested by the council of the tribe. The Indian lands so included may be

October 15, 1966

BIGHORN CANYON NATIONAL RECREATION AREA 1905

developed and administered in accordance with the laws and rules applicable to the recreation area, subject to any limitation specified by the tribal council and approved by the Secretary.

(c) (1) Notwithstanding any other provisions of this Act or of any other law, the Crow Indian Tribe shall be permitted to develop and operate water-based recreational facilities, including landing ramps, boathouses, and fishing facilities, along that part of the shoreline of Yellowtail Reservoir which is adjacent to lands comprising the Crow Indian Reservation. Any such part so developed shall be administered in accordance with the laws and rules applicable to the recreation area, subject to any limitations specified by the tribal council and approved by the Secretary. Any revenues resulting from the operation of such facilities may be retained by the Crow Indian Tribe.

(2) As used in this subsection, the term "shoreline" means that land which borders both Yellowtail Reservoir and the exterior boundary of the Crow Indian Reservation, together with that part of the reservoir necessary to the development of the facilities referred to in this subsection. (80 Stat. 913; 16 U.S.C. § 460t-1)

**Sec. 3. [Administration of the area.]**—(a) The Secretary shall coordinate administration of the recreation area with the other purposes of the Yellowtail Reservoir project so that it will in his judgment best provide (1) for public outdoor recreation benefits, (2) for conservation of scenic, scientific, historic, and other values contributing to public enjoyment and (3) for management, utilization, and disposal of renewable natural resources in a manner that promotes, or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.

(b) In the administration of the area for the purposes of this Act, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act. (80 Stat. 913; 16 U.S.C. § 460t-2)

**Sec. 4. [Hunting and fishing—Hunting and fishing rights of the Crow Tribe—Consultation with State fish and game authorities.]**—The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the recreation area in accordance with the appropriate laws of the United States and of the States of Montana or Wyoming to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment, and except that nothing in this section shall impair the rights under other law of the Crow Tribe and its members to hunt and fish on lands of the Crow Tribe that are included in the recreation area, or the rights of the members of the Crow Tribe to hunt and fish under section 2(d) of the Act of July 15, 1958. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only

October 15, 1966

1906 BIGHORN CANYON NATIONAL RECREATION AREA

after consultation with the Montana Fish and Game Department or the Wyoming Game and Fish Commission. (80 Stat. 913; 16 U.S.C. § 460t-3)

EXPLANATORY NOTE

**Reference in the Text.** Section 2(d) of the Act of July 15, 1958, referred to in the text, provides that 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. The 1958 Act appears herein in chronological order.

**Sec. 5. [Appropriation authorized.]**—There is hereby authorized to be appropriated not more than \$355,000 for the acquisition of land and interests in land pursuant to this Act. (80 Stat. 913; 16 U.S.C. § 460t-4)

EXPLANATORY NOTES

**Background.** The recreation area created by the act comprises some 63,300 acres along Big Horn River above Yellowtail Dam, which is about 45 miles southwest of Hardin, Montana. The recreation area straddles the Montana-Wyoming border. The Yellowtail Unit of the Missouri River Basin project is proposed to be constructed with the Yellowtail Reservoir as the key feature in supplying irrigation water to the Unit.

**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. 491, Public Law 89-664 in the 89th Congress. Reported in Senate from Interior and Insular Affairs; S. Rept. No. 64. Passed Senate February 10, 1965. Passed House, amended, September 19, 1966. Senate agrees to House amendment with an amendment October 3, 1966. House agrees to Senate amendment to House amendment, October 3, 1966. Companion bill H.R. 2778; H.R. Rept. No. 1819.

## CONTRACTS FOR SCIENTIFIC AND TECHNICAL RESEARCH

An act to authorize the Secretary of the Interior to enter into contracts for scientific and technological research, and for other purposes. (Act of October 15, 1966, Public Law 89-672, 80 Stat. 951)

[Sec. 1. Scientific and technical research contracts authorized—Showing of capability of doing work required—Coordination of research—Reports and publications—Waiting period before execution of contract for over \$25,000.]—

(a) The Secretary of the Interior is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department of the Interior which are authorized by statute.

(b) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this section have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department of the Interior, participate in coordinating all research initiated under this section, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the United States Department of the Interior, and other Federal agencies.

(c) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems desirable on the research carried out pursuant to this section.

(d) No contract involving more than \$25,000 shall be executed under subsection (a) of this section prior to thirty calendar days from the date the same is submitted to the President of the Senate and the Speaker of the House of Representatives and said thirty calendar days shall not include days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. (80 Stat. 951; 42 U.S.C. § 1900)

**Sec. 2. [Rules and regulations.]**—The Secretary shall prescribe such rules and regulations as he deems necessary to carry out the provisions of this Act. (80 Stat. 951; 42 U.S.C. § 1900a)

**Sec. 3. [Other research contract authority not amended, modified or repealed.]**—Nothing contained in this Act is intended to amend, modify, or repeal any provisions of law administered by the Secretary of the Interior which authorize the making of contracts for research. (80 Stat. 951; 42 U.S.C. § 1900b)

EXPLANATORY NOTES

**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. 3460, Public Law 89-672 in the 89th Congress. Reported in Senate from Interior and Insular Affairs

August 25, 1966; S. Rept. No. 1523. Passed Senate August 29, 1966. Reported in House from Interior and Insular Affairs September 22, 1966; H.R. Rept. No. 2068. Passed House, amended, October 3, 1966. Senate agrees to House amendment October 10, 1966.

**PUBLIC WORKS APPROPRIATION ACT, 1967**

[Extracts from] An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1967, and for other purposes. (Act of October 15, 1966, Public Law 89-689, 80 Stat. 1002)

\* \* \* \* \*

**TITLE I—DEPARTMENT OF DEFENSE—CIVIL**

\* \* \* \* \*

**CONSTRUCTION GENERAL**

[Lost Creek Project, Oregon, and Wynoochee Project, Washington—Irrigation purposes conditioned on arrangements for recovery of costs under Reclamation Law.]—For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law \* \* \* *Provided further*, That the Lost Creek Project in Oregon and the Wynoochee Project in Washington shall not be operated for irrigation purposes until such time as the Secretary of the Interior makes the necessary arrangements with non-Federal interests to recover the costs, in accordance with Federal Reclamation Law, which are allocated to the irrigation purpose: \* \* \*. (80 Stat. 1003)

\* \* \* \* \*

**TITLE II—DEPARTMENT OF INTERIOR**

**BUREAU OF RECLAMATION**

\* \* \* \* \*

**ADMINISTRATIVE PROVISIONS**

\* \* \* \* \*

[Disaster relief expenditures—Reimbursement by Office of Emergency Planning.]—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. (80 Stat. 1005)

**EXPLANATORY NOTE**

Reference in the Text, Public Law 81-875 referred to in the text, was approved September 30, 1950. It is known as the Disaster Relief Act, and appears herein in chronological order.

\* \* \* \* \*

[Short title.]—This Act may be cited as the "Public Works Appropriation Act, 1967". (80 Stat. 1016)

EXPLANATORY NOTES

**Not Codified.** The extracts of this Act reprinted here are not codified in the U.S. Code.

**Legislative History.** H.R. 17787, Public Law 89-689 in the 89th Congress. Reported in House from Appropriations September 15, 1966; H.R. Rept. No. 2044. Passed House September 21, 1966. Reported in Senate from Appropriations Oc-

tober 3, 1966; S. Rept. No. 1672. Passed Senate, amended, October 7, 1966. Senate asks for conference October 7, 1966. House agrees to conference October 10, 1966. Conference report filed October 10, 1966; H.R. Rept. No. 2216. House agrees to conference report October 11, 1966. Senate agrees to conference report October 12, 1966.

## LANDS REVERTING TO THE UNITED STATES, PAYMENT FOR IMPROVEMENTS, SWEETWATER COUNTY

An act to provide for reimbursement to the State of Wyoming for improvements made on certain lands in Sweetwater County, Wyoming, if and when such lands revert to the United States. (Act of November 5, 1966, Public Law 89-760, 80 Stat. 1308)

[Secretary of the Interior to reimburse State for improvements should land revert to the United States.]—The Secretary of Agriculture, having conveyed certain lands situated in Sweetwater County, Wyoming, to the State of Wyoming by reason of and in accordance with the provisions of that deed of June 6, 1962, executed pursuant to the Act of March 20, 1962 (76 Stat. 44), and having included in such deed provision that, if the lands so conveyed to the State of Wyoming should cease to be used in the cooperative agricultural demonstration work of the United States, Department of Agriculture, and the State of Wyoming, title to the lands thus conveyed shall revert to and become revested in the United States of America; the Secretary of the Interior be hereby authorized, at such time as said reversionary provision might become effective, to reimburse the State of Wyoming from whatever funds may be available to him, for those permanent improvements made by said State of Wyoming and remaining on said lands at the time such reversion of title becomes effective in an amount not to exceed the current fair market value of said improvement as determined by appraisal made at that time. (80 Stat. 1308)

### EXPLANATORY NOTES

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

**Reference in the Text.** The Act of March 20, 1962 (76 Stat. 44), referred to in the text, 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. 84, Public Law 89-760 in the 89th Congress. Reported in Senate from Interior and Insular Affairs, October 7, 1966; S. Rept. No. 1699. Passed Senate October 10, 1966. Passed House October 17, 1966. Companion bill H.R. 4429; H.R. Rept. No. 1976.

*Repealed  
Pr 91-100  
9-20-72*

## DISASTER RELIEF ACT OF 1966

[Extracts from] An act to provide additional assistance for areas suffering a major disaster.  
(Act of November 6, 1966, Public Law 89-769, 80 Stat. 1316)

[Sec. 1. Short Title.]—This Act may be cited as the “Disaster Relief Act of 1966”. (80 Stat. 1316; 42 U.S.C. § 1855aa note)

\* \* \* \* \*

### RESTORATION OF PUBLIC FACILITIES

Sec. 9. There is hereby authorized to be appropriated such sums as may be necessary to reimburse not more than 50 per centum of eligible costs incurred to repair, restore, or reconstruct any project of a State, county, municipal, or other local government agency for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction which was damaged or destroyed as a result of a major disaster, and of the resulting additional eligible costs incurred to complete any such facility which was in the process of construction when damaged or destroyed as a result of such major disaster. Eligible costs are defined to mean those costs determined by the Director of the Office of Emergency Planning as incurred or to be incurred in (1) restoring a public facility to substantially the same condition as existed prior to the damage resulting from the major disaster, and (2) completing construction not performed prior to the major disaster to the extent the increase of such costs over original construction costs is attributable to changed conditions resulting from the major disaster. Reimbursement under this section shall be made to the State, county, municipal, or other local governmental agency which is constructing the public facility or for which it is being constructed, except that if the economic burden of the eligible costs of repair, restoration, reconstruction or completion is incurred by an individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance), the State, county, municipality, or other local governmental agency shall reimburse such individual, partnership, corporation, agency, or other entity not to exceed 50 per centum of those costs. Eligible costs shall not include any costs for which reimbursement is received pursuant to insurance contracts or otherwise by the party incurring the economic burden of such costs. (80 Stat. 1320; 42 U.S.C. § 1855ee)

### DUPLICATION OF BENEFITS

Sec. 10. The head of each department or agency of the Federal government administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster shall administer such program in a manner which will assure that no such person, concern, or other entity will receive such assistance with respect to any part of

November 6, 1966

DISASTER RELIEF ACT OF 1966

1913

such loss as to which he has received financial assistance under any other such program. (80 Stat. 1320; 42 U.S.C. § 1855ff)

\* \* \* \* \*

EFFECTIVE DATE

Sec. 14. This Act and the amendments made by this Act shall apply with respect to any major disaster occurring after October 3, 1964. (80 Stat. 1321; 42 U.S.C. § 1855aa note)

EXPLANATORY NOTES

**Cross Reference, Disaster Relief Act of 1950.** The Act of September 30, 1950, Public Law 81-875, 64 Stat. 1109, authorized a Federal program of assistance to States and local governments in major disasters, and authorizes emergency restoration of Federal facilities which are damaged or destroyed in major disasters. The Act is known as the Disaster Relief Act and 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. 1861, Public Law 89-769 in the 89th Congress. Reported in Senate from Public Works July 15, 1965; S. Rept. No. 459. Passed Senate July 22, 1965. Reported in House from Public Works September 28, 1966; H.R. Rept. No. 2141. Passed House, amended, October 17, 1966. Senate agrees to House amendments October 18, 1966.

## RIVER AND HARBOR AND FLOOD CONTROL ACTS OF 1966

[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 November 7, 1966, Public Law 89-789, 80 Stat. 1405)

### TITLE I—RIVERS AND HARBORS

\* \* \* \* \*

Sec. 107. [Consent to Arkansas River Basin Compact, States of Kansas and Oklahoma.]—(a) The consent of Congress is hereby given to the compact, signed by the compact representatives for the States of Kansas and Oklahoma on the 31st day of March 1965, at Wichita, Kansas, and thereafter ratified by the legislature of each of the States aforesaid, which compact is as follows:

#### “ARKANSAS RIVER BASIN COMPACT, KANSAS-OKLAHOMA

“The state of Kansas and the state of Oklahoma, acting through their duly authorized compact representatives, Robert L. Smith and Warden L. Noe, for the state of Kansas, and Geo. R. Benz and Frank Raab, for the state of Oklahoma, after negotiations participated in by Trigg Twichell, appointed by the president as the representative of the United States of America, and in accordance with the consent to such negotiations granted by an act of Congress of the United States of America, approved August 11, 1955 (Public Law 340, 84th congress, 1st session), have agreed as follows respecting the waters of the Arkansas river and its tributaries:

#### “ARTICLE I

“The major purposes of this compact are: A. To promote interstate comity between the states of Kansas and Oklahoma;

“B. To divide and apportion equitably between the states of Kansas and Oklahoma the waters of the Arkansas river basin and to promote the orderly development thereof;

“C. To provide an agency for administering the water apportionment agreed to herein;

“D. To encourage the maintenance of an active pollution-abatement program in each of the two states and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas river basin.

#### “ARTICLE II

“As used in this compact: A. The term ‘state’ shall mean either state signatory hereto and shall be construed to include any person or persons, entity or agency of either state who, by reason of official responsibility or by designation of the governor of that state, is acting as an official representative of that state;

"B. The term 'Kansas-Oklahoma Arkansas river commission' or the term 'commission' means the agency created by this compact for the administration thereof;

"C. The term 'Arkansas river' means that portion of the Arkansas river from a point immediately below the confluence of the Arkansas and Little Arkansas rivers in the vicinity of Wichita, Kansas, to a point immediately below the confluence of the Arkansas river with the Grand-Neosho river near Muskogee, Oklahoma;

"D. The term 'Arkansas river basin' means all of the drainage basin of the Arkansas river as delimited above, including all tributaries which empty into it between the upstream and downstream limits;

"E. The term 'waters of the Arkansas river and its tributaries' means the waters originating in the Arkansas river basin;

"F. The term 'conservation storage capacity' means that portion of the active storage capacity of reservoirs, including multipurpose reservoirs, with a conservation storage capacity in excess of 100 acre-feet, available for the storage of water for subsequent use, but it excludes any portion of the storage capacity allocated to flood and sediment control and inactive storage capacity allocated to other uses;

"G. The term 'new conservation storage capacity' means conservation storage capacity for which construction is initiated after July 1, 1963, and storage capacity not presently allocated for conservation storage which is converted to conservation storage capacity after July 1, 1963, in excess of the quantities of declared conservation storage capacity as set forth in the storage table attached to and made a part of the minutes of the twenty-fourth meeting of the compact committee dated September 1, 1964, and as filed and identified to this compact in the offices of the secretaries of state of the respective states;

"H. The term 'pollution' means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, gaseous, or solid substances into any waters which creates or is likely to result in a nuisance, or which renders or is likely to render the waters into which it is discharged harmful, detrimental or injurious to public health, safety, or welfare or which is harmful, detrimental or injurious to beneficial uses of the water.

### "ARTICLE III

"The physical and other conditions peculiar to the Arkansas river basin constitute the basis for this compact, and neither of the states hereby, nor the congress of the United States by its consent hereto, concedes that this compact establishes any general principle with respect to any other interstate stream.

### "ARTICLE IV

"A. For the purpose of apportionment of water between the two states, the Arkansas river basin is hereby divided into major topographic sub-

basins as follows: (1) The Grand-Neosho river subbasin; (2) the Verdigris river subbasin; (3) the Salt Fork river subbasin; (4) the Cimarron river subbasin; and (5) the mainstem Arkansas river subbasin which shall consist of the Arkansas river basin, excepting the Grand-Neosho river, Verdigris river, Salt Fork river, and Cimarron river subbasins.

"B. The two states recognize that portions of other states not signatory to this compact lie within the drainage area of the Arkansas river basin as herein defined. The water apportionments provided for in this compact are not intended to affect nor do they affect the rights of such other states in and to the use of the waters of the basin.

#### "ARTICLE V

"The state of Kansas shall have free and unrestricted use of the waters of the Arkansas river basin within Kansas subject to the provisions of this compact and to the limitations set forth below:

"A. New conservation storage capacity in the Grand-Neosho river subbasin within the state of Kansas shall not exceed 650,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma excepting storage on Spavinaw creek;

"B. New conservation storage capacity in the Verdigris river subbasin within the state of Kansas shall not exceed 300,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma, excepting navigation capacity allocated in Oologah reservoir;

"C. New conservation storage capacity in the mainstem Arkansas river subbasin within the state of Kansas shall not exceed 600,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

"D. New conservation storage capacity in the Salt Fork river subbasin within the state of Kansas shall not exceed 300,000 acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

"E. New conservation storage capacity in the Cimarron river subbasin within the state of Kansas shall not exceed 5,000 acre-feet, provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the commission.

#### "ARTICLE VI

"The state of Oklahoma shall have free and unrestricted use of the waters of the Arkansas river basin within Oklahoma subject to the provisions of this compact and to the limitations set forth below:

"New conservation storage capacity in the Cimarron river subbasin within the state of Oklahoma shall not exceed 5,000 acre-feet provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the commission.

"ARTICLE VII

"A. The commission shall determine the conditions under which one state may construct and operate for its needs new conservation storage capacity in the other state. The construction or utilization of new conservation storage capacity by one state in the other state shall entitle the state whose storage potential is reduced by such construction to construct an equal amount of new conservation storage in a subbasin agreeable to the commission.

"B. New conservation storage capacity constructed by the United States or any of its agencies, instrumentalities or wards, or by a state, political subdivision thereof, or any person or persons shall be charged against the state in which the use is made.

"C. Each state has the unrestricted right to replace within the same subbasin, any conservation storage capacity made unusable by any cause.

"D. In the event reallocation of storage capacity in the Arkansas river basin in Oklahoma should result in the reduction of that state's new conservation storage capacity, such reallocation shall not reduce the total new conservation storage capacities available to Kansas under Article V; provided that a subsequent reinstatement of such storage capacity shall not be charged as an increase in Oklahoma's new conservation storage capacity.

"ARTICLE VIII

"A. In the event of importation of water to a major subbasin of the Arkansas river basin from another river basin, or from another major subbasin within the same state, the state making the importation shall have exclusive use of such imported waters.

"B. In the event of exportation of water from a major subbasin for use in another major subbasin or for use outside the Arkansas river basin within the same state, the limitations of Articles V and VI on new conservation capacity shall apply against the subbasin from which the exportation is made in the amount of the storage capacity actually used for that purpose within the exporting subbasin or, in the event of direct diversion of water without storage, on the basis of five acre-feet of conservation storage capacity for each acre-foot of water on the average so diverted annually.

"C. Any reservoir storage capacity which is required for the control and utilization of imported waters shall not be accounted as new conservation storage.

"D. Should a transbasin diversion of water of the Arkansas river basin be made in one state for the use and benefit of the other state or both states, the commission shall determine a proper accounting of new conservation storage capacities in each state in accordance with the above principles and with the project uses to be made in that state.

"ARTICLE IX

"The states of Kansas and Oklahoma mutually agree to: A. The principle of individual state effort to abate man-made pollution within each

state's respective borders, and the continuing support of both states in an active pollution-abatement program;

"B. The cooperation of the appropriate state agencies in Kansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas river basin whenever such matters are called to their attention by the commission;

"C. Enter into joint programs for the identification and control of sources of natural pollution within the Arkansas river basin which the commission finds are of interstate significance;

"D. The principle that neither state may require the other to provide water for the purpose of water-quality control as a substitute for adequate waste treatment;

"E. Utilize the provisions of the federal water pollution control act in the resolution of any pollution problems which cannot be resolved within the provisions of this compact.

#### "ARTICLE X

"A. There is hereby created an interstate administrative agency to be known as the 'Kansas-Oklahoma Arkansas river commission.' The commission shall be composed of three commissioners representing each of the states of Kansas and Oklahoma who shall be appointed by the governors of the respective states and, if designated by the president, one commissioner representing the United States. The president is hereby requested to designate a commissioner and an alternate representing the United States. The federal commissioner, if one be designated, shall be the presiding officer of the commission, but shall not have the right to vote in any of the deliberations of the commission.

"B. One Kansas commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two commissioners shall reside in the Arkansas river basin in Kansas and shall be appointed to four-year staggered terms.

"C. One Oklahoma commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two commissioners shall reside in the Arkansas river basin in Oklahoma and shall be appointed to four-year staggered terms.

"D. A majority of the commissioners of each state and the commissioner or his alternate representing the United States, if so designated, must be present to constitute a quorum. In taking any commission action, each signatory state shall have a single vote representing the majority opinion of the commissioners of that state.

"E. 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 shall be borne equally by the two states and shall be paid by the commission out of the 'Kansas-Oklahoma Arkansas river commission fund.' Such fund shall be initiated and maintained by equal payments of each state into the

fund. Disbursements shall be made from said fund in such manner as may be authorized by the commission. Such 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 such audit shall be included in and become a part of the annual report of the commission.

“ARTICLE XI

“A. The commission shall have the power to: (1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under the compact;

“(2) Enter into contracts with appropriate state or federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

“(3) Establish and maintain an office for the conduct of its affairs;

“(4) Adopt rules and regulations governing its operations;

“(5) Cooperate with federal agencies in developing principles, consistent with the provisions of this compact and with federal policy, for the storage and release of water from all-federal capacities of federal reservoirs, both existing and future within the Arkansas river basin, for the purpose of assuring their operation in the best interests of the states and the United States;

“(6) Permit either state, with the consent of the proper operating agency, to impound water, for such periods of time deemed necessary or desirable by the commission, in available reservoir storage capacity which is not designated as conservation or new conservation storage capacity for subsequent release and use for any purpose approved by the commission;

“(7) Hold hearings and take testimony and receive evidence at such times and places as it deems necessary;

“(8) Secure from the head of any department or agency of the federal or state government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

“(9) Print or otherwise reproduce and distribute all of its proceedings and reports.

“B. The commission shall: (1) Cause to be established, maintained and operated such stream, reservoir, or other gaging stations as may be necessary for the proper administration of the compact;

“(2) Collect, analyze and report on data as to stream flows, water quality, conservation storage, and such other information as is necessary for the proper administration of the compact;

“(3) Perform all other functions required of it by the compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

“(4) Prepare and submit an annual report to the governor of such signatory state and to the president of the United States covering the activities of the commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

“(5) Prepare and submit to the governor of each of the states of Kansas and Oklahoma an annual budget covering the anticipated expenses of the commission for the following fiscal year;

“(6) Make available to the governor or any state agency of either state or to any authorized representatives of the United States, upon request, any information within its possession.

#### “ARTICLE XII

“A. Recognizing the present limited uses of the available water supplies of the Arkansas river basin in the two states and the uncertainties of their ultimate water needs, the states of Kansas and Oklahoma deem it imprudent and inadvisable to attempt at this time to make final allocations of the new conservation storage capacity which may ultimately be required in either state, and, by the limitations on storage capacity imposed herein, have not attempted to do so. Accordingly, after the expiration of 25 years following the effective date of this compact, the commission may review any provisions of the compact for the purpose of amending or supplementing the same, and shall meet for the consideration of such review on the request of the commissioners of either state; provided, that the provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the states acting through their commissioners and until such changes are ratified by the legislatures of the respective states and consented to by the congress in the same manner as this compact is required to be ratified to become effective.

“B. This compact may be terminated at any time by the appropriate action of the legislatures of both signatory states.

“C. In the event of amendment or termination of the compact, all rights established under the compact shall continue unimpaired.

#### “ARTICLE XIII

“Nothing in this compact shall be deemed: A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority, in, over and to the waters of the Arkansas River Basin;

“B. To interfere with or impair the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of waters within that state not inconsistent with its obligations under this compact.

#### “ARTICLE XIV

“If any part or application of this compact should be declared invalid by a court of competent jurisdiction, all other provisions and applications of this compact shall remain in full force and effect.

“ARTICLE XV

“This compact shall become binding and obligatory when it shall have been ratified by the legislatures of each state and consented to by the congress of the United States, and when the congressional act consenting to this compact includes the consent of congress to name and join the United States as a party in any litigation in the United States supreme court, if the United States is an indispensable party, and if the litigation arises out of this compact or its application, and if a signatory state is a party thereto. 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 consent by the congress of the United States.

“IN WITNESS WHEREOF, The authorized representatives 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.

“DONE at the City of Wichita, state of Kansas, this 31st day of March, A.D. 1965

“APPROVED:

“ROBERT L. SMITH,

“WARDEN L. NOE,

“Compact Representatives for the state of Kansas.

“GEO. R. BENZ,

“FRANK RAAB,

“Compact Representatives for the state of Oklahoma.

“TRIGG TWICHELL,

“Representative of the United States.”

(b) In order to carry out the purposes of this section, and the purposes of article XV of this compact consented to by Congress by this section, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America is an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation.

(c) The right to alter, amend, or repeal this section is expressly reserved. (80 Stat. 1409)

\* \* \* \* \*

Sec. 113. [Short title.]—Title I of this Act may be cited as the “River and Harbor Act of 1966”. (80 Stat. 1418)

TITLE II—FLOOD CONTROL

\* \* \* \* \*

Sec. 203. [Projects authorized.]—

\* \* \* \* \*

## FLOOD CONTROL ACT OF 1966

## ARKANSAS AND RED RIVERS

[Water quality control, Part I.]—The project for water quality control in the Arkansas and Red River Basin, Texas, Oklahoma, and Kansas, designated as Part I is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 110, Eighty-ninth Congress, at an estimated cost of \$46,400,000. Actual construction of the part I works shall not be initiated until the related and supporting works of part II have been authorized by Congress.

\* \* \* \* \*

## SACRAMENTO RIVER BASIN

[Marysville Dam.]—The project for Marysville Dam and Reservoir, Yuba River Basin, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 501, Eighty-ninth Congress, at an estimated cost of \$132,900,000. (80 Stat. 1419)

\* \* \* \* \*

**Sec. 209. [Framework plans for developing water resources of major regions and basins.]**—The Secretary of the Army is hereby authorized and directed to cause surveys for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects, to be made under the direction of the Chief of Engineers, in drainage areas of the United States and its territorial possessions, which include the localities specifically named in this section. After the regular or formal reports made on any survey authorized by this section are submitted to Congress, no supplemental or additional report or estimate shall be made unless authorized by law except that the Secretary of the Army may cause a review of any examination or survey to be made and a report thereon submitted to Congress, if such review is required by the national defense or by changed physical or economic conditions.

Watersheds and streams of Puerto Rico and the Virgin Islands, with respect to a framework plan for developing water resources of the region.

Watersheds and streams within the alluvial valley of the Mississippi River below Cairo, Illinois, with respect to a framework plan for developing water resources of the region.

Watersheds and streams draining into the Great Lakes including the lake areas within the United States, and into the St. Lawrence River at points within the United States with respect to a framework plan for developing water resources of the region.

The Souris River and the Red River of the north and tributaries within the United States, including adjacent streams in Minnesota draining into Canada, with respect to a framework plan for developing water resources of the region.

The Arkansas, White, and Red Rivers and tributaries, exclusive of their drainage lying in the alluvial valley of the Mississippi River, with respect to a framework plan for developing water resources of the region.

November 7, 1966

FLOOD CONTROL ACT OF 1966

1923

Watersheds and streams and their tributaries which drain into the Gulf of Mexico along the coastline of Texas, exclusive of the Rio Grande River, with respect to a framework plan for developing water resources of the region.

Watersheds and streams of Hawaii, with respect to a framework plan for developing water resources of the region.

Watersheds and streams of Alaska, with respect to a framework plan for developing water resources of the region. (80 Stat. 1422)

\* \* \* \* \*

Sec. 212. [Short title.]—Title II of this Act may be cited as the “Flood Control Act of 1966”. (80 Stat. 1424)

EXPLANATORY NOTES

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

**Legislative History.** H.R. 18233, Public Law 89-789 in the 89th Congress. Reported in House from Public Works Octo-

ber 10, 1966; H.R. Rept. No. 2217. Passed House October 19, 1966. Passed Senate, amended, October 20, 1966. House agrees to Senate amendment October 20, 1966. Companion bill S. 3906; S. Rept. No. 1720. H. Res. 1053; H.R. Rept. No. 2255.

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## APPENDIX

Selected Administrative and Other Laws Taken from the  
United States Code  
(As Codified Through 1968)

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**TITLE 5, U.S. CODE—GOVERNMENT ORGANIZATION AND  
EMPLOYEES**

\* \* \* \* \*

**CHAPTER 3—POWERS**

**§ 301. Departmental regulations.**

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public. (Codified by Act of September 6, 1966, 80 Stat. 379; formerly 5 U.S.C. § 22; derived from R.S. § 161, as amended by Act of August 12, 1958, 72 Stat. 547.)

**§ 302. Delegation of authority.**

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section 324 of title 44 to authorize the publication of advertisements, notices, or proposals.

(Codified by Act of September 6, 1966, 80 Stat. 379; formerly 5 U.S.C. § 22a; derived from § 12, Act of August 2, 1946, 60 Stat. 809.)

**EXPLANATORY NOTE**

**Reference in the Text.** Section 324 of title 44, referred to in subsec. (b), was repealed in the revision of Title 44 and is now covered by section 3702 of Title 44, Public Printing and Documents.

\* \* \* \* \*

**CHAPTER 5—ADMINISTRATIVE PROCEDURE**

**SUBCHAPTER I.—GENERAL PROVISIONS**

**§ 500. Administrative practice; general provisions.**

(a) For the purpose of this section—

(1) "agency" has the meaning given by it by section 551 of this title; and

(2) "State" means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.

(b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(d) This section does not—

(1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;

(2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;

(3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or

(4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.

(e) Subsections (b)–(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31–33) of title 35.

(f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient. (Codified by Act of September 11, 1967, 81 Stat. 195; formerly 5 U.S.C. §§ 1012–14; derived from Act of November 8, 1965, 79 Stat. 1281.)

\* \* \* \* \*

## SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

### § 551. Definitions.

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

- (C) the governments of the territories or possessions of the United States;
  - (D) the government of the District of Columbia;
- or except as to the requirements of section 552 of this title—
- (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
  - (F) courts martial and military commissions;
  - (G) military authority exercised in the field in time of war or in occupied territory; or
  - (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641 (b) (2), of title 50, appendix;
- (2) “person” includes an individual, partnership, corporation, association, or public or private organization other than an agency;
  - (3) “party” includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;
  - (4) “rule” means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;
  - (5) “rule making” means agency process for formulating, amending, or repealing a rule;
  - (6) “order” means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;
  - (7) “adjudication” means agency process for the formulation of an order;
  - (8) “license” includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;
  - (9) “licensing” includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;
  - (10) “sanction” includes the whole or a part of an agency—
    - (A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;
    - (B) withholding of relief;
    - (C) imposition of penalty or fine;
    - (D) destruction, taking, seizure, or withholding of property;

- (E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;
- (F) requirement, revocation, or suspension of a license; or
- (G) taking other compulsory or restrictive action;
- (11) "relief" includes the whole or a part of an agency—
  - (A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;
  - (B) recognition of a claim, right, immunity, privilege, exemption, or exception; or
  - (C) taking of other action on the application or petition of, and beneficial to, a person;
- (12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section; and
- (13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(Codified by Act of September 6, 1966, 80 Stat. 381; formerly 5 U.S.C. § 1001; derived from § 2 of the Act of June 11, 1946, 60 Stat. 237, as amended.)

#### EXPLANATORY NOTE

**Short Title.** The Act of June 11, 1946, derived, is known as the Administrative Procedure Act.

#### § 552. Public information; agency rules, opinions, orders, records, and proceedings.

- (a) Each agency shall make available to the public information as follows:
  - (1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—
    - (A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
    - (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
    - (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
    - (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
    - (E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the

Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public, unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complaint. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

- (b) This section does not apply to matters that are—
- (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;
  - (2) related solely to the internal personnel rules and practices of an agency;
  - (3) specifically exempted from disclosure by statute;
  - (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
  - (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
  - (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
  - (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;
  - (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
  - (9) geological and geophysical information and data, including maps, concerning wells.
- (c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress. (Codified by the Act of September 6, 1966, 80 Stat. 383, as amended by the Act of June 5, 1967, 81 Stat. 54; formerly 5 U.S.C. § 1002; derived from § 3 of the Act of June 11, 1946, 60 Stat. 238, as amended by the Act of July 4, 1966, 80 Stat. 250.)

## EXPLANATORY NOTES

**Popular Name.** Section 3 of the Act of June 11, 1946, from which this section is derived, is often referred to as the Public Information Section of the Administrative Procedure Act; and the amending Act of July 4, 1966, is sometimes referred to as the Public Information Act.

**Codification.** The Act of September 6,

1966, codified section 3 of the Act of June 11, 1946, as originally enacted, rather than as amended by the Act of July 4, 1966, which by its terms did not take effect until July 4, 1967. The purpose of the Act of July 5, 1967, therefore, was to recast the 1966 amendment as an amendment to the codified section 552 of title 5 of the Code.

### § 553. Rule making.

- (a) This section applies, according to the provisions thereof, except to the extent that there is involved—
- (1) a military or foreign affairs function of the United States; or
  - (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
- (b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

## Appendix

### 5 U.S.C.—GOVERNMENT ORGANIZATION—SEC. 554 1933

- (1) a statement of the time, place, and nature of public rule making proceedings;
- (2) reference to the legal authority under which the rule is proposed; and
- (3) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the ruling making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or receives a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. (Codified by Act of September 6, 1966, 80 Stat. 383; formerly 5 U.S.C. § 1003; derived from § 4, Act of June 11, 1946, 60 Stat. 238.)

#### § 554. Adjudications.

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

- (5) cases in which an agency is acting as an agent for a court; or
- (6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

- (1) the time, place, and nature of the hearings;
- (2) the legal authority and jurisdiction under which the hearing is to be held; and
- (3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceedings shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(c) The agency shall give all interested parties opportunity for—

- (1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and
- (2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

- (1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or
- (2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

- (A) in determining applications for initial licenses;
- (B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or
- (C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty. (Codified by Act of September 6, 1966, 80 Stat. 384; formerly 5 U.S.C. § 1004; derived from § 5, Act of June 11, 1946, 60 Stat. 239.)

**§ 555. Ancillary matters.**

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpoenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial. (Codified by Act of September 6, 1966, 80 Stat. 385; formerly 5 U.S.C. § 1005; derived from § 6, Act of June 11, 1946, 60 Stat. 240.)

**§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.**

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

- (1) the agency;
- (2) one or more members of the body which comprises the agency; or

(3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

- (1) administer oaths and affirmations;
- (2) issue subpoenas authorized by law;
- (3) rule on offers of proof and receive relevant evidence;
- (4) take depositions or have depositions taken when the ends of justice would be served;
- (5) regulate the course of the hearing;
- (6) hold conferences for the settlement or simplification of the issues by consent of the parties;
- (7) dispose of procedural requests or similar matters;
- (8) make or recommend decisions in accordance with section 557 of this title; and
- (9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a

party is entitled, on timely request, to an opportunity to show the contrary. (Codified by Act of September 6, 1966, 80 Stat. 386; formerly 5 U.S.C. § 1006; derived from § 7, Act of June 11, 1946, 60 Stat. 241.)

**§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.**

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(Codified by Act of September 6, 1966, 80 Stat. 387; formerly 5 U.S.C. § 1007; derived from § 8, Act of June 11, 1946, 60 Stat. 242.)

**§ 558. Imposition of sanctions; determination of applications for licenses; suspensions, revocation, and expiration of licenses.**

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (Codified by Act of September 6, 1966, 80 Stat. 388; formerly 5 U.S.C. § 1008; derived from § 9, Act of June 11, 1946, 60 Stat. 242.)

**§ 559. Effect on other laws; effect of subsequent statute.**

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521 of this title, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2)(E), 5362, or 7521 of this title, or the provisions of section 5335(a)(B) of this title that relate to hearing examiners, except to the extent that it does so expressly. (Codified by Act of September 6, 1966, 80 Stat. 388, with technical amendment by § 1(1), Act of October 22, 1968; formerly 5 U.S.C. § 1011; derived from § 12, Act of June 11, 1946, 60 Stat. 244.)

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## CHAPTER 7—JUDICIAL REVIEW

**§ 701. Application; definitions.**

(a) This chapter applies, according to the provisions thereof, except to the extent that—

- (1) statutes preclude judicial review; or
- (2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

- (A) the Congress;
- (B) the courts of the United States;
- (C) the governments of the territories or possessions of the United States;
- (D) the government of the District of Columbia;
- (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
- (F) courts martial and military commissions;
- (G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641 (b) (2), of title 50, appendix; and

(2) “person”, “rule”, “order”, “license”, “sanction”, “relief”, and “agency action” have the meanings given them by section 551 of this title.

(Codified by Act of September 6, 1966, 80 Stat. 392; formerly 5 U.S.C. § 1009 (introductory clause); derived from § 10, Act of June 11, 1946, 60 Stat. 243.)

**§ 702. Right of review.**

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. (Codified by Act of September 6, 1966, 80 Stat. 392; formerly 5 U.S.C. § 1009(a); derived from § 10(a), Act of June 11, 1946, 60 Stat. 243.)

**§ 703. Form and venue of proceeding.**

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is pro-

## 1940 5 U.S.C.—GOVERNMENT ORGANIZATION—SEC. 704

vided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement. (Codified by Act of September 6, 1966, 80 Stat. 392; formerly 5 U.S.C. § 1009(b); derived from § 10(b), Act of June 11, 1946, 60 Stat. 243.)

**§ 704. Actions reviewable.**

Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsiderations, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority. (Codified by Act of September 6, 1966, 80 Stat. 392; formerly 5 U.S.C. § 1009(c); derived from § 10(c), Act of June 11, 1946, 60 Stat. 243.)

**§ 705. Relief pending review.**

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings. (Codified by Act of September 6, 1966, 80 Stat. 393; formerly 5 U.S.C. § 1009(d); derived from § 10(d), Act of June 11, 1946, 60 Stat. 243.)

**§ 706. Scope of review.**

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

- (1) compel agency action unlawfully withheld or unreasonably delayed; and
- (2) hold unlawful and set aside agency action, findings, and conclusions found to be—
  - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
  - (B) contrary to constitutional right, power, privilege, or immunity;
  - (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
  - (D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Codified by Act of September 6, 1966, 80 Stat. 393; formerly 5 U.S.C. § 1009(e); derived from § 10(e), Act of June 11, 1946, 60 Stat. 243.)

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### REPORTS TO CONGRESS

#### § 2953. Reports to Congress on additional employee requirements.

(a) Each report, recommendation, or other communication, of an official nature, of an Executive agency which—

(1) relates to pending or proposed legislation which, if enacted, will entail an estimated annual expenditure of appropriated funds in excess of \$1,000,000;

(2) is submitted or transmitted to Congress or a committee thereof in compliance with law or on the initiative of the appropriate authority of the executive branch; and

(3) officially proposes or recommends the creation or expansion, either by action of Congress or by administrative action, of a function, activity, or authority of the Executive agency to be in addition to those functions, activities, and authorities thereof existing when the report, recommendation, or other communication is so submitted or transmitted;

shall contain a statement, concerning the Executive agency, for each of the first 5 fiscal years during which each additional or expanded function, activity, or authority so proposed or recommended is to be in effect, setting forth the following information—

(A) the estimated maximum additional—

(i) man-years of civilian employment, by general categories of positions;

(ii) expenditures for personal services; and

(iii) expenditures for all purposes other than personal services; which are attributable to the function, activity, or authority and which will be required to be effected by the Executive agency in connection with the performance thereof; and

(B) such other statement, discussion, explanation, or other information as is considered advisable by the appropriate authority of the executive branch or that is required by Congress or a committee thereof.

(b) Subsection (a) of this section does not apply to—

(1) the Central Intelligence Agency;

- (2) a Government controlled corporation; or
- (3) the General Accounting Office.

(Codified by Act of September 6, 1966, 80 Stat. 413; formerly 5 U.S.C. § 642a; derived from § 1, Act of July 25, 1956, 70 Stat. 652.)

#### § 2954. Information to committees of Congress on request.

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee. (Codified by Act of September 6, 1966, 80 Stat. 413; formerly 5 U.S.C. § 105a; derived from § 2, Act of May 29, 1948, 45 Stat. 996.)

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### SEVERANCE PAY

#### § 5595. Severance Pay.

(a) For the purpose of this section—

(1) “agency” means—

- (A) an Executive agency;
- (B) the Library of Congress;
- (C) the Government Printing Office; and
- (D) the government of the District of Columbia; and

(2) “employee” means—

- (A) an individual employed in or under an agency; and
- (B) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the minimum rate for GS-18;

(ii) an employee serving under an appointment with a definite time limitation, except one so appointed for full-time employment without a break in service of more than 3 days following service under an appointment without time limitation;

(iii) an alien employee who occupies a position outside the several States, the District of Columbia, and the Canal Zone;

(iv) an employee who is subject to subchapter III of chapter 83 of this title or any other retirement statute or retirement system applicable to an employee as defined by section 2105 of this title or a member of a uniformed service and who, at the time of separation from the service, has fulfilled the requirements for immediate annuity under such a statute or system;

(v) an employee who, at the time of separation from the service, is receiving compensation under subchapter I of chapter 81 of this title,

other than one receiving this compensation concurrently with pay or on account of the death of another individual;

(vi) an employee who, at the time of separation from the service, is entitled to receive other severance pay from the Government;

(vii) an employee of the Tennessee Valley Authority; or

(viii) such other employee as may be excluded by regulations of the President or such other officer or agency as he may designate.

(b) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(1) has been employed currently for a continuous period of at least 12 months; and

(2) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated.

(c) Severance pay consists of—

(1) a basic severance allowance computed on the basis of 1 week's basic pay at the rate received immediately before separation for each year of civilian service up to and including 10 years for which severance pay has not been received under this or any other authority and 2 weeks' basic pay at that rate for each year of civilian service beyond 10 years for which severance pay has not been received under this or any other authority; and

(2) an age adjustment allowance computed on the basis of 10 percent of the total basic severance allowance for each year by which the age of the recipient exceeds 40 years at the time of separation.

Total severance pay under this section may not exceed 1 year's pay at the rate received immediately before separation. For the purpose of this subsection, basic pay includes premium pay under section 5545(c)(1) of this title.

(d) If an employee is reemployed by the Government of the United States or the government of the District of Columbia before the end of the period covered by payments of severance pay, the payments shall be discontinued beginning with the date of reemployment and the service represented by the unexpired portion of the period shall be recredited to the employee for use in any later computations of severance pay. For the purpose of subsection (b)(1) of this section, reemployment that causes severance pay to be discontinued is deemed employment continuous with that serving as the basis for severance pay.

(e) If the employee dies before the end of the period covered by payments of severance pay, the payments of severance pay with respect to the employee shall be continued as if the employee were living and shall be paid on a pay period basis to the survivor of the employee in accordance with section 5582(b) of this title.

(f) Severance pay under this section is not a basis for payment, and may not be included in the basis for computation, of any other type of United States or District of Columbia Government benefits. A period covered by severance

pay is not a period of United States or District of Columbia Government service or employment.

(g) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this section to an individual named by subsection (a)(2)(B) of this section. (Codified by § 1(34) of the Act of September 11, 1967, 81 Stat. 201; formerly 5 U.S.C. § 1117; derived from § 9, Act of October 29, 1965, 79 Stat. 1118.)

## TITLE 16, U.S. CODE—CONSERVATION

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## NATIONAL PARKS CONCESSIONS

**§ 20. Congressional findings and statement of purpose.**

In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas. (Pub. L. 89-249, § 1, Oct. 9, 1965, 79 Stat. 969.)

**§ 20a. Authority of Secretary of the Interior to encourage concessioners.**

Subject to the findings and policy stated in section 20 of this title, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service. (Pub. L. 89-249, § 2, Oct. 9, 1965, 79 Stat. 969.)

**§ 20b. Protection of concessioner's investment.****(a) Contract terms; compensation for loss of investment.**

Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be

transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

**(b) Profit commensurate with capital invested and obligations assumed.**

The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

**(c) Reasonableness of concessioner's rates and charges.**

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability, and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

**(d) Determination of franchise fees; reconsideration every five years or oftener.**

Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time. (Pub. L. 89-249, § 3, Oct. 9, 1965, 79 Stat. 969.)

**§ 20c. New or additional services; preferential rights; operations by a single concessioner.**

The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits. (Pub. L. 89-249, § 4, Oct. 9, 1965, 79 Stat. 970.)

**§ 20d. Renewal preference for satisfactory performance; extensions; new contracts; public notice.**

The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the

negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 20c of this title, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof. (Pub. L. 89-249, § 5, Oct. 9, 1965, 79 Stat. 970.)

**§ 20e. Concessioner's possessory interest in concession property; limitations; compensation for taking; determination of just compensation.**

A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the Secretary determines that equitable considerations warrant recognition of such interest. (Pub. L. 89-249, § 6, Oct. 9, 1965, 79 Stat. 970.)

**§ 20f. Use of non-monetary consideration in leases of government property.**

The provisions of section 303b of Title 40, relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as

amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666), as amended. (Pub. L. 89-249, § 7, Oct. 9, 1965, 79 Stat. 971.)

**§ 20g. Record keeping; audit and examination; access to books and records.**

Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved. (Pub. L. 89-249, § 9, Oct. 9, 1965, 79 Stat. 971.)

**TITLE 18, U.S. CODE—CRIMES AND CRIMINAL PROCEDURES**

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**§ 435. Contracts in excess of specific appropriation.**

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 703.)

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**§ 643. Accounting generally for public money.**

Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be fined in a sum equal to the amount of the money embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 726.)

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**§ 1905. Disclosure of confidential information generally.**

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 25, 1948, ch. 645, 62 Stat. 791.)

1950

## TITLE 28, U.S. CODE—JUDICIARY AND JUDICIAL PROCEDURE

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## SUITS IN DISTRICT COURT AGAINST THE UNITED STATES

## § 1346. United States as defendant.

(a) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

(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.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 7426 of the Internal Revenue Code of 1954. (June 25, 1948, ch. 646, 62 Stat. 933; Apr. 25, 1949, ch. 92, § 2(a), 63 Stat. 62; May 24, 1949, ch. 139, § 80 (a), (b), 63 Stat. 101; Oct. 31, 1951, ch. 655, § 50 (b), 65 Stat. 727; July 30, 1954, ch. 648, § 1, 68 Stat. 589; July 7, 1958, Pub. L. 85-508, § 12 (e), 72 Stat. 348; Aug. 30, 1964, Pub. L. 88-519, 78 Stat. 699; Nov. 2, 1966, Pub. L. 89-719, title II, § 202(a), 80 Stat. 1148.)

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## SUITS IN COURT OF CLAIMS AGAINST THE UNITED STATES

## § 1491. Claims against United States generally; actions involving Tennessee Valley Authority.

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority, nor to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority. (June 25, 1948, ch. 646, 62 Stat. 940; July 28, 1953, ch. 253, § 7, 67 Stat. 226; Sept. 3, 1954, ch. 1263, § 44 (a), (b), 68 Stat. 1241.)

## EXPLANATORY NOTE

**Derivation.** Sections 1346 and 1491 can be traced back to the Act of March 3, 1887, 24 Stat. 505, which is popularly known as the Tucker Act.

1952

## TITLE 31, U.S. CODE—MONEY AND FINANCE

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## APPROPRIATION REQUESTS

**§ 13. Recommendations of President accompanying Budget.**

(a) If the estimated receipts for the ensuing fiscal year contained in the Budget, on the basis of laws existing at the time the Budget is transmitted, plus the estimated amounts in the Treasury at the close of the fiscal year in progress, available for expenditure in the ensuing fiscal year are less than the estimated expenditures for the ensuing fiscal year contained in the Budget, the President in the Budget shall make recommendations to Congress for new taxes, loans, or other appropriate action to meet the estimated deficiency.

(b) If the aggregate of such estimated receipts and such estimated amounts in the Treasury is greater than such estimated expenditures for the ensuing fiscal year, he shall make such recommendations as in his opinion the public interests require. (June 10, 1921, ch. 18, title II, § 202, 42 Stat. 21.)

**§ 14. Transmittal of proposed supplemental or deficiency appropriations by President.**

(a) The President from time to time may transmit to Congress such proposed supplemental or deficiency appropriations as in his judgment (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are otherwise in the public interest. He shall accompany such proposals with a statement of the reasons therefor, including the reasons for their omission from the Budget.

(b) Whenever such proposed supplemental or deficiency appropriations reach an aggregate which, if they had been contained in the Budget, would have required the President to make a recommendation under subsection (a) of section 13 of this title, he shall thereupon make such recommendation. (June 10, 1921, ch. 18, title II, § 203, 42 Stat. 21; Sept. 12, 1950, ch. 946, title I, pt. I, § 102 (b), 64 Stat. 833.)

**§ 15. Estimates or requests for appropriations, etc., not to be submitted by department officers or employees except by request.**

No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress. (June 10, 1921, ch. 18, title II, § 206, 42 Stat. 21.)

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## ACCOUNTING AND BUDGET CLASSIFICATIONS

**§ 18c. Executive agency action respecting accounting and budget classifications.**

The head of each executive agency shall, in consultation with the Director of the Bureau of the Budget, take whatever action may be necessary to achieve, insofar as is possible, (1) consistency in accounting and budget classifications, (2) synchronization between accounting and budget classifications and organizational structure, and (3) support of the budget justifications by information on performance and program costs by organizational units. (Sept. 12, 1950, ch. 946, title I, pt. I, § 106, as added Aug. 1, 1956, ch. 814, § 2 (a), 70 Stat. 782.)

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## HORIZONTAL BUDGET FOR METEOROLOGY

**§ 25. Preparation of horizontal budget for Congress showing totality of programs for meteorology, aspects of program and funding, and estimated goals and financial requirements.**

The Bureau of the Budget shall provide the Congress, in connection with the budget presentation for fiscal year 1964 and each succeeding year thereafter, a horizontal budget showing (a) the totality of the programs for meteorology, (b) the specific aspects of the program and funding assigned to each agency, and (c) the estimated goals and financial requirements. (Pub. L. 87-843, title III, § 304, Oct. 18, 1962, 76 Stat. 1097.)

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## ACCOUNTING AND AUDITING ACT OF 1950

## SUBCHAPTER I.—GENERAL PROVISIONS

**§ 65. Congressional declaration of policy.**

It is the policy of the Congress in enacting this chapter that—

(a) The accounting of the Government provide full disclosure of the results of financial operations, adequate financial information needed in the management of operations and the formulation and execution of the Budget, and effective control over income, expenditures, funds, property, and other assets.

(b) Full consideration be given to the needs and responsibilities of both the legislative and executive branches in the establishment of accounting and reporting systems and requirements.

(c) The maintenance of accounting systems and the producing of financial reports with respect to the operations of executive agencies, including central facilities for bringing together and disclosing information on the results of the financial operations of the Government as a whole, be the responsibility of the executive branch.

(d) The auditing for the Government, conducted by the Comptroller General of the United States as an agent of the Congress be directed at determining the extent to which accounting and related financial reporting fulfill the purposes

specified, financial transactions have been consummated in accordance with laws, regulations or other legal requirements, and adequate internal financial control over operations is exercised, and afford an effective basis for the settlement of accounts of accountable officers.

(e) Emphasis be placed on effecting orderly improvements resulting in simplified and more effective accounting, financial reporting, budgeting, and auditing requirements and procedures and on the elimination of those which involve duplication or which do not serve a purpose commensurate with the costs involved.

(f) The Comptroller General of the United States, the Secretary of the Treasury, and the Director of the Bureau of the Budget conduct a continuous program for the improvement of accounting and financial reporting in the Government. (Sept. 12, 1950, ch. 946, title I, pt. II, § 111, 64 Stat. 834.)

#### § 65a. Definition of "executive agency".

As used in this chapter, the term "executive agency" means any executive department or independent establishment in the executive branch of the Government but (a) except for the purposes of sections 65b, 66b, and 66d of this title shall not include any Government corporation or agency subject to the Government Corporation Control Act, and (b) except for the purposes of sections 65, 66a (c), 66b, and 66d of this title shall not include the Post Office Department. (Sept. 12, 1950, ch. 946, title I, pt. II, § 118, 64 Stat. 837; Aug. 1, 1956, ch. 814, § 2(c), 70 Stat. 783.)

#### § 65b. Designation of places for administrative examination of officers' accounts; waiver of examination.

The head of each executive agency is authorized to designate the place or places, at the seat of government or elsewhere, at which the administrative examination of fiscal officers' accounts will be performed, and with the concurrence of the Comptroller General to waive the administrative examination in whole or in part: *Provided*, That the same authority is conferred upon the officers responsible for the administrative examination of accounts for legislative and judicial agencies. (Sept. 12, 1950, ch. 946, title I, pt. II, § 119, 64 Stat. 838.)

### SUBCHAPTER II.—ACCOUNTING AND REPORTING IN EXECUTIVE AGENCIES

#### § 66. Standards and systems.

##### (a) Determination by Comptroller General; scope of requirements; continuation of authority.

The Comptroller General of the United States, after consulting the Secretary of the Treasury and the Director of the Bureau of the Budget concerning their accounting, financial reporting, and budgetary needs, and considering the needs of the other executive agencies, shall prescribe the principles, standards, and related requirements for accounting to be observed by each executive agency, including requirements for suitable integration between the accounting processes of each executive agency and the accounting of the Treasury Department. Re-

quirements prescribed by the Comptroller General shall be designed to permit the executive agencies to carry out their responsibilities under section 66a of this title, while providing a basis for integrated accounting for the Government, full disclosure of the results of the financial operations of each executive agency and the Government as a whole, and financial information and control necessary to enable the Congress and the President to discharge their respective responsibilities. The Comptroller General shall continue to exercise the authority vested in him by section 486 (b) of Title 40 and, to the extent he deems necessary, the authority vested in him by section 49 of this title. Any such exercise of authority shall be consistent with the provisions of this section.

**(b) Cooperation by General Accounting Office in development of systems; approval by Comptroller.**

The General Accounting Office shall cooperate with the executive agencies in the development of their accounting systems, including the Treasury Department, in the development and establishment of the system of central accounting and reporting required by section 66b of this title. Such accounting systems shall be approved by the Comptroller General when deemed by him to be adequate and in conformity with the principles, standards, and related requirements prescribed by him.

**(c) Review of systems by General Accounting Office; availability of results; reports to Congress.**

The General Accounting Office shall from time to time review the accounting systems of the executive agencies. The results of such reviews shall be available to the heads of the executive agencies concerned, to the Secretary of the Treasury, and to the Director of the Bureau of the Budget, and the Comptroller General shall make such reports thereon to the Congress as he deems proper. (Sept. 12, 1950, ch. 946, title I, pt. II, § 112, 64 Stat. 835.)

**§ 66a. Establishment and maintenance of systems.**

**(a) Duties of agency heads; information and controls to be covered.**

The head of each executive agency shall establish and maintain systems of accounting and internal control designed to provide—

- (1) full disclosure of the financial results of the agency's activities;
- (2) adequate financial information needed for the agency's management purposes;
- (3) effective control over and accountability for all funds, property, and other assets for which the agency is responsible, including appropriate internal audit;
- (4) reliable accounting results to serve as the basis for preparation and support of the agency's budget requests, for controlling the execution of its budget, and for providing financial information required by the Bureau of the Budget under section 21 of this title;
- (5) suitable integration of the accounting of the agency with the accounting of the Treasury Department in connection with the central accounting

and reporting responsibilities imposed on the Secretary of the Treasury by section 66b of this title.

**(b) Conformation with standards and requirements prescribed by Comptroller.**

The accounting systems of executive agencies shall conform to the principles, standards, and related requirements prescribed by the Comptroller General pursuant to section 66(a) of this title.

**(c) Accrual basis.**

As soon as practicable after August 1, 1956, the head of each executive agency shall, revise, or eliminate accounting procedures and financial reports of the General, cause the accounts of such agency to be maintained on an accrual basis to show the resources, liabilities, and costs of operations of such agency with a view to facilitating the preparation of cost-based budgets as required by section 24 of this title. The accounting system required by this subsection shall include adequate monetary property accounting records as an integral part of the system. (Sept. 12, 1950, ch. 946, title I, pt. II, § 113, 64 Stat. 836; Aug. 1, 1956, ch. 814, § 2(b), 70 Stat. 783.)

**§ 66b. Financial reports.**

**(a) Preparation by Secretary of Treasury; inclusion of required data; information to be furnished by agencies.**

The Secretary of the Treasury shall prepare such reports for the information of the President, the Congress, and the public as will present the results of the financial operations of the Government: *Provided*, That there shall be included such financial data as the Director of the Bureau of the Budget may require in connection with the preparation of the Budget or for other purposes of the Bureau. Each executive agency shall furnish the Secretary of the Treasury such reports and information relating to its financial condition and operations as the Secretary, by rules and regulations, may require for the effective performance of his responsibilities under this section.

**(b) Establishment of unified system of accounting and reporting in Treasury Department; exercise of authority under other laws.**

The Secretary of the Treasury is authorized to establish the facilities necessary to produce the financial reports required by subsection (a) of this section. The Secretary is further authorized to reorganize the accounting functions and install, revise, or eliminate accounting procedures and financial reports of the Treasury Department in order to develop effective and coordinated systems of accounting and financial reporting in the several bureaus and offices of the Department with such concentration of accounting and reporting as is necessary to accomplish integration of accounting results for the activities of the Department and provide the operating center for the consolidation of accounting results of other executive agencies with those of the Department. The authority

vested in and the duties imposed upon the Department by sections 255 and 264 of Title 5, section 42 of Title 19, sections 75 and 162 of this title, and section 21 of Title 41, may be exercised and performed by the Secretary of the Treasury as a part of his broader authority and duties under this section and in such a manner as to provide a unified system of central accounting and reporting on the most efficient and useful basis.

**(c) Conformation of central system with standards and requirements prescribed by Comptroller.**

The system of central accounting and reporting provided for herein shall be consistent with the principles, standards, and related requirements prescribed by the Comptroller General pursuant to section 66 of this title. (Sept. 12, 1950, ch. 946, title I, pt. II, § 114, 64 Stat. 836.)

**§ 66c. Receipt, retention, and disbursement of public funds.**

**(a) Waiver, by regulations, of requirements of existing law.**

When the Secretary of the Treasury and the Comptroller General determine that existing procedures can be modified in the interest of simplification, improvement, or economy, with sufficient safeguards over the control and accounting for the public funds, they may issue joint regulations providing for the waiving, in whole or in part, of the requirements of existing law that—

- (1) warrants be issued and countersigned in connection with the receipt, retention, and disbursement of public moneys and trust funds; and
- (2) funds be requisitioned, and advanced to accountable officers under each separate appropriation head or otherwise.

**(b) Regulations for payment of vouchers by disbursing officers; provision for action in event of delinquency.**

Such regulations may further provide for the payment of vouchers by authorized disbursing officers by means of checks issued against the general account of the Treasurer of the United States: *Provided*, That in such case the regulations shall provide for appropriate action in the event of delinquency by disbursing officers in the rendition of their accounts or for other reasons arising out of the condition of the officers' accounts, including under necessary circumstances, the suspension or withdrawal of authority to disburse. (Sept. 12, 1950, ch. 946, title I, pt. II, § 115, 64 Stat. 837.)

**§ 66d. Discontinuance of certain accounts in General Accounting Office.**

The Comptroller General is authorized to discontinue the maintenance in the General Accounting Office of appropriation, expenditure, limitation, receipt, and personal ledger accounts when in his opinion the accounting systems and internal control of the executive, legislative, and judicial agencies are sufficient to enable him to perform properly the functions to which such accounts relate. (Sept. 12, 1950, ch. 946, title I, pt. II, § 116, 64 Stat. 837.)

## SUBCHAPTER III.—AUDIT OF FINANCIAL TRANSACTIONS OF EXECUTIVE, LEGISLATIVE, AND JUDICIAL AGENCIES

## § 67. Duty of General Accounting Office.

- (a) Rules and regulations of Comptroller General; principles and practices to be considered.

Except as otherwise specifically provided by law, the financial transactions of each executive, legislative, and judicial agency, including but not limited to the accounts of accountable officers, shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of auditing procedures to be followed and the extent of examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of the respective agencies.

- (b) Retention by executive agencies and Architect of the Capitol of accounts of accountable officers, contracts, vouchers or other documents.

Whenever the Comptroller General determines that the audit shall be conducted at the place or places where the accounts and other records of an executive agency or the Architect of the Capitol are normally kept, he may require any executive agency or the Architect of the Capitol to retain in whole or in part accounts of accountable officers, contracts, vouchers, and other documents, which are required under existing law to be submitted to the General Accounting Office, under such conditions and for such period not exceeding ten years as he may specify, unless a longer period is agreed upon with the executive agency or the Architect of the Capitol: *Provided*, That under agreements between the Comptroller General and legislative (other than the Architect of the Capitol) and judicial agencies the provisions of this sentence may be extended to the accounts and records of such agencies.

- (c) Audit of financial transactions of Architect of the Capitol; reports to Congress.

The Comptroller General in auditing the financial transactions of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 54 of this title shall be applicable to the Architect of the Capitol. The Comptroller General shall report to the President of the Senate and to the Speaker of the House of Representatives the results of each such audit. All such reports shall be printed as Senate documents. (Sept. 12, 1950, ch. 946, title I, pt. II, § 117, 64 Stat. 837; Aug. 20, 1964, Pub. L. 88-454, § 105(a), 78 Stat. 551.)

## SETTLEMENT OF ACCOUNTS GENERALLY

**§ 71. Public accounts to be settled in General Accounting Office.**

All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office. (R. S. § 236; June 10, 1921, ch. 18, title III, § 305, 42 Stat. 24.)

**§ 71a. Same; limitation of time on claims and demands.**

(1) Every claim or demand (except a claim or demand by any State, Territory, possession or the District of Columbia) against the United States cognizable by the General Accounting Office under sections 71 and 236 of this title shall be forever barred unless such claim, bearing the signature and address of the claimant or of an authorized agent or attorney, shall be received in said office within ten full years after the date such claim first accrued: *Provided*, That when a claim of any person serving in the military or naval forces of the United States accrues in time of war, or when war intervenes within five years after its accrual, such claim may be presented within five years after peace is established.

(2) Whenever any claim barred by subsection (1) of this section shall be received in the General Accounting Office, it shall be returned to the claimant, with a copy of this section, and such action shall be a complete response without further communication. (Oct. 9, 1940, ch. 788 §§ 1, 2, 54 Stat. 1061.)

**§ 72. Same; settlement of accounts.**

Accounts shall be examined as follows:

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Third. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Interior, and of all bureaus and offices under his direction, and all accounts relating to Army and Navy pensions, Geological Survey, public lands, Indians, Architect of the Capitol, and to all other business within the jurisdiction of the Department of the Interior, and certify the balances arising thereon to the Secretary of the Interior. (Derived from § 7, Act of July 31, 1894, 28 Stat. 206.)

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**§ 74. Certified balances of public accounts; conclusiveness; suspension of items; preservation of adjusted accounts; decision upon questions involving payments.**

Balances certified by the General Accounting Office, upon the settlement of public accounts, shall be final and conclusive upon the Executive Branch of the Government, except that any person whose accounts may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department, to which

the account pertains, or the Comptroller General of the United States, may, within a year, obtain a revision of the said account by the Comptroller General of the United States, whose decision upon such revision shall be final and conclusive upon the Executive Branch of the Government. Nothing in this chapter shall prevent the General Accounting Office from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement.

The General Accounting Office shall preserve all accounts which have been finally adjusted, together with all vouchers, certificates, and related papers, until disposed of as provided by law.

Disbursing officers, or the head of any executive department, or other establishment not under any of the executive departments, may apply for and the Comptroller General shall render his decision upon any question involving a payment to be made by them or under them, which decision, when rendered, shall govern the General Accounting Office in passing upon the account containing said disbursement. (July 31, 1894, ch. 174, § 8, 28 Stat. 207; June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24; Oct. 25, 1951, ch. 562, § 3(1), 65 Stat. 639.)

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#### § 93. General Accounting Office superintending recovery of debts.

The General Accounting Office shall superintend the recovery of all debts finally certified by it to be due to the United States. (June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24.)

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### COMPROMISE OF CLAIMS GENERALLY

#### § 194. Compromise.

Upon a report by a United States attorney, or any special attorney or agent having charge of any claim in favor of the United States, showing in detail the condition of such claim, and the terms upon which the same may be compromised, and recommending that it be compromised upon the terms so offered, and upon the recommendation of the General Counsel for the Department of the Treasury, the Secretary of the Treasury is authorized to compromise such claim accordingly. But the provisions of this section shall not apply to any claim arising under the postal laws. (R. S. § 3469; May 10, 1934, ch. 277, § 512, 48 Stat. 758; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

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### FEES AND CHARGES BY FEDERAL AGENCIES

#### § 483a. Services as self-sustaining; uniformity; regulations; deposit in Treasury; effect on other laws.

It is the sense of the Congress that any work, service publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate,

registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: *Provided*, That nothing contained in this section shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge or price: *Provided further*, That nothing contained in this section shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge or price. (Aug. 31, 1951, ch. 376, title V, § 501, 65 Stat. 290.)

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#### PROCEEDS OF SALES GENERALLY

##### § 484. Deposit without deduction.

The gross amount of all moneys received from whatever source for the use of the United States, except as otherwise provided in section 487 of this title, shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. But nothing herein shall affect any provision relating to the revenues of the Post Office Department. (R. S. § 3617.)

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##### § 487. Proceeds of sales of material.

All proceeds of sales of old material, condemned stores, supplies, or other public property of any kind, except the proceeds of the sale or leasing of marine hospitals, or of the sales of commissary stores to the officers and enlisted men of the Army, or of materials, stores, or supplies sold to officers and soldiers of the Army or of the sale of condemned Navy clothing, or of sales of materials, stores, or supplies to any exploring or surveying expedition authorized by law, or as provided in section 485 of Title 40, or in other law, shall be deposited and covered into the Treasury as miscellaneous receipts, on account of "proceeds of

Government property”, and shall not be withdrawn or applied, except in consequence of a subsequent appropriation made by law. Under such regulations as the Secretary of the Army may prescribe, the commanding officers of mounted units of the National Guard may sell all stable refuse and empty grain sacks and containers at public or private sale and apply the proceeds derived therefrom to the purchase of feed, supplementing the regular allowance and issue for the animals of the said units, and for the purchase of stable equipment, and horseshoers’, saddlers’, blacksmiths’, and wagoners’ tools not an article of issue to such organizations. (R. S. § 3618; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 249; Oct. 14, 1940, ch. 875, § 4, 54 Stat. 1136; Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561; Oct. 31, 1951, ch. 654, § 4(3), 65 Stat. 708.)

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#### § 489. Payment of expenses of sales from proceeds.

Subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended, from the proceeds of sales of old material, condemned stores, supplies, or other public property of any kind, before being deposited into the Treasury, either as miscellaneous receipts on account of “proceeds of Government property” or to the credit of the appropriations to which such proceeds are by law authorized to be made, there may be paid the expenses of such sales, as approved by the General Accounting Office, so as to require only the net proceeds of such sales to be deposited into the Treasury, either as miscellaneous receipts or to the credit of such appropriations, as the case may be. (June 8, 1896, ch. 373, § 1, 29 Stat. 268; June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24; Oct. 31, 1951, ch. 654, § 2 (20, 65 Stat. 707.)

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### ADVANCES OF PUBLIC MONEY

#### § 529. Advances of public moneys; prohibition against.

No advance of public money shall be made in any case unless authorized by the appropriation concerned or other law. And in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the service rendered, or of the articles delivered previously to such payment. It shall, however, be lawful, under the special direction of the President, to make such advances to the disbursing officers of the Government as may be necessary to the faithful and prompt discharge of their respective duties, and to the fulfillment of the public engagements. The President may also direct such advances as he may deem necessary and proper, to persons in the military and naval service employed on distant stations, where the discharge of the pay and emoluments to which they may be entitled cannot be regularly effected. (R. S. § 3648; Aug. 2, 1946, ch. 744, § 11, 60 Stat. 809.)

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## SPECIFIC APPROPRIATIONS REQUIRED

**§ 627. Construction of appropriation Acts.**

No Act of Congress passed after June 30, 1906, shall be construed to make an appropriation out of the Treasury of the United States, or to authorize the execution of a contract involving the payment of money in excess of appropriations made by law, unless such Act shall in specific terms declare an appropriation to be made or that a contract may be executed. (June 30, 1906, ch. 3914, § 9, 34 Stat. 764.)

**§ 628. Application of moneys appropriated.**

Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others. (R. S. § 3678.)

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## ANTI-DEFICIENCY LAW

**§ 665. Appropriations.****(a) Expenditures or contract obligations in excess of funds prohibited.**

No officer or employee of the United States shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law.

**(b) Voluntary service forbidden.**

No officer or employee of the United States shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

**(c) Apportionment of appropriations; reserves; distribution; review.**

(1) Except as otherwise provided in this section, all appropriations or funds available for obligation for a definite period of time shall be so apportioned as to prevent obligation or expenditure thereof in a manner which would indicate a necessity for deficiency or supplemental appropriations for such period; and all appropriations or funds not limited to a definite period of time, and all authorizations to create obligations by contract in advance of appropriations, shall be so apportioned as to achieve the most effective and economical use thereof. As used hereafter in this section, the term "appropriation" means appropriations, funds, and authorizations to create obligations by contract in advance of appropriations.

(2) In apportioning any appropriation, reserves may be established to provide for contingencies, or to effect savings whenever savings are made possible

by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available. Whenever it is determined by an officer designated in subsection (d) of this section to make apportionments and reapportionments that any amount so reserved will not be required to carry out the purposes of the appropriation concerned, he shall recommend the rescission of such amount in the manner provided in the Budget and Accounting Act, 1921, for estimates of appropriations.

(3) Any appropriation subject to apportionment shall be distributed by months, calendar quarters, operating seasons, or other time periods, or by activities, functions, projects, or objects, or by a combination thereof, as may be deemed appropriate by the officers designated in subsection (d) of this section to make apportionments and reapportionments. Except as otherwise specified by the officer making the apportionment, amounts so apportioned shall remain available for obligation, in accordance with the terms of the appropriation, on a cumulative basis unless reapportioned.

(4) Apportionments shall be reviewed at least four times each year by the officers designated in subsection (d) of this section to make apportionments and reapportionments, and such reapportionments made or such reserves established, modified, or released as may be necessary to further the effective use of the appropriation concerned, in accordance with the purposes stated in paragraph (1) of this subsection.

**(d) Officers controlling apportionment or reapportionment.**

(1) Any appropriation available to the legislative branch, the judiciary, or the District of Columbia, which is required to be apportioned under subsection (c) of this section, shall be apportioned or reapportioned in writing by the officer having administrative control of such appropriation. Each such appropriation shall be apportioned not later than thirty days before the beginning of the fiscal year for which the appropriation is available, or not more than thirty days after approval of the Act by which the appropriation is made available, whichever is later.

(2) Any appropriation available to an agency, which is required to be apportioned under subsection (c) of this section, shall be apportioned or reapportioned in writing by the Director of the Bureau of the Budget. The head of each agency to which any such appropriation is available shall submit to the Bureau of the Budget information, in such form and manner and at such time or times as the Director may prescribe, as may be required for the apportionment of such appropriation. Such information shall be submitted not later than forty days before the beginning of any fiscal year for which the appropriation is available, or not more than fifteen days after approval of the Act by which such appropriation is made available, whichever is later. The Director of the Bureau of the Budget shall apportion each such appropriation and shall notify the agency concerned of his action not later than twenty days before the beginning of the fiscal year for which the appropriation is available, or not more than thirty days after the approval of the Act by which such appropriation is made available, whichever is later. When used in this section, the term "agency" means any

executive department, agency, commission, authority, administration, board, or other independent establishment in the executive branch of the Government, including any corporation wholly or partly owned by the United States which is an instrumentality of the United States. Nothing in this subsection shall be so construed as to interfere with the initiation, operation, and administration of agricultural price support programs and no funds (other than funds for administrative expenses) available for price support, surplus removal, and available under section 612(c) of Title 7, with respect to agricultural commodities shall be subject to apportionment pursuant to this section. The provisions of this section shall not apply to any corporation which obtains funds for making loans, other than paid in capital funds, without legal liability on the part of the United States.

**(e) Apportionment necessitating deficiency or supplemental estimates.**

(1) No apportionment or reapportionment, or request therefor by the head of an agency, which, in the judgment of the officer making or the agency head requesting such apportionment or reapportionment, would indicate a necessity for a deficiency or supplemental estimate shall be made except upon a determination by such officer or agency head, as the case may be, that such action is required because of (A) any laws enacted subsequent to the transmission to the Congress of the estimates for an appropriation which require expenditures beyond administrative control; or (B) emergencies involving the safety of human life, the protection of property, or the immediate welfare of individuals in cases where an appropriation has been made to enable the United States to make payment of, or contributions toward, sums which are required to be paid to individuals either in specific amounts fixed by law or in accordance with formulae prescribed by law.

(2) In each case of an apportionment or a reapportionment which, in the judgment of the officer making such apportionment or reapportionment, would indicate a necessity for a deficiency or supplemental estimate, such officer shall immediately submit a detailed report of the facts of the case to the Congress. In transmitting any deficiency or supplemental estimates required on account of any such apportionment or reapportionment, reference shall be made to such report.

**(f) Exemption of trust funds and working funds expenditures from apportionment.**

(1) The officers designated in subsection (d) of this section to make apportionments and reapportionments may exempt from apportionments trust funds and working funds expenditures from which have no significant effect on the financial operations of the Government, working capital and revolving funds established for intragovernmental operations, receipts from industrial and power operations available under law and any appropriation made specifically for—

- (1) interest on, or retirement of, the public debt;
- (2) payment of claims, judgments, refunds, and draw-backs;
- (3) any item determined by the President to be of a confidential nature;

(4) payment under private relief acts or other laws requiring payments to designated payees in the total amount of such appropriation;

(5) grants to the States under subchapters I, IV, or X of chapter 7 of Title 42, or under any other public assistance subchapter in such chapter.

(2) The provisions of subsection (c) of this section shall not apply to appropriations to the Senate or House of Representatives or to any Member, committee, Office (including the office of the Architect of the Capitol), officer, or employee thereof.

**(g) Administrative division of apportionment; simplification of system for subdividing funds.**

Any appropriation which is apportioned or reapportioned pursuant to this section may be divided and subdivided administratively within the limits of such apportionments or reapportionments. The officer having administrative control of any such appropriation available to the legislative branch, the judiciary, or the District of Columbia, and the head of each agency, subject to the approval of the Director of the Bureau of the Budget, shall prescribe, by regulation, a system of administrative control (not inconsistent with any accounting procedures prescribed by or pursuant to law) which shall be designed to (A) restrict obligations or expenditures against each appropriation to the amount of apportionments or reapportionments made for each such appropriation, and (B) enable such officer or agency head to fix responsibility for the creation of any obligation or the making of any expenditure in excess of an apportionment or reapportionment. In order to have a simplified system for the administrative subdivision of appropriations or funds, each agency shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative subdivision for each appropriation or fund affecting such unit.

**(h) Expenditures in excess of apportionment prohibited; penalties.**

No officer or employee of the United States shall authorize or create any obligation or make any expenditure (A) in excess of an apportionment or reapportionment, or (B) in excess of the amount permitted by regulations prescribed pursuant to subsection (g) of this section.

**(i) Administrative discipline; reports on violations.**

(1) In addition to any penalty or liability under other law, any officer or employee of the United States who shall violate subsections (a), (b), or (h) of this section shall be subjected to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office; and any officer or employee of the United States who shall knowingly and willfully violate subsections (a), (b), or (h) of this section shall, upon conviction, be fined not more than \$5,000 or imprisoned for not more than two years, or both.

(2) In the case of a violation of subsections (a), (b), or (h) of this section by an officer or employee of an agency, or of the District of Columbia, the head of the agency concerned or the Commissioners of the District of Columbia, shall

immediately report to the President, through the Director of the Bureau of the Budget, and to the Congress all pertinent facts together with a statement of the action taken thereon. (R.S. § 3679; Mar. 3, 1905, ch. 1484, § 4, 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; Sept. 6, 1950, ch. 896, ch. XII, § 1211, 64 Stat. 765; Aug. 1, 1956, ch. 814, § 3, 70 Stat. 783; Aug. 28, 1957, Pub. L. 85-170, ch. XIV, § 1401, 71 Stat. 440.)

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#### EXPENSES OF COMMISSIONS, ETC.

**§ 673. Use of public moneys or appropriations for compensation or expenses of commission; details from executive departments to such commission prohibited.**

No part of the public moneys, or of any appropriation made by Congress, shall be used for the payment of compensation or expenses of any commission, council, board, or other similar body, or any members thereof, or for expenses in connection with any work or the results of any work or action of any commission, council, board, or other similar body, unless the creation of the same shall be or shall have been authorized by law; nor shall there be employed by detail, hereafter or heretofore made, or otherwise personal services from any executive department or other Government establishment in connection with any such commission, council, board, or other similar body. (Mar. 4, 1909, ch. 299, § 9, 35 Stat. 1027.)

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#### INTERDEPARTMENTAL TRANSFERS

**§ 686. Purchase or manufacture of stores or materials or performance of services by bureau or department for another bureau or department.**

(a) Any executive department or independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies, equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon the furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau, or office as may be requisitioned; but proper adjustments on the basis of the actual cost of the materials, supplies, or equipment furnished, or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned: *Provided*, That the Department of the Army, Navy Department, Treasury Department, Federal Aviation Agency, and the Maritime Commission may place orders, as provided herein, for materials, supplies, equipment, work, or

services, of any kind that any requisitioned Federal agency may be in a position to supply, or to render or to obtain by contract: *Provided further*, That if such work or services can be as conveniently or more cheaply performed by private agencies such work shall be let by competitive bids to such private agencies. Bills rendered, or requests for advance payments made, pursuant to any such order, shall not be subject to audit or certification in advance of payment.

(b) Amounts paid as provided in subsection (a) of this section shall be credited, (1) in the case of advance payments, to special working funds, or (2) in the case of payments other than advance payments, to the appropriations or funds against which charges have been made pursuant to any such order, except as hereinafter provided. The Secretary of the Treasury shall establish such special working funds as may be necessary to carry out the provisions of this subsection. Such amounts paid shall be available for expenditure in furnishing the materials, supplies, or equipment, or in performing the work or services, or for the objects specified in such appropriations or funds. Where materials, supplies, or equipment are furnished from stocks on hand, the amounts received in payment therefor shall be credited to appropriations or funds, as may be authorized by other law, or, if not so authorized, so as to be available to replace the materials, supplies, or equipment, except that where the head of any such department, establishment, bureau, or office determines that such replacement is not necessary the amounts paid shall be covered into the Treasury as miscellaneous receipts.

(c) Orders placed as provided in subsection (a) of this section shall be considered as obligations upon appropriations in the same manner as orders or contracts placed with private contractors. Advance payments credited to special working funds shall remain available to the procuring agency for entering into contracts and other uses during the fiscal year or years for which the appropriation involved was made and thereafter until said appropriation lapses under the law to the surplus fund of the Treasury. (Mar. 4, 1915, ch. 143, § 1, 38 Stat. 1084; May 21, 1920, ch. 194, § 7, 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; June 22, 1936, ch. 689, title IV, § 8, 49 Stat. 1648; July 20, 1942, ch. 507, 56 Stat. 661; June 26, 1943, ch. 150, § 1, 57 Stat. 219; Aug. 23, 1958, Pub. L. 85-726, title XIV, § 1407, 72 Stat. 808.)

**§ 686-1. Same; available period of funds withdrawn and credited.**

No funds withdrawn and credited pursuant to section 686 of this title, shall be available for any period beyond that provided by the Act appropriating such funds. (Sept. 6, 1950, ch. 896, ch. XII, § 1210, 64 Stat. 765.)

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**EXPENSES OF INTERAGENCY GROUPS**

**§ 691. Independent offices appropriations available for expenses of certain committees, boards, and interagency groups.**

Appropriations of the executive departments and independent establishments of the Government shall be available for the expenses of committees, boards, or other interagency groups engaged in authorized activities of common interest to

such departments and establishments and composed in whole or in part of representatives thereof who receive no additional compensation by virtue of such membership: *Provided*, That employees of such departments and establishments rendering service for such committees, boards, or other groups, other than as representatives, shall receive no additional compensation by virtue of such service. (May 3, 1945, ch. 106, title II, § 214, 59 Stat. 134.)

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### ADVANCE PLANNING OF PUBLIC WORKS

#### § 723. Appropriations for advance planning of public works.

There are authorized to be appropriated without fiscal year limitation, funds for advance planning, construction design, and architectural services in connection with public works projects which are not otherwise authorized by law. (Sept. 28, 1951, ch. 434, title V, § 504, 65 Stat. 364; July 15, 1955, ch. 368, title V, § 512, 69 Stat. 352.)

#### § 723a. Same; reports to the Armed Services Committees.

In the case of any public works project for which advance planning, construction design and architectural services are estimated to cost \$150,000 or more, which are to be funded from moneys hereafter appropriated for such purposes pursuant to authority of section 723 of this title, the Secretary of Defense shall describe the project and report the estimated cost of such services not less than 30 days prior to initial obligation of funds therefor to the Committees on Armed Services of the Senate and House of Representatives. (Pub. L. 89-568, title VI, § 612, Sept. 12, 1966, 80 Stat. 756.)

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### COMPROMISE AND COLLECTION OF FEDERAL CLAIMS

#### § 951. Definitions.

In this chapter—

(a) “agency” means any department, office, commission, board, service, Government corporation, instrumentality, or other establishment or body in either the executive or legislative branch of the Federal Government;

(b) “head of an agency” includes, where applicable, commission, board, or other group of individuals having the decision-making responsibility for the agency.

(Pub. L. 89-508, § 2, July 19, 1966, 80 Stat. 308.)

#### § 952. Collection and compromise.

##### (a) Agency collection; rules and regulations.

The head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, shall attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to, his agency.

**(b) Compromise of claims; termination of collection actions; rules and regulations; \$20,000 limitation.**

With respect to such claims of the United States that have not been referred to another agency, including the General Accounting Office, for further collection action and that do not exceed \$20,000, exclusive of interest, the head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, may (1) compromise any such claim, or (2) cause collection action on any such claim to be terminated or suspended where it appears that no person liable on the claim has the present or prospective financial ability to pay any significant sum thereon or that the cost of collecting the claim is likely to exceed the amount of recovery. The Comptroller General or his designee shall have the foregoing authority with respect to claims referred to the General Accounting Office by another agency for further collection action. The head of an agency or his designee shall not exercise the foregoing authority with respect to a claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or a claim based in whole or in part on conduct in violation of the antitrust laws; nor shall the head of an agency, other than the Comptroller General of the United States, have authority to compromise a claim that arises from an exception made by the General Accounting Office in the account of an accountable officer.

**(c) Conclusive effect of compromise; fraud, misrepresentation, false claims, mutual mistake of fact.**

A compromise effected pursuant to authority conferred by subsection (b) of this section shall be final and conclusive on the debtor and on all officials, agencies, and courts of the United States, except if procured by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact. No accountable officer shall be liable for any amount paid or for the value of property lost, damaged, or destroyed, where the recovery of such amount or value may not be had because of a compromise with a person primarily responsible under subsection (b) of this section. (Pub. L. 89-508, § 3, July 19, 1966, 80 Stat. 309.)

**§ 953. Existing agency authority to litigate, settle, compromise, or close claims.**

Nothing in this chapter shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims. (Pub. L. 89-508, § 4, July 19, 1966, 80 Stat. 309.)

**EXPLANATORY NOTES**

**Effective Date.** Section 5 of Pub. L. 89-508 provided that: "This Act [enacting this chapter] shall become effective on the one hundred and eightieth day following the date of its enactment [July 19, 1966]."

**Short Title.** Section 1 of Pub. L. 89-508 provided: "That this Act [enacting this chapter] may be cited as the 'Federal Claims Collection Act of 1966'."

## TITLE 33, U.S. CODE—NAVIGATION AND NAVIGABLE WATERS

\* \* \* \* \*

## DEFACING OF PUBLIC WORKS ON NAVIGABLE WATERS

**§ 408. Taking possession of, use of, or injury to harbor or river improvements.**

It shall not be lawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works: *Provided*, That the Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforementioned public works when in his judgment such occupation or use will not be injurious to the public interest. (Mar. 3, 1899, ch. 425, § 14, 30 Stat. 1152.)

## EXPLANATORY NOTE

**Origin and Cross Reference.** This provision was contained in section 14 of the Rivers and Harbors Act of 1899. Other sections of that Act appear herein in chronological order under date of March 3, 1899.

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## NO LIABILITY FOR FLOOD DAMAGE

**§ 702c. Same; expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights.**

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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: \* \* \* (May 15, 1928, ch. 569, § 3, 45 Stat. 535.)

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TITLE 40, U.S. CODE—PUBLIC BUILDINGS, PROPERTY,  
AND WORKS

\* \* \* \* \*

ACQUISITION OF LAND

§ 255. Title to land to be purchased by United States; acquisition by United States of jurisdiction over lands.

No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, customhouse, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title.

Notwithstanding the provisions of this or any other law, whenever the average value of any lands or interests in land to be acquired by or on behalf of the United States under a single option or contract of sale does not exceed \$10 per acre (hereinafter referred to as "low-value lands"), the title may be accepted subject to such infirmities as, in the opinion of the Attorney General, may, without jeopardizing the interests of the United States, be left for removal by condemnation or other appropriate proceedings, if and when necessary: *Provided*, That the total value of any lands or interests to be acquired under a single option or contract of sale subject to an infirmity does not exceed \$3,500. No public money shall hereafter be expended for the acquisition of such low-value lands or interests in land by or on behalf of the United States for any purpose until the written opinion of the Attorney General has been had approving the title subject, if expedient, to infirmities as herein provided. However, no money in excess of \$2,500 shall be expended for the construction of buildings, works, or other improvements (except roads, trails, and fire-protection improvements) on any site, tract, or parcel of land the title to which is subject to infirmities, until the written opinion of the Attorney General in favor of the validity of the title has been had as in the case of other lands. For the purpose of this section, values of lands and interests in land shall be determined by the consideration paid or to be paid.

The Attorney General is authorized to approve the title to easements or rights-of-way to be acquired by or on behalf of the United States, subject to such infirmities as, in his opinion, will not jeopardize the interests of the United States.

Nothing in this section shall be construed to limit the authority now or hereafter delegated to any officer in exercising the power of eminent domain for or on behalf of the United States, to take title to or possession of or to expend money for or upon any land or interest in land, or to expend money as security for an ultimate award in advance of final judgment in any proceedings to determine just compensation; nor shall this section be construed to preclude any acquiring agency from expending money for the erection of any preliminary and temporary structure upon any land.

The head or other authorized officer of any department, independent establishment, or agency, shall procure any evidence of title which the Attorney General may deem necessary, and the expenses of procurement, except where otherwise authorized by law or provided by contract, may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department, independent establishment, or agency.

The Attorney General may, in his discretion, base any opinion as to title required either by this section or any other law upon either or both of the following: Certificates of title of title companies or such evidence of title as he may deem satisfactory.

The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority; and nothing in this section shall be construed to affect in any manner any authority which the Secretary of the Army, the Chief of Engineers, or the Secretary of the Interior have under the provisions of law in force on October 9, 1940, with respect to the approval by them of title to land or interests in land acquired by the Department of the Army or the Department of the Interior, as the case may be. Nor shall the foregoing provisions of this section, or the provisions of any other law, be construed to require any opinion of the Attorney General in connection with the acquisition or improvement of easements and rights-of-way for military or naval purposes; or for the acquisition or improvement of easements and rights-of-way by the Department of Agriculture for forest and other conservation purposes where the cost of any such easement or right-of-way acquired under a single instrument of conveyance and the cost of any improvement thereon does not exceed \$2,500; and the Attorney General may, in his discretion, waive the requirement for his opinion in connection with the acquisition or improvement of easements and rights-of-way for other purposes when, in his opinion, such waiver will not jeopardize the interests of the United States.

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such

jurisdiction has been accepted. (R.S. § 355; June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083.)

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**§ 257. Condemnation of realty for sites and other uses; jurisdiction.**

In every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this section and section 258 of this title, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice. (Aug. 1, 1888, ch. 728, § 1, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 6, 62 Stat. 986.)

**§ 258a. Same; lands, easements, or rights-of-way for public use; taking of possession and title in advance of final judgment; authority; procedure.**

In any proceeding in any court of the United States outside of the District of Columbia which has been or may be instituted by and in the name of and under the authority of the United States for the acquisition of any land or easement or right of way in land for the public use, the petitioner may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the lands described in the petition, declaring that said lands are thereby taken for the use of the United States. Said declaration of taking shall contain or have annexed thereto—

- (1) A statement of the authority under which and the public use for which said lands are taken.
- (2) A description of the lands taken sufficient for the identification thereof.
- (3) A statement of the estate or interest in said lands taken for said public use.
- (4) A plan showing the lands taken.
- (5) A statement of the sum of money estimated by said acquiring authority to be just compensation for the land taken.

Upon the filing of said declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in said declaration, title to the said lands in fee simple absolute, or such less estate or interest therein as is specified in said declaration, shall vest in the United States of America, and said lands shall be deemed to be condemned and taken for the use of the United States, and the right to just compensation for the same shall vest in the persons entitled thereto; and said compensation shall be ascertained and awarded in said proceeding and established by judgment therein, and the said judgment shall include, as part of the just compensation awarded, interest at the rate of 6 per centum per

annum on the amount finally awarded as the value of the property as of the date of taking, from said date to the date of payment; but interest shall not be allowed on so much thereof as shall have been paid into the court. No sum so paid into the court shall be charged with commissions or poundage.

Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceeding. If the compensation finally awarded in respect of said lands, or any parcel thereof, shall exceed the amount of the money so received by any person entitled, the court shall enter judgment against the United States for the amount of the deficiency.

Upon the filing of a declaration of taking, the court shall have power to fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the petitioner. The court shall have power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable. (Feb. 26, 1931, ch. 307, § 1, 46 Stat. 1421.)

**§ 258b. Same; taking in advance of final judgment; appeal or giving of bond as preventing or delaying vesting of title.**

No appeal in any cause under section 258 of this title nor any bond or undertaking given therein shall operate to prevent or delay the vesting of title to such lands in the United States. (Feb. 26, 1931, ch. 307, § 2, 46 Stat. 1422.)

**§ 258c. Same; taking in advance of final judgment; obligation of United States to pay ultimate award when fixed.**

Action under section 258a of this title irrevocably committing the United States to the payment of the ultimate award shall not be taken unless the chief of the executive department or agency or bureau of the Government empowered to acquire the land shall be of the opinion that the ultimate award probably will be within any limits prescribed by Congress on the price to be paid. (Feb. 26, 1931, ch. 307, § 3, 46 Stat. 1422.)

**§ 258d. Same; taking in advance of final judgment; right as additional to existing rights, powers, and authority.**

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 258a of this title shall be in addition to any right, power, or authority conferred by the laws of the United States or those of any State or Territory under which such proceedings may be conducted, and shall not be construed as abrogating, limiting, or modifying any such right, power, or authority. (Feb. 26, 1931, ch. 307, § 4, 46 Stat. 1422.)

**§ 258e. Same; taking in advance of final judgment; demolition of buildings thereon; erection of public buildings or works; funds available for purpose; application of section 255.**

In any case in which the United States has taken or may take possession of any real property during the course of condemnation proceedings and in ad-

vance of final judgment therein and the United States has become irrevocably committed to pay the amount ultimately to be awarded as compensation, it shall be lawful to expend moneys duly appropriated for that purpose in demolishing existing structures on said land and in erecting public buildings or public works thereon, notwithstanding the provisions of section 255 of this title: *Provided*, That in the opinion of the Attorney General, the title has been vested in the United States or all persons having an interest therein have been made parties to such proceeding and will be bound by the final judgment therein. (Feb. 26, 1931, ch. 307, § 5, 46 Stat. 1422.)

**§ 258f. Same; exclusion of certain property by stipulation of Attorney General.**

In any condemnation proceeding instituted by or on behalf of the United States, the Attorney General is authorized to stipulate or agree in behalf of the United States to exclude any property or any part thereof, or any interest therein, that may have been, or may be, taken by or on behalf of the United States by declaration of taking or otherwise. (Oct. 21, 1942, ch. 618, 56 Stat. 797.)

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## BONDS OF CONTRACTORS

**§ 270a. Bonds of contractors for public buildings or works; waiver of bonds covering contract performed in foreign country.**

(a) Before any contract, exceeding \$2,000 in amount, for the construction, alteration, or repair of any public building or public work of the United States is awarded to any person, such person shall furnish to the United States the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

(1) A performance bond with a surety or sureties satisfactory to the officer awarding such contract, and in such amount as he shall deem adequate, for the protection of the United States.

(2) A payment bond with a surety or sureties satisfactory to such officer for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract shall be not more than \$1,000,000 the said payment bond shall be in a sum of one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$1,000,000 and not more than \$5,000,000, the said payment bond shall be in a sum of 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$5,000,000 the said payment bond shall be in the sum of \$2,500,000.

(b) The contracting officer in respect of any contract is authorized to waive the requirement of a performance bond and payment bond for so much of the work under such contract as is to be performed in a foreign country if he finds that it is impracticable for the contractor to furnish such bonds.

(c) Nothing in this section shall be construed to limit the authority of any contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases specified in subsection (a) of this section.

(d) Every performance bond required under this section shall specifically provide coverage for taxes imposed by the United States which are collected, deducted, or withheld from wages paid by the contractor in carrying out the contract with respect to which such bond is furnished. However, the United States shall give the surety or sureties on such bond written notice, with respect to any such unpaid taxes attributable to any period, within ninety days after the date when such contractor files a return for such period, except that no such notice shall be given more than one hundred and eighty days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1954. No suit on such bond for such taxes shall be commenced by the United States unless notice is given as provided in the preceding sentence, and no such suit shall be commenced after the expiration of one year after the day on which such notice is given. (Aug. 24, 1935, ch. 642, § 1, 49 Stat. 793; Nov. 2, 1966, Pub. L. 89-719, title I, § 105(b), 80 Stat. 1139.)

**§ 270b. Same; rights of persons furnishing labor or material.**

(a) Every person who has furnished labor or material in the prosecution of the work provided for in such contract, in respect of which a payment bond is furnished under section 270a of this title and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final execution and judgment for the sum or sums justly due him: *Provided, however,* That any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing said payment bond shall have a right of action upon the said payment bond upon giving written notice to said contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelop addressed to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal of the district in which the public improvement is situated is authorized by law to serve summons.

(b) Every suit instituted under this section shall be brought in the name of the United States for the use of the person suing, in the United States District Court for any district in which the contract was to be performed and executed and not elsewhere, irrespective of the amount in controversy in such suit, but no

such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material was supplied by him. The United States shall not be liable for the payment of any costs or expenses of any such suit. (Aug. 24, 1935, ch. 642, § 2, 49 Stat. 794; Aug. 4, 1959, Pub. L. 86-135, § 1, 73 Stat. 279.)

**§ 270c. Same; right of person furnishing labor or material to copy of bond.**

The Comptroller General is authorized and directed to furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made or that he is being sued on any such bond, a certified copy of such bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay for such certified copies such fees as the Comptroller General fixes to cover the cost of preparation thereof. (Aug. 24, 1935, ch. 642, § 3, 49 Stat. 794; Aug. 4, 1959, Pub. L. 86-135, § 2, 73 Stat. 279.)

**§ 270d. Same; definition of "person".**

The term "person" and the masculine pronoun as used in sections 270a-270c of this title shall include all persons whether individuals, associations, copartnerships, or corporations (Aug. 24, 1935, ch. 642, § 4, 49 Stat. 794.)

EXPLANATORY NOTE

**Popular Name.** The Act of August 4, 1935, 49 Stat. 793, sections 270a to 270d, above, is popularly known as the Miller Act.

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WAGE RATES FOR LABORERS AND MECHANICS EMPLOYED  
BY CONTRACTORS

**§ 276a. Rate of wages for laborers and mechanics.**

(a) The advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union, or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State, in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction

or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

(b) As used in sections 276a to 276a-5 of this title the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include—

(1) the basic hourly rate of pay; and

(2) the amount of—

(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:

*Provided*, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as sections 276a to 276a-5 of this title and other Acts incorporating sections 276a to 276a-5 of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2) (A), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in paragraph (2) (B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed)

shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under sections 276a to 276a-5 of this title, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater. (Mar. 3, 1931, ch. 411, § 1, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1011; June 15, 1940, ch. 373, § 1, 54 Stat. 399; July 12, 1960, Pub. L. 86-624, § 26, 74 Stat. 418; July 2, 1964, Pub. L. 88-349, § 1, 78 Stat. 238.)

**§ 276a-1. Termination of work on failure to pay agreed wages; completion of work by Government.**

Every contract within the scope of sections 276a to 276a-5 of this title shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby. (Mar. 3, 1931, ch. 411, § 2, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

**§ 276a-2. Payment of wages by Comptroller General from withheld payments; listing contractors violating contracts.**

(a) The Comptroller General of the United States is authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to sections 276a to 276a-5 of this title; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract, as aforesaid are insufficient to reimburse all the laborers and mechanics, with respect to whom there has been a failure to pay the wages required pursuant to sections 276a to 276a-5 of this title, such laborers and mechanics shall have the right of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings

it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds. (Mar. 3, 1931, ch. 411, § 3, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

**§ 276a-3. Effect on other Federal laws.**

Sections 276a to 276a-5 of this title shall not be construed to supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates. (Mar. 3, 1931, ch. 411, § 4, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

**§ 276a-4. Effective date of sections 276a to 276a-5.**

Sections 276a to 276a-5 of this title shall take effect thirty days after August 30, 1935, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding on August 30, 1935. (Mar. 3, 1931, ch. 411, § 5, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

**§ 276a-5. Suspension of sections 276a to 276a-5 during emergency.**

In the event of a national emergency the President is authorized to suspend the provisions of section 276a to 276a-5 of this title. (Mar. 3, 1931, ch. 411, § 6, as added Aug. 30, 1935, ch. 825, 49 Stat. 1011.)

**§ 276a-7. Application of sections 276a to 276a-5 to contracts entered into without regard to section 5 of Title 41.**

The fact that any contract authorized by any Act is entered into without regard to section 5 of Title 41, or upon a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, shall not be construed to render inapplicable the provisions of sections 276a to 276a-5 of this title, if such Act would otherwise be applicable to such contract. (Mar. 23, 1941, ch. 26, 55 Stat. 49; Aug. 21, 1941, ch. 395, 55 Stat. 658.)

**§ 276c. Regulations governing contractors and subcontractors.**

The Secretary of Labor shall make reasonable regulations for contractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 shall apply to such statements. (June 13, 1934, ch. 482, § 2, 48 Stat. 948; 1940 Reorg. Plan No. IV, § 9, 5 F. R. 2421, 54 Stat. 1236; May 24, 1949, ch. 139, § 134, 63 Stat. 108; Aug. 28, 1958, Pub. L. 85-800, § 12, 72 Stat. 967.)

EXPLANATORY NOTE

**Popular Name.** The above sections 276a to 276a-5 are popularly known as the Davis-Bacon Act.

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## LEASE OF BUILDINGS BY GOVERNMENT

**§ 303b. Lease of buildings by Government; money consideration.**

Except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts. (June 30, 1932, ch. 314, § 321, 47 Stat. 412.)

**§ 303c. Maintenance and repair of Government improvements under concession contracts.**

Privileges, leases, and permits granted by the Secretary of the Interior for the use of land for the accommodation of park visitors, pursuant to section 3 of Title 16, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section 303b of this title, or any other provision of law. (Pub. L. 87-608, Aug. 24, 1962, 76 Stat 405.)

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## CONTRACT WORK HOURS STANDARDS ACT

**§ 327. Definition of Secretary.**

As used in sections 327-332 of this title, the term "Secretary" means the Secretary of Labor, United States Department of Labor. (Pub. L. 87-581, title I, § 101, Aug. 13, 1962, 76 Stat. 357.)

**§ 328. Eight-hour day and forty-hour week; overtime compensation; contractual conditions; liability of employers for violation; withholding funds to satisfy liabilities of employers.**

(a) Notwithstanding any other provision of law, the wages of every laborer and mechanic employed by any contractor or subcontractor in his performance of work on any contract of the character specified in section 329 of this title shall be computed on the basis of a standard workday of eight hours and a standard workweek of forty hours, and work in excess of such standard workday or workweek shall be permitted subject to the provisions of this section. For each workweek in which any such laborer or mechanic is so employed, such wages shall include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in the workweek, as the case may be.

(b) The following provisions shall be a condition of every contract of the character specified in section 329 of this title and of any obligation of the United States, any territory, or the District of Columbia in connection therewith:

(1) No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic, in any workweek in which he is employed on such work, to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek except in accordance with the provisions of sections 327–332 of this title; and

(2) In the event of violation of the provisions of paragraph (1), the contractor and any subcontractor responsible therefor shall be liable to such affected employee for his unpaid wages and shall, in addition, be liable to the United States (or, in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages as provided therein. Such liquidated damages shall be computed, with respect to each individual employed as a laborer or mechanic in violation of any provision of sections 327–332 of this title, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by sections 327–332 of this title. The governmental agency for which the contract work is done or by which financial assistance for the work is provided may withhold, or cause to be withheld, subject to the provisions of section 330 of this title, from any moneys payable on account of work performed by a contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as herein provided. (Pub. L. 87–581, title I, § 102, Aug. 13, 1962, 76 Stat. 357.)

**§ 329. Contracts subject to sections 327–332 of this title; workers covered; exceptions.**

(a) The provisions of sections 327–332 of this title shall apply, except as otherwise provided, to any contract which may require or involve the employment of laborers or mechanics upon a public work of the United States, of any territory, or of the District of Columbia, and to any other contract which may require or involve the employment of laborers or mechanics if such contract is one (1) to which the United States or any agency or instrumentality thereof, any territory, or the District of Columbia is a party, or (2) which is made for or on behalf of the United States, any agency or instrumentality thereof, any territory, or the District of Columbia, or (3) which is a contract for work financed in whole or in part by loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof under any statute of the United States providing wage standards for such work: *Provided*, That the the provisions of section 328 of this title, shall not apply to work where the assistance from the United States or any agency or instrumentality as set forth above is only in the nature of a loan guarantee, or insurance. Except as otherwise expressly provided, the provisions of the Act shall apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor in the performance of any part of the work contemplated by any such contract, and for the purposes of sections 327–332 of this title, laborers and mechanics shall

include workmen performing services in connection with dredging or rock excavation in any river or harbor of the United States or of any territory or of the District of Columbia, but shall not include any employee employed as a seaman.

(b) Sections 327–332 of this title shall not apply to contracts for transportation by land, air, or water, or for the transmission of intelligence, or for the purchase of supplies or materials or articles ordinarily available in the open market. Sections 327–332 of this title shall not apply with respect to any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act. (Pub. L. 87–581, title I, § 103, Aug. 13, 1962, 76 Stat. 358.)

**§ 330. Report of violations and withholding of funds for unpaid wages and liquidated damages.**

**(a) Reports of inspectors; determination of amount of unpaid wages and liquidated damages; authorization for direct payments by Comptroller General.**

Any officer or person designated as inspector of the work to be performed under any contract of the character specified in section 329 of this title, or to aid in the enforcement or fulfillment thereof shall, upon observation or investigation, forthwith report to the proper officer of the United States, of any territory or possession, or of the District of Columbia, all violations of the provisions of sections 327–332 of this title occurring in the performance of such work, together with the name of each laborer or mechanic who was required or permitted to work in violation of such provisions and the day or days of such violation. The amount of unpaid wages and liquidated damages owing under the provisions of sections 327–332 of this title shall be administratively determined and the officer or person whose duty it is to approve the payment of moneys by the United States, the territory, or the District of Columbia in connection with the performance of the contract work shall direct the amount of such liquidated damages to be withheld for the use and benefit of the United States, said territory, or said District, and shall direct the amount of such unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under the provisions of sections 327–332 of this title. The Comptroller General of the United States is authorized and directed to pay directly to such laborers and mechanics, from the sums withheld on account of underpayments of wages, the respective amounts administratively determined to be due, if the funds withheld are adequate, and, if not, an equitable proportion of such amounts.

**(b) Rights of action and intervention against contractors and sureties.**

If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to sections 327–332 of this title, such laborers and mechanics shall, in the case of a department or agency of the Federal Government, have the rights of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense

that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

**(c) Right of contractors to appeal; limitations; administrative determination; review by Secretary and issuance of final decision; filing claim in Court of Claims.**

Any contractor or subcontractor aggrieved by the withholding of a sum as liquidated damages as provided in sections 327–332 of this title shall have the right, within sixty days thereafter, to appeal to the head of the agency of the United States or of the territory for which the contract work is done or by which financial assistance for the work is provided, or to the Commissioners of the District of Columbia in the case of liquidated damages withheld for the use and benefit of said District. Such agency head or Commissioners, as the case may be, shall have authority to review the administrative determination of liquidated damages and to issue a final order affirming such determination; or, if it is found that the sum determined is incorrect or that the contractor or subcontractor violated the provisions of section 327–332 of this title inadvertently notwithstanding the exercise of due care on his part and that of his agents, recommendations may be made to the Secretary that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for such liquidated damages. The Secretary shall review all pertinent facts in the matter and may conduct such investigations as he deems necessary, so as to affirm or reject the recommendation. The decision of the Secretary shall be final. In all such cases in which a contractor or subcontractor may be aggrieved by a final order for the withholding of liquidated damages as hereinbefore provided, such contractor or subcontractor may, within sixty days after such final order, file a claim in the Court of Claims: *Provided, however,* That final orders of the agency head, the Commissioners of the District of Columbia or the Secretary, as the case may be, shall be conclusive with respect to findings of fact if such findings are supported by substantial evidence.

**(d) Applicability of other laws.**

Reorganization Plan Numbered 14 of 1950 shall be applicable with respect to the provisions of sections 327–332 of this title, and section 2 of the Act of June 13, 1934, as amended, shall be applicable with respect to those contractors and subcontractors referred to therein who are engaged in the performance of contracts subject to the provisions of sections 327–332 of this title. (Pub. L. 87–581, title I, § 104, Aug. 13, 1962, 76 Stat. 358.)

**§ 331. Limitations, variations, tolerances, and exemptions.**

The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of sections 327–332 of this title as he may find necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business (Pub. L. 87–581, title I, § 105, Aug. 13, 1962, 76 Stat. 359.)

**§ 332. Violations; penalties.**

Any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed in the performance of any work contemplated by any contract to which sections 327–332 of this title apply, who shall intentionally violate any provision of such sections, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine of not to exceed \$1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof. (Pub. L. 87–581, title I, § 106, Aug. 13, 1962, 76 Stat. 359.)

## EXPLANATORY NOTE

**Short Title.** Section 1 of the Act of 332 above may be cited as the “Contract August 13, 1962, Public Law 87–581, 76 Work Hours Standards Act of 1962.” Stat. 357, provides that sections 327 to

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## CONVEYANCE FOR STREET WIDENING

**§ 345c. Conveyance or transfer of Federal property to States or political subdivisions for street-widening purposes.**

(a) Whenever a State or political subdivision of a State makes application therefor in connection with an authorized widening of a public highway, street, or alley, the head of the executive agency having control over the affected real property of the United States may convey or otherwise transfer, with or without consideration, to such State or political subdivision for such highway, street, or alley widening purposes, such interest in such real property as he determines will not be adverse to the interests of the United States, subject to such terms and conditions as he deems necessary to protect the interests of the United States.

(b) As used in this section the term “executive agency” means any executive department or independent establishment in the executive branch of the Government of the United States, including any wholly owned Government corporation.

(c) Nothing in this section shall be deemed to authorize the conveyance or other transference of any interest in real property which can be transferred to a State or political subdivision of a State for highway purposes under Title 23. (Aug. 26, 1935, ch. 684, § 2, as added July 7, 1960, Pub. L. 86–608, 74 Stat. 363.)

## TITLE 41, U.S. CODE—PUBLIC CONTRACTS

### COMPETITIVE BIDS

#### § 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell and to Government Corporations.

Unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed \$2,500, (2) when the public exigencies require the immediate delivery of the articles or performance of the service, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis. Except (1) as authorized by section 1638 of Appendix to Title 50, (2) when otherwise authorized by law, or (3) when the reasonable value involved in any one case does not exceed \$500, sales and contracts of sale by the Government shall be governed by the requirements of this section for advertising.

In the case of wholly owned Government corporations, this section shall apply to their administrative transactions only. (R. S. § 3709; Aug. 2, 1946, ch. 744, § 9 (a), (c), 60 Stat. 809; June 30, 1949, ch. 288, title VI, § 602(f), formerly title V, § 502(e), 63 Stat. 400, renumbered Sept. 5, 1950, ch. 849, §§ 6 (a), (b), 8(c), 64 Stat. 583; Aug. 28, 1958, Pub. L. 85-800, § 7, 72 Stat. 967.)

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#### § 8. Opening bids.

Whenever proposals for supplies have been solicited, the parties responding to such solicitation shall be duly notified of the time and place of opening the bids, and be permitted to be present either in person or by attorney, and a record of each bid shall then and there be made. (R. S. § 3710.)

### BUY AMERICAN ACT

#### § 10a. American materials required for public use.

Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case

may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. (Mar. 3, 1933, ch. 212, title III, § 2, 47 Stat. 1520.)

**§ 10b. Contracts for public works; specification for use of American materials; blacklisting contractors violating requirements.**

(a) Every contract for the construction, alteration, or repair of any public building or public work in the United States growing out of an appropriation heretofore made or hereafter to be made shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers, shall use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States except as provided in section 10a of this title: *Provided, however*, That if the head of the department or independent establishment making the contract shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article, material, or supply, and a public record made of the findings which justified the exception.

(b) If the head of a department, bureau, agency, or independent establishment which has made any contract containing the provision required by subsection (a) of this section finds that in the performance of such contract there has been a failure to comply with such provisions, he shall make public his findings, including therein the name of the contractor obligated under such contract, and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded to such contractor, subcontractors, material men, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public. (Mar. 3, 1933, ch. 212, title III, § 3, 47 Stat. 1520.)

**§ 10c. Definition of terms used in sections 10a and 10b.**

When used in sections 10a and 10b of this title—

(a) The term “United States”, when used in a geographical sense, includes the United States and any place subject to the jurisdiction thereof;

(b) The terms “public use”, “public building”, and “public work” shall mean use by, public building of, and public work of, the United States, the District of Columbia, Puerto Rico, American Samoa, the Canal Zone, and the Virgin Islands. (Mar. 3, 1933, ch. 212, title III, § 1, 47 Stat. 1520; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 25, 1959, Pub. L. 86-70, § 43, 73 Stat. 151; July 12, 1960, Pub. L. 86-624, § 28, 74 Stat. 419.)

**§ 10d. Clarification of Congressional intent regarding sections 10a and 10b(a).**

In order to clarify the original intent of Congress, hereafter, section 10a of this title and that part of section 10b(a) of this title preceding the words "*Provided, however,*" shall be regarded as requiring the purchase, for public use within the United States, of articles, materials, or supplies manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, unless the head of the department or independent establishment concerned shall determine their purchase to be inconsistent with the public interest or their cost to be unreasonable. (Oct. 29, 1949, ch. 787, title VI, § 633, 63 Stat. 1024.)

**LIMITATIONS ON CONTRACTS AND PURCHASES****§ 11. No contracts or purchases unless authorized or under adequate appropriation; report to the Congress.**

(a) No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the Departments of the Army, Navy, and Air Force, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which, however, shall not exceed the necessities of the current year.

(b) The Secretary of Defense shall immediately advise the Congress of the exercise of the authority granted in subsection (a) of this section, and shall report quarterly on the estimated obligations incurred pursuant to the authority granted in subsection (a) of this section. (R. S. § 3732; June 12, 1906, ch. 3078, 34 Stat. 255; Oct. 15, 1966, Pub. L. 89-687, title VI, § 612(e), 80 Stat. 993.)

**§ 12. No contract to exceed appropriation.**

No contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose. (R. S. § 3733.)

**§ 13. Contracts limited to one year.**

Except as otherwise provided, it shall not be lawful for any of the executive departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made. (R. S. § 3735.)

**§ 14. Restriction on purchases of land.**

No land shall be purchased on account of the United States, except under a law authorizing such purchase. (R. S. § 3736.)

## DEPOSIT OF CONTRACTS IN G.A.O.

**§ 20. Deposit of contracts.**

All contracts to be made, by virtue of any law, and requiring the advance of money, or in any manner connected with the settlement of public accounts, shall be deposited promptly in the General Accounting Office: *Provided*, That this section shall not apply to the existing laws in regard to the contingent funds of Congress. (R. S. § 3743; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 249; July 31, 1894, ch. 174, § 18, 28 Stat. 210; June 10, 1921, ch. 18, §§ 304, 310, 42 Stat. 24, 25.)

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**§ 20b. Same; exemption of leases, contracts, etc., concerning use of lands or waters under jurisdiction of Department of Interior.**

Leases, permits, licenses, contracts, agreements, and other instruments providing for payments to the United States on account of the use of lands or waters under the jurisdiction of the Department of the Interior, or on account of the sale of products of such lands or waters, or on account of other transactions incident to the administration of such lands or waters, including contributions by cooperators, but excluding sales of used equipment, shall be exempt from the provisions of section 20 of this title, when the lease or other instruments do not require payment to the Government in excess of \$300 in any one fiscal year: *Provided, however*, That the Secretary of the Interior may prescribe from time to time regulations requiring that originals or copies of any class or group of documents within the foregoing exemption, in the circumstances and upon the conditions designated by him in such regulations, shall be deposited in the General Accounting Office for audit purposes. (Nov. 28, 1943, ch. 328, 57 Stat. 592.)

**§ 21. Same; rules and regulations.**

The heads of the several executive departments and the proper officers of other Government establishments, not within the jurisdiction of any executive department, shall make appropriate rules and regulations to secure a proper administrative examination of all accounts sent to them as required by section 78 of Title 31, before their transmission to the General Accounting Office, and for the execution of other requirements of section 20 of this title, in so far as the same relate to the several departments or establishments. (July 31, 1894, ch. 174, § 22, 28 Stat. 210; June 10, 1921, ch. 18, §§ 304, 310, 42 Stat. 24, 25.)

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## EMPLOYMENT CONDITIONS OF MANUFACTURERS AND SUPPLIERS

**§ 35. Contracts for materials, etc., exceeding \$10,000; representations and stipulations.**

In any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States (all the foregoing being hereinafter designated as agencies of the United States), for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000, there shall be included the following representations and stipulations:

(a) That the contractor is the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract;

(b) That all persons employed by the contractor in the manufacture or furnishing of the materials, supplies, articles or equipment used in the performance of the contract will be paid, without subsequent deduction or rebate on any account, not less than the minimum wages as determined by the Secretary of Labor to be the prevailing minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under said contract;

(c) That no person employed by the contractor in the manufacture or furnishing of the materials, supplies, articles, or equipment used in the performance of the contract shall be permitted to work in excess of eight hours in any one day or in excess of forty hours in any one week: *Provided*, That the provisions of this subsection shall not apply to any employer who shall have entered into an agreement with his employees pursuant to the provisions of paragraphs (1) or (2) of subsection (b) of section 207 of Title 29;

(d) That no male person under sixteen years of age and no female person under eighteen years of age and no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract; and

(e) That no part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of said contract. Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima-facie evidence of compliance with this subsection. (June 30, 1936, ch. 881, § 1, 49 Stat. 2036; May 13, 1942, ch. 306, 56 Stat. 277.)

**§ 36. Same; liability for breach; cancellation; completion by Government agency; employee's wages.**

Any breach or violation of any of the representations and stipulations in any contract for the purposes set forth in section 35 of this title shall render the party responsible therefor liable to the United States of America for liquidated damages, in addition to damages for any other breach of such contract, the sum of \$10 per day for each male person under sixteen years of age or each female person under eighteen years of age, or each convict laborer knowingly employed in the performance of such contract, and a sum equal to the amount of any deductions, rebates, refunds, or underpayment of wages due to any employee engaged in the performance of such contract; and, in addition, the agency of the United States entering into such contract shall have the right to cancel same and to make open-market purchases or enter into other contracts for the completion of the original contract, charging any additional cost to the original contractor. Any sums of money due to the United States of America by reason of any violation of any of the representations and stipulations of said contract set forth in section 35 of this title may be withheld from any amounts due on any such contracts or may be recovered in suits brought in the name of the United States of America by the Attorney General thereof. All sums withheld or recovered as deductions, rebates, refunds, or underpayments of wages shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employees who have been paid less than minimum rates of pay as set forth in such contracts and on whose account such sums were withheld or recovered: *Provided*, That no claims by employees for such payments shall be entertained unless made within one year from the date of actual notice to the contractor of the withholding or recovery of such sums by the United States of America. (June 30, 1936, ch. 881, § 2, 49 Stat. 2037.)

**§ 37. Same; distribution of list of persons breaching contract; future contracts prohibited.**

The Comptroller General is authorized and directed to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the agreements or representations required by sections 35–45 of this title. Unless the Secretary of Labor otherwise recommends no contracts shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have a controlling interest until three years have elapsed from the date the Secretary of Labor determines such breach to have occurred. (June 30, 1936, ch. 881, § 3, 49 Stat. 2037.)

**§ 38. Same; administration; officers and employees; appointment; investigations; rules and regulations.**

The Secretary of Labor is authorized and directed to administer the provisions of sections 35–45 of this title and to utilize such Federal officers and employees

and, with the consent of the State, such State and local officers and employees as he may find necessary to assist in the administration of said sections and to prescribe rules and regulations with respect thereto. The Secretary shall appoint an administrative officer, and such attorneys and experts, and other employees with regard to existing laws applicable to the employment and compensation of officers and employees of the United States, as he may from time to time find necessary for the administration of sections 35–45 of this title. The Secretary of Labor or his authorized representatives shall have power to make investigations and findings as provided in sections 35–45 of this title, and prosecute any inquiry necessary to his functions in any part of the United States. The Secretary of Labor shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of sections 35–45 of this title. (June 30, 1936, ch. 881, § 4, 49 Stat. 2038.)

**§ 39. Same; hearings by Secretary of Labor; witness fees; failure to obey order; punishment.**

Upon his own motion or on application of any person affected by any ruling of any agency of the United States in relation to any proposal or contract involving any of the provisions of sections 35–45 of this title, and on complaint of a breach or violation of any representation or stipulation as provided in said sections, the Secretary of Labor, or an impartial representative designated by him, shall have the power to hold hearings and to issue orders requiring the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy, failure, or refusal of any person to obey such an order, any District Court of the United States or of any Territory or possession, or the United States District Court for the District of Columbia, within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person who is guilty of contumacy, failure, or refusal is found, or resides or transacts business, upon the application by the Secretary of Labor or representative designated by him, shall have jurisdiction to issue to such person an order requiring such person to appear before him or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof; and shall make findings of fact after notice and hearing, which findings shall be conclusive upon all agencies of the United States, and if supported by the preponderance of the evidence, shall be conclusive in any court of the United States; and the Secretary of Labor or authorized representative shall have the power, and is authorized, to make such decisions, based upon findings of fact, as are deemed to be necessary to enforce the provisions of sections 35–45 of this title. (June 30, 1936, ch. 881, § 5, 49 Stat. 2038; June 25, 1948, ch. 646, § 32 (b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

**§ 40. Same; exceptions; modification of contracts; variations; overtime; suspension of representations and stipulations.**

Upon a written finding by the head of the contracting agency or department that the inclusion in the proposal or contract of the representations or stipulations set forth in section 35 of this title will seriously impair the conduct of Government business, the Secretary of Labor shall make exceptions in specific cases or otherwise when justice or public interest will be served thereby. Upon the joint recommendation of the contracting agency and the contractor, the Secretary of Labor may modify the terms of an existing contract respecting minimum rates of pay and maximum hours of labor as he may find necessary and proper in the public interest or to prevent injustice and undue hardship. The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of sections 35–45 of this title respecting minimum rates of pay and maximum hours of labor or the extent of the application of said sections to contractors, as hereinbefore described. Whenever the Secretary of Labor shall permit an increase in the maximum hours of labor stipulated in the contract, he shall set a rate of pay for any overtime, which rate shall be not less than one and one-half times the basic hourly rate received by any employee affected: *Provided*, That whenever in his judgment such course is in the public interest, the President is authorized to suspend any or all of the representations and stipulations contained in section 35 of this title. (June 30, 1936, ch. 881, § 6, 49 Stat. 2038; June 28, 1940, ch. 440, title I, § 13, 54 Stat. 681.)

**§ 41. Same; “person” defined.**

Whenever used in sections 35–45 of this title, the word “person” includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers. (June 30, 1936, ch. 881, § 7, 49 Stat. 2038.)

**§ 42. Same; effect of sections 35–45 on other laws.**

The provisions of sections 35–45 of this title shall not be construed to modify or amend Title III of the act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved May 3, 1933 (commonly known as the Buy American Act), nor shall the provisions of sections 35–45 of this title be construed to modify or amend sections 276a to 276a–5 of Title 40, nor the labor provisions of Title II of the National Industrial Recovery Act, approved June 16, 1933, as extended, or of section 7 of the Emergency Relief Appropriation Act, approved April 8, 1935; nor shall the provisions of sections 35–45 of this title be construed to modify or amend sections 744a–744n of Title 18. (June 30, 1936, ch. 881, § 8, 49 Stat. 2039.)

**§ 43. Same; sections 35–45 not applicable to certain contracts.**

Sections 35–45 of this title shall not apply to purchases of such materials, supplies, articles or equipment as may usually be bought in the open market; nor

shall they apply to perishables, including dairy, livestock and nursery products, or to agricultural or farm products processed for first sale by the original producers; or to any contracts made by the Secretary of Agriculture for the purchase of agricultural commodities or the products thereof. Nothing in said sections shall be construed to apply to carriage of freight or personnel by vessel, airplane, bus, truck, express, or railway line where published tariff rates are in effect or to common carriers subject to the Communications Act of 1934. (June 30, 1936, ch. 881, § 9, 49 Stat. 2039.)

**§ 43a. Applicability of Administrative Procedure Act; wage determinations; administrative review; judicial review.**

(a) Notwithstanding any provision of section 1003 of Title 5, sections 1001–1011 of Title 5 shall be applicable in the administration of sections 35–39 and 41–43 of this title.

(b) All wage determinations under section 35(b) of this title shall be made on the record after opportunity for a hearing. Review of any such wage determination, or of the applicability of any such wage determination, may be had within ninety days after such determination is made in the manner provided in section 1009 of Title 5 by any person adversely affected or aggrieved thereby, who shall be deemed to include any manufacturer of, or regular dealer in, materials, supplies, articles or equipment purchased or to be purchased by the Government from any source, who is in any industry to which such wage determination is applicable.

(c) Notwithstanding the inclusion of any stipulations required by any provision of sections 35–45 of this title in any contract subject to said sections, any interested person shall have the right of judicial review of any legal question which might otherwise be raised, including, but not limited to, wage determinations and the interpretation of the terms “locality”, “regular dealer”, “manufacturer”, and “open market”. (June 30, 1936, ch. 881, § 10, as added June 30, 1952, ch. 530, title III, § 301, 66 Stat. 308.)

**§ 44. Same; separability of provisions.**

If any provision of sections 35–45 of this title, or the application thereof to any persons or circumstances, is held invalid, the remainder of said sections, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (June 30, 1936, ch. 881, § 11, formerly § 10, 49 Stat. 2039, renumbered June 30, 1952, ch. 530, title III, § 301, 66 Stat. 308.)

**§ 45. Same; effective date; exception as to representations with respect to minimum wages.**

Sections 35–45 of this title shall apply to all contracts entered into pursuant to invitations for bids issued on or after ninety days from June 30, 1936: *Provided, however,* That the provisions requiring the inclusion of representations with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Sec-

retary of Labor. (June 30, 1936, ch. 881, § 12, formerly § 11, 49 Stat. 2039, renumbered June 30, 1952, ch. 530, title III, § 301, 66 Stat. 308.)

## EXPLANATORY NOTE

**Popular Name.** Sections 35 to 45 above are popularly known as the Walsh-Healey Act.

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## PROCUREMENT PROCEDURES

**§ 251. Declaration of purpose of this chapter.**

The purpose of this chapter is to facilitate the procurement of property and services. (June 30, 1949, ch. 288, title III, § 301, 63 Stat. 393; July 12, 1952, ch. 703, § 1(m), 66 Stat. 594.)

**§ 252. Purchases and contracts for property.****(a) Applicability of chapter; delegation of authority.**

Executive agencies shall make purchases and contracts for property and services in accordance with the provisions of this chapter and implementing regulations of the Administrator; but this chapter does not apply—

(1) to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration; or

(2) when this chapter is made inapplicable pursuant to section 474 of Title 40 or any other law, but when this chapter is made inapplicable by any such provision of law, sections 5 and 8 of this title shall be applicable in the absence of authority conferred by statute to procure without advertising or without regard to said section 5 of this title.

**(b) Small business concerns; share of business; advance publicity on negotiated purchases and contracts for property.**

It is the declared policy of the Congress that a fair proportion of the total purchases and contracts for property and services for the Government shall be placed with small business concerns. Whenever it is proposed to make a contract or purchase in excess of \$10,000 by negotiation and without advertising, pursuant to the authority of paragraph (7) or (8) of subsection (c) of this section, suitable advance publicity, as determined by the agency head with due regard to the type of property involved and other relevant considerations, shall be given for a period of at least fifteen days, wherever practicable, as determined by the agency head.

**(c) Negotiated purchases and contracts for property; conditions.**

All purchases and contracts for property and services shall be made by advertising, as provided in section 253 of this title, except that such purchases and contracts may be negotiated by the agency head without advertising if—

(1) determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress;

- (2) the public exigency will not admit of the delay incident to advertising;
- (3) the aggregate amount involved does not exceed \$2,500;
- (4) for personal or professional services;
- (5) for any service to be rendered by any university, college, or other educational institution;
- (6) the property or services are to be procured and used outside the limits of the United States and its possessions;
- (7) for medicines or medical property;
- (8) for property purchased for authorized resale;
- (9) for perishable or nonperishable subsistence supplies;
- (10) for property or services for which it is impracticable to secure competition;
- (11) the agency head determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test;
- (12) for property or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;
- (13) for equipment which the agency head determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in special situations or in particular localities in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest;
- (14) for property or services as to which the agency head determines that bid prices after advertising therefor are not reasonable (either as to all or as to some part of the requirements) or have not been independently arrived at in open competition: *Provided*, That no negotiated purchase or contract may be entered into under this paragraph after the rejection of all or some of the bids received unless (A) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head to each responsible bidder and (B) the negotiated price is the lowest negotiated price offered by any responsible supplier; or
- (15) otherwise authorized by law, except that section 254 of this title shall apply to purchases and contracts made without advertising under this paragraph.

**(d) Bids in violation of antitrust laws.**

If in the opinion of the agency head bids received after advertising evidence any violation of the antitrust laws he shall refer such bids to the Attorney General for appropriate action.

**(e) Exceptions to section.**

This section shall not be construed to (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization

shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 253 of this title, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by the provisions of paragraphs (1)–(3), (10)–(12), or (14) of subsection (c) of this section.

**(f) Carriage of cargo; specification of container size.**

No contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width. (June 30, 1949, ch. 288, title II, § 302, 63 Stat. 393; July 12, 1952, ch. 703, § 1(m), 66 Stat. 594; Aug. 28, 1958, Pub. L. 85–800, §§ 1–3, 72 Stat. 966; Nov. 8, 1965, Pub. L. 89–343, §§ 1, 2, 79 Stat. 1303; Nov. 8, 1965, Pub. L. 89–348, § 1(2), 79 Stat. 1310; Mar. 16, 1968, Pub. L. 90–268, § 4, 82 Stat. 50.)

**§ 253. Advertising requirements.**

Whenever advertising is required—

(a) The advertisement for bids shall be made a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of property and services necessary to meet the requirements of the agency concerned. No advertisement or invitation to bid for the carriage of Government property in other than Government-owned cargo containers shall specify carriage of such property in cargo containers of any stated length, height, or width.

(b) All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that 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 the agency head determines that it is in the public interest so to do. (June 30, 1949, ch. 288, title III, § 303, 63 Stat. 393; July 12, 1952, ch. 703, § 1(m), 66 Stat. 594; Mar. 16, 1968, Pub. L. 90–268, § 2, 82 Stat. 49.)

**§ 254. Negotiated contracts.**

**(a) Requirements.**

Except as provided in subsection (b) of this section, contracts negotiated pursuant to section 252(c) of this title may be of any type which in the opinion of the agency head will promote the best interests of the Government. Every contract negotiated pursuant to section 252(c) of this title shall contain a suitable warranty, as determined by the agency head, by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of

securing business, for the breach or violation of which warranty the Government shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

**(b) Barred contracts; fee limitation; determination of use; advance notification.**

The cost-plus-a-percentage-of-cost system of contracting shall not be used, and in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed 10 per centum of the estimated cost of the contract, exclusive of the fee, as determined by the agency head at the time of entering into such contract (except that a fee not in excess of 15 per centum of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's costs and not in excess of 6 per centum of the estimated cost, exclusive of fees, as determined by the agency head at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility project). Neither a cost nor a cost-plus-a-fixed-fee contract nor an incentive-type contract shall be used unless the agency head determines that such method of contracting is likely to be less costly than other methods or that it is impractical to secure property or services of the kind or quality required without the use of a cost or cost-plus-a-fixed-fee contract or an incentive-type contract. All cost and cost-plus-a-fixed-fee contracts shall provide for advance notification by the contractor to the procuring agency of any subcontract thereunder on a cost-plus-a-fixed-fee basis and of any fixed-price subcontract or purchase order which exceeds in dollar amount either \$25,000 or 5 per centum of the total estimated cost of the prime contract; and a procuring agency, through any authorized representative thereof, shall have the right to inspect the plans and to audit the books and records of any prime contractor or subcontractor engaged in the performance of a cost or cost-plus-a-fixed-fee contract.

**(c) Examination of books, records, etc., of contractors; time limitation; exemptions: exceptional conditions; reports to Congress.**

All contracts negotiated without advertising pursuant to authority contained in this chapter, chapters 10 and 16 of Title 40, and chapter 11 of Title 44 shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall until the expiration of three years after final payment have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. Under regulations to be prescribed by the Administrator, however, such clause may be omitted from contracts with foreign contractors or foreign subcontractors if the agency head determines, with the concurrence of the Comptroller General of the United States or his designee, that the omission will serve the best interests of the United States. However, the concurrence of the Comptroller General of the United States or his designee is not required for the omission of such clause—

(1) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination; and

(2) where the agency head determines, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served by the omission of the clause.

If the clause is omitted based on a determination under clause (2) a written report shall be furnished to the Congress. The power of the agency head to make the determination specified in the preceding sentences shall not be delegable. (June 30, 1949, ch. 288, title III, § 304, 63 Stat. 395; Oct. 31, 1951, ch. 652, 65 Stat. 700; July 12, 1952, ch. 703, § 1(m), 66 Stat. 594; Sept. 27, 1966, Pub. L. 89-607, § 2, 80 Stat. 850.)

#### **§ 254a. Cost-type research and development contracts with educational institutions.**

On and after September 5, 1962, provision may be made in cost-type research and development contracts (including grants) with universities, colleges, or other educational institutions for payment of reimbursable indirect costs on the basis of predetermined fixed-percentage rates applied to the total, or an element thereof, of the reimbursable direct costs incurred. (Pub. L. 87-638, Sept. 5, 1962, 76 Stat. 437.)

#### **§ 255. Advance or other payments; restrictions; conditions.**

(a) Any executive agency may—

(1) make advance, partial, progress or other payments under contracts for property or services made by the agency; and

(2) insert in bid solicitations for procurement of property or services a provision limiting to small business concerns advance or progress payments.

(b) Payments made under subsection (a) of this section may not exceed the unpaid contract price.

(c) Advance payments under subsection (a) of this section may be made only upon adequate security and a determination by the agency head that to do so would be in the public interest. Such security may be in the form of a lien in favor of the Government on the property contracted for, on the balance in an account in which such payments are deposited, and on such of the property acquired for performance of the contract as the parties may agree. This lien shall be paramount to all other liens. (June 30, 1949, ch. 288, title III, § 305, 63 Stat. 396; July 12, 1952, ch. 703, § 1(m), 66 Stat. 594; Aug. 28, 1958, Pub. L. 85-800, § 4, 72 Stat. 966.)

#### **§ 256a. Waiver of liquidated damages.**

Whenever any contract made on behalf of the Government by the head of any Federal Agency, or by officers authorized by him so to do, includes a provision for liquidated damages for delay, the Comptroller General upon recom-

mentation of such head is authorized and empowered to remit the whole or any part of such damages as in his discretion may be just and equitable. (Sept. 5, 1950, ch. 849, § 10(a), 64 Stat. 591.)

### § 257. Administrative determinations.

#### (a) Conclusiveness; delegation of powers.

The determinations and decisions provided in this chapter to be made by the Administrator or other agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (b) of this section, and except as provided in section 486(d) of Title 40 with respect to the Administrator, the agency head is authorized to delegate his powers provided by this chapter, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the agency.

#### (b) Nondelegable powers; powers delegable to certain persons.

The power of the agency head to make the determinations or decisions specified in paragraphs (12) and (13) of section 252(c) of this title shall not be delegable, and the power to make the determinations or decisions specified in paragraph (11) of section 252(c) of this title shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than \$25,000.

#### (c) Basis of determinations; finding conclusive; preservation of findings; copy.

Each determination or decision required by paragraphs (11)–(13), or (14) of section 252(c), by section 254 or by section 255(c) of this title shall be based upon written findings made by the official making such determination, which findings shall be final and shall be available within the agency for a period of at least six years following the date of the determination. A copy of the findings shall be submitted to the General Accounting Office with the contract.

#### (d) Preservation of data.

In any case where any purchase or contract is negotiated pursuant to the provisions of section 252(c) of this title, except in a case covered by paragraphs (2)–(5), or (6) of section 252(c) of this title, the data with respect to the negotiation shall be preserved in the files of the agency for a period of six years following final payment on such contract. (June 30, 1949, ch. 288, title III, § 307, 63 Stat. 396; Aug. 28, 1958, Pub. L. 85–800, § 5, 72 Stat. 967; Nov. 8, 1965, Pub. L. 89–343, §§ 3, 4, 79 Stat. 1303.)

### § 258. Laws applicable to contracts.

No purchase or contract shall be exempt from sections 35–45 of this title, or from sections 276a to 276a–5 of Title 40, solely by reason of having been entered into pursuant to section 252(c) of this title without advertising, and the provisions of sections 276a to 276a–5, 324 and 325a of Title 40, if otherwise appli-

cable, shall apply to such purchases and contracts. (June 30, 1949, ch. 288, title III, § 308, 63 Stat. 396.)

### § 259. Definitions.

As used in this chapter—

(a) The term “agency head” shall mean the head or any assistant head of any executive agency, and may at the option of the Administrator include the chief official of any principal organizational unit of the General Services Administration.

(b) Repealed. July 12, 1952, ch. 703, § 1(h), 66 Stat. 593. (June 30, 1949, ch. 288, title III, § 309, 63 Stat. 396; July 12, 1952, ch. 703, § 1(h), 66 Stat. 593.)

### § 260. Laws not applicable to contracts.

Sections 5, 8, and 13 of this title shall not apply to the procurement of property or services made by an executive agency pursuant to this chapter. Any provision of law which authorizes an executive agency (other than an executive agency which is exempted from the provisions of this title by section 252(a) of this title), to procure any property or services without advertising or without regard to said section 5 of this title shall be construed to authorize the procurement of such property or services pursuant to section 252(c)(15) of this title without regard to the advertising requirements of sections 252(c) and 253 of this title. (June 30, 1949, ch. 288, title III, § 310, 63 Stat. 397; July 12, 1952, ch. 703, § 1(m), (n), 66 Stat. 594; Aug. 28, 1958, Pub. L. 85-800, § 6, 72 Stat. 967; Nov. 8, 1965, Pub. L. 89-343, § 5, 79 Stat. 1303.)

## JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

### § 321. Limitation on pleading contract-provisions relating to finality; standards of review.

No provision of any contract entered into by the United States, relating to the finality or conclusiveness of any decision of the head of any department or agency or his duly authorized representative or board in a dispute involving a question arising under such contract, shall be pleaded in any suit now filed or to be filed as limiting judicial review of any such decision to cases where fraud by such official or his said representative or board is alleged: *Provided, however,* That any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. (May 11, 1954, ch. 199, § 1, 68 Stat. 81.)

### § 322. Contract-provisions making decisions final on questions of law.

No Government contract shall contain a provision making final on a question of law the decision of any administrative official, representative, or board. (May 11, 1954, ch. 199, § 2, 68 Stat. 81.)

## EXPLANATORY NOTE

**Popular Name.** This act is sometimes referred to as the "Wunderlich Act."

## SERVICE CONTRACT ACT OF 1965

**§ 351. Required contract provisions; minimum wages.**

(a) Every contract (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of \$2,500, except as provided in section 356 of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees, as defined herein, shall contain the following:

(1) A provision specifying the minimum monetary wages to be paid the various classes of service employees in the performance of the contract or any subcontract thereunder, as determined by the Secretary, or his authorized representative, in accordance with prevailing rates for such employees in the locality, which in no case shall be lower than the minimum specified in subsection (b) of this section.

(2) A provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality. Such fringe benefits shall include medical or hospital care, pensions, on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this subparagraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary.

(3) A provision that no part of the services covered by this chapter will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services.

(4) A provision that on the date a service employee commences work on a contract to which this chapter applies, the contractor or subcontractor will deliver to the employee a notice of the compensation required under paragraphs (1) and (2) of this subsection, on a form prepared by the Federal agency, or will post a notice of the required compensation in a prominent place at the worksite.

(b) (1) No contractor who enters into any contract with the Federal Government the principal purpose of which is to furnish services through the

use of service employees as defined herein and no subcontractor thereunder shall pay any of his employees engaged in performing work on such contracts less than the minimum wage specified under section 206(a) (1) of Title 29.

(2) The provisions of sections 352–354 of this title shall be applicable to violations of this subsection. (Pub. L. 89–286, § 2, Oct. 22, 1965, 79 Stat. 1034.)

### **§ 352. Violations.**

#### **(a) Liability of responsible party; withholding payments due on contract; payment of underpaid employees from withheld payments.**

Any violation of any of the contract stipulations required by section 351(a) (1) or (2) or of section 351(b) of this title shall render the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of such contract. So much of the accrued payment due on the contract or any other contract between the same contractor and the Federal Government may be withheld as is necessary to pay such employees. Such withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the head of the Federal agency or the Secretary has found to be due pursuant to this chapter shall be paid directly to the underpaid employees from any accrued payments withheld under this chapter.

#### **(b) Enforcement of section.**

In accordance with regulations prescribed pursuant to section 353 of this title, the Federal agency head or the Secretary is hereby authorized to carry out the provisions of this section.

#### **(c) Cancellation of contract; contracts for completion of original contract; liability of original contractor for additional cost.**

In addition, when a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency. Whereupon, the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor. (Pub. L. 89–286, § 3, Oct. 22, 1965, 79 Stat. 1035.)

### **§ 353. Law governing Secretary's authority; limitations and regulations allowing variations, tolerances and exemptions.**

(a) Sections 38 and 39 of this title shall govern the Secretary's authority to enforce this chapter, make rules, regulations, issue orders, hold hearings, and make decisions based upon findings of fact, and take other appropriate action hereunder.

(b) The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this chapter as he may find necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business. (Pub. L. 89–286, § 4, Oct. 22, 1965, 79 Stat. 1035.)

**§ 354. List of violators; prohibition of contract award to firms appearing on list; actions to recover underpayments; payment of sums recovered.**

(a) The Comptroller General is directed to distribute a list to all agencies of the Government giving the names of persons or firms that the Federal agencies or the Secretary have found to have violated this chapter. Unless the Secretary otherwise recommends, no contract of the United States shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest until three years have elapsed from the date of publication of the list containing the name of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to this chapter, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on order of the Secretary, directly to the underpaid employee or employees. Any sum not paid to an employee because of inability to do so within three years shall be covered into the Treasury of the United States as miscellaneous receipts. (Pub. L. 89-286, § 5, Oct. 22, 1965, 79 Stat. 1035.)

**§ 355. Exclusion of fringe benefit payments in determining overtime pay.**

In determining any overtime pay to which such service employees are entitled under any Federal law, the regular or basic hourly rate of pay of such an employee shall not include any fringe benefit payments computed hereunder which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 207(d) of Title 29. (Pub. L. 89-286, § 6, Oct. 22, 1965, 79 Stat. 1035.)

**§ 356. Exemptions.**

This chapter shall not apply to—

- (1) any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works;
- (2) any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act;
- (3) any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect;
- (4) any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;
- (5) any contract for public utility services, including electric light and power, water, steam, and gas;
- (6) any employment contract providing for direct services to a Federal agency by an individual or individuals; and

(7) any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations.  
(Pub. L. 89-286, § 7, Oct. 22, 1965, 79 Stat. 1035.)

**§ 357. Definitions.**

For the purpose of this chapter—

(a) “Secretary” means Secretary of Labor.

(b) The term “service employee” means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(c) The term “compensation” means any of the payments or fringe benefits described in section 351 of this title.

(d) The term “United States” when used in a geographical sense shall include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, but shall not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country. (Pub. L. 89-286, § 8, Oct. 22, 1965, 79 Stat. 1036.)

**TITLE 42, U.S. CODE—THE PUBLIC HEALTH AND WELFARE**

\* \* \* \* \*

**GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH**

**§ 1891. Authorization to make grants.**

The head of each agency of the Federal Government, authorized to enter into contracts for basic scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, is authorized, where it is deemed to be in furtherance of the objectives of the agency, to make grants to such institutions or organizations for the support of such basic scientific research. (Pub. L. 85-934, § 1, Sept. 6, 1958, 72 Stat. 1793.)

**§ 1892. Same; title to equipment.**

Authority to make grants or contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, where it is deemed to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as the agency deems appropriate, title to equipment purchased with such grant or contract funds. (Pub. L. 85-934, § 2, Sept. 6, 1958, 72 Stat. 1793.)

**§ 1893. Annual report to Congress; contents.**

Each agency or department of the Federal Government exercising authority granted by this chapter shall make an annual report on or before June 30th of each year to the appropriate committees of both Houses of Congress. Such report shall set forth therein, for the preceding year, the number of grants made pursuant to the authority provided in section 1891 of this title, the dollar amount of such grants, and the institutions in which title to equipment was vested pursuant to section 1892 of this title. (Pub. L. 85-934, § 3, Sept. 6, 1958, 72 Stat. 1793.)

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**NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

**§ 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin.**

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Pub. L. 88-352, title VI, § 601, July 2, 1964, 78 Stat. 252.)

**§ 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to congressional committees; effective date of administrative action.**

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report. (Pub. L. 88-352, title VI, § 602, July 2, 1964, 78 Stat. 252.)

**§ 2000d-2. Judicial review; Administrative Procedure Act.**

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 1009 of Title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section. (Pub. L. 88-352, title VI, § 603, July 2, 1964, 78 Stat. 253.)

## Appendix

42 U.S.C.—PUBLIC HEALTH AND WELFARE—SEC. 2712 2009

### § 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment.

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment. (Pub. L. 88-352, title VI, § 604, July 2, 1964, 78 Stat. 253.)

### § 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty.

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty. (Pub. L. 88-352, title VI, § 605, July 2, 1964, 78 Stat. 253.)

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## JOB CORPS

### § 2711. Statement of purpose.

This part establishes a Job Corps for low-income, disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and/or nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling, and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. Its purpose is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies. (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 672.)

#### EXPLANATORY NOTE

Original Act. The Job Corps program 10 of the Economic Opportunity Act of originally was authorized by Sections 101- 1964, Pub. L. 88-452, 78 Stat. 508.

### § 2712. Establishment of Job Corps.

There is hereby established within the Office of Economic Opportunity a "Job Corps". (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

**§ 2713. Individuals eligible for the Job Corps.**

To become an enrollee in the Job Corps, a young man or woman must be a person who—

(1) is a permanent resident of the United States who has attained age fourteen but not attained age twenty-two at the time of enrollment;

(2) is a low-income individual or member of a low-income family who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular schoolwork, qualify for other training programs suitable to his needs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair his prospects for successful participation in any other program providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 2714 and 2715 of this title, to have the present capabilities and aspirations needed to complete and secure the full benefit of the program authorized in this part, and to be free of medical and behavioral problems so serious that he could not or would not be able to adjust to the standards of conduct and discipline or pattern of work and training which that program involves; and

(5) meets such other standards for enrollment as the Director may prescribe (including special standards for the enrollment on a residential basis of 14 and 15 year olds) and agrees to comply with all applicable Job Corps rules and regulations.

(As amended Pub. L. 89-253, §§ 2, 3, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-794, title I, §§ 101, 102, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

**§ 2714. Screening and selection of applicants; general provisions.**

(a) The Director shall prescribe necessary rules for the screening and selection of applicants for enrollment in the Job Corps. To the extent practicable, these rules shall be implemented through arrangements which make use of agencies and organizations such as community action agencies, public employment offices, professional groups, and labor organizations. The rules shall establish specific standards and procedures for conducting screening and selection activities; shall encourage recruitment through agencies and individuals having contact with youths over substantial periods of time and able, accordingly, to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. They shall also provide for—

(1) the interviewing of each applicant for the purpose of—

(A) determining whether his educational and vocational needs can best be met through the Job Corps or any alternative program in his home community;

(B) obtaining from the applicant pertinent data relating to his background, needs, and interests for evaluation in determining his eligibility and potential assignment; and

(C) giving the applicant a full understanding of the Job Corps program and making clear what will be expected of him as an enrollee in the event of his acceptance.

(2) the conduct of a careful and systematic inquiry concerning the applicant's background for the effective development and, as appropriate, clarification of information concerning his age, citizenship, school and draft status, health, employability, past behavior, family income, environment, and other matters related to a determination of his eligibility.

(b) The Director shall make no payments to any individual or organization solely as compensation for the service of referring the names of candidates for enrollment in the Job Corps.

(c) The Director shall take all necessary steps to assure that the enrollment of the Job Corps includes an appropriate number of candidates selected from rural areas, taking into account the proportion of eligible youth who reside in rural areas and the need to provide residential facilities for such youth in order to meet problems of wide geographic dispersion. (As amended Pub. L. 89-253, §§ 4, 5, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-794, title I, §§ 103-108, Nov. 8, 1966, 80 Stat. 1452, 1453; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

**§ 2715. Reasonable likelihood of successful participation by enrollees; probation and parole.**

(a) No individual shall be selected as an enrollee unless it is determined that there is reasonable expectation that he can participate successfully in group situations and activities with other enrollees, that he is not likely to engage in actions or behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between any center to which he might be assigned and surrounding communities, and that he manifests a basic understanding of both the rules to which he will be subject and of the consequences of failure to observe those rules. Before selecting an individual who has a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other major behavioral aberrations, the Director shall obtain a finding from a professionally qualified person who knows such potential enrollee's individual situation that there is reasonable expectation that his conduct will not be inimical to the goals and success of the Job Corps and that the opportunity provided by the Job Corps will help him to overcome his problem.

(b) An individual who otherwise qualifies for enrollment may be selected even though he is on probation or parole, but only if his release from the immediate supervision of the cognizant probation or parole officials is mutually satisfactory to those officials and the Director and does not violate applicable laws or regulations, and if the Director has arranged to provide all supervision

of the individual and all reports to State or other authorities that may be necessary to comply with applicable probation or parole requirements. (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 674.)

**§ 2716. Enrollment and assignment.**

**(a) Length of enrollment.**

No individual may be enrolled in the Job Corps for more than two years, except as the Director may authorize in special cases.

**(b) Military service.**

Enrollment in the Job Corps shall not relieve any individual of obligations under the Universal Military Training and Service Act.

**(c) Oath or affirmation.**

Each enrollee (other than a native and citizen of Cuba described in section 2949(3) of this title or a permanent resident of the Trust Territory of the Pacific Islands) must take and subscribe to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies foreign and domestic." The provisions of section 1001 of Title 18 shall be applicable to this oath or affirmation.

**(d) Assignment to particular centers; limitations.**

After the Director has determined whether an enrollee is to be assigned to a men's training center, a conservation center, or a women's training center, the center to which he shall be assigned shall be that center of the appropriate type in which a vacancy exists which is closest to the enrollee's home, except that the Director, on an individual basis, may waive this requirement when overriding considerations justify such action. Assignments to centers in areas more remote from the enrollee's home shall be carefully limited to situations in which such action is necessary in order to insure an equitable opportunity for disadvantaged youth from various sections of the country to participate in the program, to prevent undue delays in the assignment of individual enrollees, to provide an assignment which adequately meets the educational or other needs of the enrollee or is necessary for efficiency and economy in the operation of the program.

**(e) Assignment to conservation centers.**

Assignments of male enrollees shall be made so that, at any one time, at least 40 per centum of those enrollees are assigned to conservation centers, as described in section 2717 of this title, or to other centers or projects where their work activity is primarily directed to the conservation, development, or management of public natural resources or recreational areas and is performed under the direction of personnel of agencies regularly responsible for those functions. (As amended Pub. L. 89-253, § 6, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-554,

§ 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90-222, title I, § 101, Dec 23, 1967, 81 Stat. 674.)

**§ 2717. Job Corps Centers; Civilian Conservation Centers; training centers; education and vocational training.**

(a) The Director may make agreements with Federal, State, or local agencies, or private organizations for the establishment and operation of Job Corps centers. These centers may be residential and/or nonresidential in character and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include conservation centers, to be known as Civilian Conservation Centers, to be located primarily in rural areas and to provide, in addition to other training and assistance, programs of work experience focused upon activities to conserve, develop, or manage public natural resources or public recreational areas or to assist in developing community projects in the public interest. They shall also include men's and women's training centers to be located in either urban or rural areas and to provide activities which shall include training and other services appropriate for enrollees who can be expected to participate successfully in training for specific types of skilled or semiskilled employment.

(b) To the extent feasible, men's and women's training centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in programs described in part B of this subchapter. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Director may specify. (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 675.)

**§ 2718. Program activities.**

**(a) Requisite features of Job Corps Center activities.**

Each Job Corps center shall be operated so as to provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned avocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program for each enrollee shall include activities designed to assist him in choosing realistic career goals, coping with problems he may encounter in his home community or in adjusting to a new community, and planning and managing his daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance support and related work activity as appropriate to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

**(b) Use of local educational and technical facilities and agencies.**

To the extent practicable, the Director may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes where these institutions

or institutes can provide training comparable in cost and substantially equivalent in quality to that which he could provide through other means.

**(c) High school equivalency certificates; certificates of completion of Job Corps services.**

Arrangements for education shall, to the extent feasible, provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school; and the Director, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to enrollees who have satisfactorily completed their services in the Job Corps and which will reflect the enrollee's level of educational attainment.

**(d) Displacement of presently employed workers.**

The Director shall prescribe regulations to assure that Job Corp work-experience programs or activities do not displace presently employed workers or impair existing contracts for service and will be coordinated with other work-experience programs in the community. (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 676.)

**§ 2719. Allowance and support of enrollees.**

**(a) Personal allowances.**

The Director may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed \$35 per month during the first six months of an enrollee's participation in the program and not to exceed \$50 per month thereafter, except that allowances in excess of \$35 per month, but not exceeding \$50 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration, and the Director is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

**(b) Accrual of leave.**

The Director shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months service in the Job Corps.

**(c) Readjustment allowance upon termination.**

The Director may provide each former enrollee, upon termination, a readjustment allowance at a rate not to exceed \$50 for each month of satisfactory

participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Director. The Director may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowance as the Director deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of Title 5.

**(d) Direct payment of readjustment allowance to dependents.**

Under such circumstances as the Director may determine, a portion of the readjustment allowance of an enrollee not exceeding \$25 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Director. (As amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 676.)

**§ 2720. Standards of conduct; discipline.**

(a) Within Job Corps centers, standards of conduct and deportment shall be provided and stringently enforced. In the case of violations committed by enrollees, dismissals from the Corps or transfers to other locations shall be made in every instance where it is determined that retention in the Corps, or in the particular Job Corps center, will jeopardize the enforcement of such standards of conduct and deportment or diminish the opportunity of other enrollees.

(b) In order to promote the proper moral and disciplinary conditions in the Job Corps, the individual directors of Job Corps centers shall be given full authority to take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal procedures to higher authority, as provided under regulations set by the Director. (As amended Pub. L. 89-253, § 7, Oct. 9, 1965, 79 Stat. 974; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 677.)

**§ 2721. Community participation.**

The Director shall encourage and shall cooperate in activities designed to establish a mutually beneficial relationship between Job Corps centers and surrounding or nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Whenever possible, such advisory councils shall be formed by and coordinated under the local community action agency. Youth participation in advisory council affairs shall be encouraged and where feasible separate youth councils may be established, to be composed of representative enrollees and representative young

people from the communities. The Director shall establish necessary rules and take necessary action to assure that each center is operated in a manner consistent with this section with a view to achieving, so far as possible, objectives which shall include: (1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community; (2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees; (3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community; (4) encouraging the fullest practicable participation of enrollees in programs or projects for community improvement or betterment, with adequate advance consultation with business, labor, professional, and other interested community groups and organizations; (5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together; (6) providing community residents with opportunities to work with enrollees directly, as part-time instructors, tutors, or advisers, either in the center or in the community; (7) developing, where feasible, job or career opportunities for enrollees in the community; and (8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions and agencies serving young people. (Pub. L. 88-452, title I, § 111, as added Pub. L. 89-794, title I, § 110, Nov. 8, 1966, 80 Stat. 1453, and amended Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 677.)

**§ 2722. Experimental and demonstration projects; report to Congress by March 1, 1968.**

EXPLANATORY NOTE

**Section Omitted.** Section, Pub. L. 88-452, title I, § 111-1, as added Pub. L. 89-794, title I, § 111, Nov. 8, 1966, 80 Stat. 1454, provided for experimental and demonstration projects and required the Director to

report to Congress no later than March 1, 1968, and was omitted in the general reorganization of this subchapter by Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 672.

**§ 2723. Counseling and job placement.**

**(a) Counseling and testing.**

The Director shall provide for the counseling and testing of each enrollee at regular intervals to follow his progress in educational and vocational programs.

**(b) Job placement.**

The Director shall counsel and test each enrollee prior to his scheduled termination to determine his capabilities and shall seek to place him in a job in the vocation for which he is trained and in which he is likely to succeed, or shall assist him in attaining further training or education. In placing enrollees in jobs, the Director shall utilize the United States Employment Service to the fullest extent possible.

**(c) Further education of trainees.**

The Secretary of Labor shall make arrangements to determine the status and progress of trainees and to assure that their needs for further education, training, and counseling may be met.

**(d) Training data and records.**

Upon termination of an enrollee's training, a copy of his pertinent records, including data derived from his counseling and testing, other than confidential information, shall be made available immediately to the Department of Labor and the Office of Economic Opportunity.

**(e) Payment of readjustment allowance; records of performance of former enrollees.**

The Director shall, to the extent feasible in accordance with section 2979(b) of this title, arrange for the readjustment allowance provided for in section 2719(c) of this title, less any sums already paid pursuant to subsection (d) of that section, to be paid to former enrollees (who have not already found employment) at the public employment service office nearest the home of any such former enrollee, if he is returning to his home, or at the nearest such office to the community in which the former enrollee has indicated an intent to reside. The Secretary of Labor shall make arrangements by which public employment service officers will maintain records regarding former enrollees who are thus paid at such offices including information as to

- (1) the number of former enrollees who have declined the offices' help in finding a job;
- (2) the number who were successfully placed in jobs without further education or training;
- (3) the number who were found to require further training before being placed in jobs and the types of training programs in which they participated; and
- (4) the number who were found to require further remedial or basic education in order to qualify for training programs, together with information as to the types of programs for which such former enrollees were found unqualified for enrollment.

If the Director deems it advisable to utilize the services of any other public or private organization or agency in lieu of the public employment office, he shall arrange for that organization or agency to make the payment of the readjustment allowance and maintain the same types of records regarding former enrollees as are herein specified for maintenance by public employment service offices, and shall furnish copies of such records to the Secretary of Labor. In the case of enrollees who are placed in jobs by the Director prior to the termination of their participation in the Job Corps, the Director shall maintain records providing pertinent placement and follow-up information. (Pub. L. 88-452, title I, § 112, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 678.)

**§ 2724. Evaluations; experimental and development projects.****(a) Reports and summaries.**

The Director shall provide for the careful and systematic evaluation of the Job Corps program, directly or by contracting for independent evaluations, with a view to measuring specific benefits, so far as practicable, and providing information needed to assess the effectiveness of program procedures, policies, and methods of operation. In particular, this evaluation shall seek to determine the costs and benefits resulting from the use of residential as opposed to nonresidential facilities, from the use of facilities combining residential and nonresidential components, from the use of centers with large as opposed to small enrollments, and from the use of different types of program sponsors, including public agencies, institutions of higher education, boards of education, and private corporations. The evaluation shall also include comparisons with proper control groups composed of persons who have not participated in the program. In carrying out such evaluations, the Director shall arrange for obtaining the opinions of participants about the strengths and weaknesses of the program and shall consult with other agencies and officials in order to compare the relative effectiveness of Job Corps techniques with those used in other programs, and shall endeavor to secure, through employers, schools, or other Government and private agencies specific information concerning the residence of former enrollees, their employment status, compensation, and success in adjusting to community life. He shall also secure, to the extent feasible, similar information directly from enrollees at appropriate intervals following their completion of the Job Corps program. The results of such evaluation shall be published and shall be summarized in the report required by section 2948 of this title.

**(b) Better use of facilities; greater cost effectiveness.**

The Director may undertake or make grants or contracts for experimental, research, or demonstration projects directed to developing or testing ways of securing the better use of facilities, of encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in the period of their enrollment, of reducing transportation and support costs, or of otherwise promoting greater efficiency and effectiveness in the program authorized under this part. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Director may, if he deems it advisable, undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors, as described in part B of this subchapter, in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, including programs under part B of this subchapter, and funds otherwise available for ac-

tivities under those programs shall, with the consent of the head of any agency concerned, be available to projects under this section to the extent they include the same or substantially similar activities. The Director may waive any provision of this title which he finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. He shall either in the report required by section 2948 of this title or a separate annual document, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(c) **Use of existing educational and training facilities; model community vocational education schools and skill centers.**

In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum utilization of existing educational and training facilities, the Director, in cooperation with the Commissioner of Education, shall enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers. Such facilities shall be centrally located in an urban area having a high dropout rate, a large number of unemployed youths, and a need in the area for a combination vocational school and skill center. No such agreement shall be entered into unless it contains provisions designed to assure that—

- (1) a job survey be made of the area;
- (2) the training program of the school and skill center reflect the job market needs as projected by the survey;
- (3) an advisory committee composed of representatives of business, labor, education, and community leaders be formed to follow the center's activities and to make periodic recommendations regarding its operation;
- (4) arrangements have been worked out with schools in the area and the administrator of the skill center for maximum utilization of the center both during and after school hours; and
- (5) such accounting and evaluation procedures as the Director and the Commissioner of Education deem necessary to carry out the purpose of this project will be provided.

(Pub. L. 88-452, title I, § 113, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 679.)

**§ 2725. Advisory boards and committees.**

The Director shall make use of advisory committees or boards in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever he determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities. Nothing in this section shall be considered as limiting the

functions of the National Advisory Council, established pursuant to section 2945 of this title, with respect to any matter or question involving the Job Corps; but this shall not prevent the establishment through or in cooperation with the National Advisory Council of one or more boards or committees under this section. (Pub. L. 88-452, title I, § 114, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 680.)

#### § 2726. Participation of States.

(a) The Director shall take necessary action to facilitate the effective participation of States in the Job Corps program, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Director may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Director may, pursuant to regulations, pay part or all of the operative or administrative costs of such programs.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this chapter shall be established within a State unless a plan setting forth such proposed establishment has been submitted to the Governor, and such plan has not been disapproved by him within 30 days of such submission. (Pub. L. 88-452, title I, § 115, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 680.)

#### § 2727. Application of provisions of Federal law.

(a) Except as otherwise specifically provided in the following paragraphs of this subsection and in section 8143(a) of Title 5, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) Repealed. Pub. L. 90-623, § 5(a)(2), Oct. 22, 1968, 82 Stat. 1315.

(3) For purposes of the Federal tort claims provisions in Title 28, enrollees shall be considered employees of the Government.

(b) When the Director finds a claim for damage to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of Title 28, he may adjust and settle it in an amount not exceeding \$500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Director for the support of the Corps shall not be counted in computing strength under any law limiting the

strength of such services or in computing the percentage authorized by law for any grade therein. (Pub. L. 88-452, title I, § 116, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 681, and amended Pub. L. 90-623, § 5(a), Oct. 22, 1968, 82 Stat. 1315.)

### § 2728. Special limitations.

#### (a) Limitation on residential capacity of Job Corps centers.

The Director shall not use any funds made available to carry out this part for the fiscal year ending June 30, 1968, in a manner that will increase the residential capacity of Job Corps centers above forty-five thousand enrollees.

#### (b) Requisite percentage of women enrollees.

The Director shall take necessary action to assure that on or before June 30, 1968, of the total number of Job Corps enrollees receiving training, at least 25 per centum shall be women. The Director shall immediately take steps to achieve an enrollment ratio of 50 per centum women enrollees in training in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

#### (c) Maximum direct operating costs per enrollee.

The Director shall take necessary action to assure that for any fiscal year the direct operating costs of Job Corps centers which have been in operation for more than nine months do not exceed \$6,900 per enrollee.

#### (d) United States property rights in data and materials developed with Federal funds.

The Director shall take necessary action to assure that all studies, evaluations, and data produced or developed with Federal funds in the course of the operation of any conservation or training center shall become the property of the United States. (Pub. L. 88-452, title I, § 117, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 682.)

### § 2729. Political discrimination and political activity.

#### (a) Affiliation or beliefs.

No officer or employee of the executive branch of the Federal Government shall make any inquiry concerning the political affiliation or beliefs of any enrollee or applicant for enrollment in the Corps. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any enrollee in the Corps, or any applicant for enrollment in the Corps, because of his political affiliation or beliefs, except as may be specifically authorized or required by law.

**(b) Participation in political management or campaigns.**

No officer, employee, or enrollee of the Corps shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute, and no such officer, employee, or enrollee shall use his official position or influence for the purpose of interfering with an election or affecting the result thereof. All such persons shall retain the right to vote as they may choose and to express, in their private capacities, their opinions on all political subjects and candidates. Any officer, employee, enrollee, or Federal employee who solicits funds for political purposes from members of the Corps shall be in violation of the Federal Corrupt Practices Act, 1925.

**(c) Certification of violations.**

Whenever the United States Civil Service Commission finds that any person has violated the foregoing provisions, it shall, after giving due notice and opportunity for explanation to the officer or employee or enrollee concerned, certify the facts to the Director with specific instructions as to discipline or dismissal or other corrective actions. (Pub. L. 88-452, title I, § 118, as added Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 682.)

## TITLE 43, U.S. CODE—PUBLIC LANDS

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## HOMESTEAD LAWS

## GENERAL PROVISIONS

**§ 161. Who may enter unappropriated public lands generally.**

Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one-quarter section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the 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. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres. (R. S. § 2289; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097.)

**§ 162. Application for entry; affidavit.**

Any person applying to enter land under section 161 of this title shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the officer designated by the Secretary of the Interior on payment of \$5 when the entry is of not more than eighty acres, and on payment of \$10 when the entry is for more than eighty acres, he or she shall thereupon be

permitted to enter the amount of land specified. (R. S. § 2290; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

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#### § 164. Certificate or patent generally; general requisites to issuance.

No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit and makes affidavit that no part of such land has been alienated, except as provided in section 174 of this title, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided further*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry and until final proof, except that in the case of entries under section 218(f) of this title, double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *And provided further*, That the above provision as to cultivation shall not apply to entries under section 224 of this title, commonly known as the Kinkaid Act, or entries under sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title, commonly known as the reclamation law, and that the pro-

visions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required. (R. S. § 2291; June 6, 1912, ch. 153, 37 Stat. 123.)

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**§ 169. Failure to establish residence; reversion to Government.**

If, at any time after the filing of the affidavit as required in section 162 of this title and before the expiration of the three years mentioned in section 164 of this title, it is proved, after due notice to the settler, to the satisfaction of the Secretary of the Interior or such officer as he may designate that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then, and in that event, the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Secretary of the Interior or such officer as he may designate may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe. (R. S. § 2297; Mar. 3, 1881, ch. 153, 21 Stat. 511; June 6, 1912, ch. 153, 37 Stat. 124; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

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**§ 174. Right to transfer claim.**

Any bona fide settler under the preemption, the homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right-of-way of railroads, telegraph, telephones, canals, reservoirs, or ditches, for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim. (R. S. § 2288; Mar. 3, 1891, ch. 561, §§ 3, 4, 26 Stat. 1097; Mar. 3, 1905, ch. 1424, 33 Stat. 991.)

**§ 175. Exemption from execution of homestead land.**

No lands acquired under the provisions of the homestead laws and laws supplemental and amendatory thereof shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor. (R. S. § 2296; Apr. 28, 1922, ch. 155, 42 Stat. 502.)

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**§ 179. Free homesteads to settlers; commutation rights; payments to Indians.**

All settlers under the homestead laws of the United States upon the agricultural public lands, which were prior to May 17, 1900, opened to settlement, acquired prior to May 17, 1900, by treaty or agreement from the various Indian tribes,

who have resided or shall reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices fixed by existing laws on May 17, 1900, shall remain in full force and effect: *Provided, however*, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe, by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments provided for agricultural colleges and experimental stations by sections 321–326 and 328 of Title 7, for the more complete endowment and support of the colleges for the benefit of agricultural and mechanic arts, established under sections 301–305, 307, and 308 of Title 7, such deficiency shall be paid by the United States: *And provided further*, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government. (May 17, 1900, ch. 479, § 1, 31 Stat. 179.)

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#### RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

##### § 182. Entry after forfeiture of prior entry without fault.

Any person otherwise duly qualified to make entry or entries of public lands under the homestead or desert-land laws, who has prior to September 5, 1914, made or may thereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may lose, forfeit, or abandon same, shall be entitled to the benefit of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided*, That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries. (Sept. 5, 1914, ch. 294, 38 Stat. 712.)

##### § 183. Minor veterans; serving in Military Establishment; relinquishment of entries.

No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either Regular or Volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

Any person, under the age of twenty-one, who has served or shall hereafter serve in the Army of the United States during the emergency contemplated

by the act of August 31, 1918, shall be entitled to the same rights under the homestead and other land and mineral entry laws, general or special, as those over twenty-one years of age now possess under said laws: *Provided*, That any requirements as to establishment of residence within a limited time shall be suspended as to entry by such person until six months after his discharge from military service: *And provided further*, That applications for entry may be verified before any officer in the United States, or any foreign country, authorized to administer oaths by the laws of the State or Territory in which the land may be situated.

No relinquishment of any public-land entry made under and by authority of the preceding paragraph shall be valid or effective for any purpose unless executed after the entryman shall have actually resided upon and cultivated the land, in the case of a homestead entry, for at least six months, and in the case of an entry made under other than the homestead laws, after the entryman shall have complied with the provisions of the applicable law for at least one year.

Any person, firm, or corporation soliciting or dealing with the relinquishment of such claim or entry prior to the completion of compliance with the applicable law and with this section, and who or which solicits, demands, or receives, or accepts any fee or compensation for locating, filing, or securing the claims or entries for persons entitled to the benefits of said paragraph shall, upon conviction, be fined not to exceed \$1,000 or imprisoned for not exceeding two years, or both. (R. S. § 2300; Aug. 31, 1918, ch. 166, § 8, 40 Stat. 957; Sept. 13, 1918, ch. 173, 40 Stat. 960.)

#### **§ 184. No distinction on account of race or color.**

No distinction shall be made in the construction or execution of sections 161–164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title, on account of race or color. (R. S. § 2302.)

#### **§ 185. Preference right of entry of successful contestants.**

In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preemption, homestead or timber culture entry, he shall be notified by the officer designated by the Secretary of the Interior of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States, may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this section that contestant would have been if his death had not occurred. (May 14, 1880, ch. 89, § 2, 21 Stat. 141; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; July 26, 1892, ch. 251, 27 Stat. 270; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**§ 186. Preference right of entry of veterans; rules and regulations.**

For the period of ten years following February 14, 1930, on the opening of public or Indian lands to entry, or the restoration to entry of public lands theretofore withdrawn from entry, such opening or restoration shall, in the order therefor, provide for a period of not less than ninety days before the general opening of such lands to disposal in which officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in any war, military occupation, or military expedition and been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve shall have a preferred right of entry under the homestead or desert-land laws, if qualified thereunder, except as against prior existing valid settlement rights and as against preference rights conferred by existing laws or equitable claims subject to allowance and confirmation: *Provided*, That for the purposes of this resolution the war with Spain shall be considered to include the period from April 21, 1898, to July 4, 1902: *Provided further*, That the same preference rights are extended to apply to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies shall be similar to the service with the Army of the United States for which recognition is granted in this joint resolution: *Provided further*, That the rights and benefits conferred by this joint resolution shall not extend to any person who, having been drafted for service under the provisions of the Selective Service Act, shall have refused to render such service or to wear the uniform of such service of the United States.

The Secretary of the Interior is authorized to make any and all regulations necessary to carry into full force and effect the provisions of this section. (Feb. 14, 1920, ch. 76, §§ 1, 2, 41 Stat. 434, 435; Jan. 21, 1922, ch. 32, §§ 1, 2, 42 Stat. 358; Dec. 28, 1922, ch. 19, 42 Stat. 1067; June 12, 1930, ch. 471, 46 Stat. 580.)

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**LANDS SUBJECT TO ENTRY****§ 201. Mineral lands.**

Mineral lands shall not be liable to entry and settlement under the provisions of sections 161–164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title. (R.S. § 2302.)

**§ 202. Relinquished entries.**

When a homestead claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Secretary of the Interior or such officer as he may designate. (May 14, 1880, ch. 89, § 1, 21 Stat. 140; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; Mar. 3, 1893, ch. 208, 27 Stat.

593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

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### LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

#### § 211. Limitation of amount of homestead entry.

Except as otherwise provided, no person shall be permitted to acquire title to more than one-quarter section under the provisions of sections 161-164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title. (R.S. § 2298.)

#### § 212. Limitation of aggregate amount of entries.

No person who shall enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, except as otherwise provided, under all of said laws, but this limitation shall not operate to curtail the right of any person who has before August 30, 1890, made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by Act of August 30, 1890 (chapter 837, 26 Statutes 391).

The above provisions of this section shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws. (Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

#### § 213. Additional entry on land contiguous to former entry of less than quarter section.

Any homestead settler who has heretofore entered, or may hereafter enter, less than one-quarter section of land, may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres.

Before a patent may issue on the additional entry, the entryman must show that he has cultivated an amount equal to one-eighth of the area of the additional entry for at least one year after the additional entry and until the submission of final proof thereon. The cultivation required with respect to the additional entry may be performed on the original entry, the additional entry or on both, but where it is performed on the original entry, it must be in addition to that required and relied upon in making final proof on the original entry. No proof of residence shall be required with respect to the additional entry.

The additional entry may be made before or after final proof has been made on the original entry. Final proof for the additional entry may be submitted only at the time of final proof for the original entry, or subsequent thereto, but must be submitted within five years after the additional entry is made.

This section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the original entry. If the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled. (Apr. 28, 1904, ch. 1776, §§ 2, 3, 33 Stat. 527; Aug. 3, 1950, ch. 521, 64 Stat. 398.)

**§ 214. Additional entry; after final proof on entry of less than quarter section.**

Every person entitled, under the provisions of the homestead laws, to enter a homestead, who has prior to March 2, 1889, complied with or who shall thereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided*, That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered and otherwise fully complied with such laws: *Provided also*, That this section shall not be construed as affecting any rights as to location of soldiers' certificates issued, prior to March 2, 1889, under section 274 of this title. (Mar. 2, 1889, ch. 381, § 6, 25 Stat. 854; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**§ 215. Additional entry after patent on entry for less than quarter section.**

Any person otherwise qualified who has obtained title under the homestead laws to less than one quarter section of land may make entry and obtain title under the provisions for enlarged homesteads, for such an area of public land as will, when one-half of such area is added to the area of the lands to which he has already obtained title, not exceed one quarter section: *Provided*, That this section shall not be construed to apply to soldiers' additional homestead entries made under section 274 of this title, or Acts amendatory thereof or supplemental thereto. (Feb. 20, 1917, ch. 98, 39 Stat. 925.)

**§ 216. Validation of additional entry after patent.**

All homestead entries pending on March 4, 1921, made in good faith prior to January 1, 1916, under the provisions of the enlarged homestead laws, and all rights to enter land under said laws, based on settlement made thereon in good faith before said date, and while the land was unsurveyed, by persons who, before making such enlarged homestead entry, had acquired title to land under the homestead laws, and therefore were not qualified to make an enlarged homestead entry, or such settlement, are validated, if in all other respects regular, in all cases where the original homestead entry was for less than one hundred and sixty acres of land: *Provided*, That no settlement claim shall be validated where

adverse claim for the land has been initiated before March 4, 1921. (Mar. 4, 1921, ch. 162, § 1, 41 Stat. 1433.)

**§ 217. Additional entry after commutation of former entry.**

Any person who has, prior to June 5, 1900, made entry under the homestead laws and commuted same under provisions of section 173 of this title, shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of said section, shall not be allowed of an entry made under this section. (June 5, 1900, ch. 716, § 2, 31 Stat. 269.)

**§ 218. Enlarged entries of certain nonmineral, nonirrigable lands in certain States.**

**(a) Lands which may be entered; by whom.**

Any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivisions, under the provisions of this section, in the States of Arizona, California, Colorado, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, three hundred and twenty acres, or less, of nonmineral, nonirrigable, unreserved, and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body, and not over one and one-half miles in extreme length: *Provided*, That no lands shall be subject to entry under the provisions of this section until such lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation at a reasonable cost from any known source of water supply.

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**LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE  
OR NONCULTIVATION**

**§ 231. Optional leaves of absence; proof of commutation.**

The entryman mentioned in section 164 of this title upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods, not exceeding in the aggregate five months in each year after establishing residence: *Provided*, That the officer designated by the Secretary of the Interior of the local land office under rules and regulations made by the Secretary of the Interior or such officer as he may designate may, upon proper showing, upon application of the homesteader, and only for climatic conditions, which makes residence on the homestead for seven months in each year a hardship, reduce the term of residence to not more than six months in each year, over a period of four years, or to not more than five months each year over a period of five years, but the total residence required shall in no event exceed twenty-five months, not less than five of which shall be in each year; proof to be made within five years after entry; and upon the termination of such absence, in each period, the entryman shall file a notice of

such termination in the local land office; but in case of commutation the fourteen months' actual residence, as now required by law, must be shown, and the person commuting be at the time a citizen of the United States. (Aug. 22, 1914, ch. 270, 38 Stat. 704; Feb. 25, 1919, ch. 21, 40 Stat. 1153; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### § 232. Settlers on unsurveyed land.

Any qualified person who has prior to July 3, 1916, or shall thereafter in good faith make settlement upon and improve unsurveyed unreserved unappropriated public lands of the United States with intention, upon survey, of entering same under the homestead laws shall be entitled to a leave of absence in one or two periods not exceeding in the aggregate five months in each year after establishment of residence: *Provided*, That he shall have plainly marked on the ground the exterior boundaries of the lands claimed and have filed in the local land office notice of the approximate location of the lands settled upon and claimed, of the period of intended absence, and that he shall upon the termination of the absence and his return to the land file notice thereof in the local land office. (July 3, 1916, ch. 214, 39 Stat. 341.)

#### § 233. Persons receiving vocational rehabilitation or treatment for wounds.

Every person who, after discharge from the military or naval service of the United States during the war against Germany and its allies, is furnished any treatment by the Government for wounds received or disability incurred in line of duty, and who before entering upon such treatment, shall have made entry upon or application for public lands of the United States under the homestead laws, or who has settled or shall hereafter settle upon public lands, shall be entitled to a leave of absence from his land for the purpose of undergoing such treatment, and such absence, while actually engaged in such training shall be counted as constructive residence: *Provided*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year. (Sept. 29, 1919, ch. 64, 41 Stat. 288; Apr. 6, 1922, ch. 122, § 2, 42 Stat. 491.)

#### § 234. Destruction or failure of crops, sickness, or unavoidable casualty.

Whenever it shall be made to appear to the officer designated by the Secretary of the Interior of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such officer may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law: *Provided further*, That if any such settler

has, prior to December 29, 1894, forfeited his or her entry for any of said reasons, such person shall be permitted to make entry of not to exceed a quarter section on any public land subject to entry under the homestead law, and to perfect title to the same under the same conditions in every respect as if he had not made the former entry. (Mar. 2, 1889, ch. 381, § 3, 25 Stat. 854; Dec. 29, 1894, ch. 14, 28 Stat. 599; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**§ 235. Destruction or injury to crops by grasshoppers.**

It shall be lawful for homestead and preemption settlers on the public lands, and in all cases where preemptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Secretary of the Interior or such officer as he may designate shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred. (July 1, 1879, ch. 63, § 1, 21 Stat. 48; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

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**§ 238. Residence and cultivation, etc., by disabled veterans excused.**

Any bona fide settler, applicant, or entryman under the homestead laws of the United States, or any desert-land entryman whose entry is subject to the provisions of sections 372, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 476, 491, and 498 of this title, who, after settlement, application, or entry, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to the service is unable to return to the land, may make final proof, without further residence, improvement, cultivation, or reclamation, at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or settled upon, subject to the provisions of the Act or Acts under which such settlement or entry was made: *Provided*, That no such patent shall issue prior to the conformation of the entry to a single farm unit, as required by section 443 of this title: *And provided further*, That this section shall not be construed to exempt or relieve such applicant or entryman from payment of any lawful fees, commissions, purchase moneys, water charges, or other sums due to the United States, or its successors in control of the reclamation project, in connection with such lands. (Mar. 1, 1921, ch. 102, § 1, 41 Stat. 1202; Apr. 7, 1922, ch. 125, 42 Stat. 492.)

**§ 239. Service in Army or Navy, etc., as equivalent to residence.**

Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army

or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service. (R.S. § 2308.)

**§ 240. Service in time of war as equivalent to residence and cultivation.**

In every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or during any other war in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and after June 16, 1898, no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases thereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: *Provided*, That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

The above provisions of this section shall be applicable in all cases of military service rendered in connection with operations in Mexico, or along the borders thereof, or in mobilization camps elsewhere, whether such service be in the military or naval organization of the United States or the National Guard of the several States now or hereafter in the service of the United States. (June 16, 1898, ch. 458, 30 Stat. 473; Aug. 29, 1916, ch. 420, 39 Stat. 671.)

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**FINAL PROOF GENERALLY**

**§ 251. Notice of intention to make final proof.**

Before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for preemption or homestead entries, such person shall file with the officer designated by the Secretary of the Interior of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the wit-

nesses by whom the necessary facts will be established. Upon the filing of such notice, the officer shall publish a notice, that such application has been made once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days, the claimant shall be entitled to make proof in the manner provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions. (Mar. 3, 1879, ch. 192, 20 Stat. 472; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

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### SOLDIERS' AND SAILORS' HOMESTEAD

#### § 271. Soldiers and sailors entitled to make entry generally.

Every private soldier and officer who served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February 13, 1862, and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, and every private soldier and officer who served in the Army of the United States during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged; and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged, shall, on compliance with the provisions of sections 161-164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277 and 278 of this title, as herein-after modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement. (R.S. § 2304; Mar. 1, 1901, ch. 674, 31 Stat. 847.)

#### § 272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans.

The time which the homestead settler has served in the Army, Navy, or Marine Corps of the United States shall be deducted from the time otherwise required to perfect title, or if discharged on account of wounds received or dis-

ability incurred in the line of duty, or if regularly discharged from service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time so required to perfect title without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements: *Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue. (R.S. § 2305; Mar. 1, 1901, ch. 674, 31 Stat. 847; Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

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### § 273. Veterans receiving compensation for wounds or disability.

The provisions of section 272 of this title, so far as applicable to those discharged from the military or naval service because of wounds received or disability incurred therein, are extended to those regularly discharged from such service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty. (Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

### § 274. Additional entry by veteran.

Every person entitled, under the provisions of section 271 of this title to enter a homestead who may have, prior to June 22, 1874, entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be per-

mitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres. (R.S. § 2306.)

**§ 275. Additional entries invalid; commutation.**

Where soldier's additional homestead entries have been made or initiated upon certificate of the Secretary of the Interior or such officer as he may designate of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate. (Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**§ 276. Additional homestead certificates; sale.**

All soldiers' additional homestead certificates issued prior to August 18, 1894, under the rules and regulations of the General Land Office under section 274 of this title, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March 10, 1877, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office shall be, and are declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been, prior to August 18, 1894, or may thereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries prior to August 18, 1894, or thereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees. (Aug. 18, 1894, ch. 301, § 1, 28 Stat. 397.)

**§ 277. Entry by agent.**

Every soldier, sailor, marine, officer, or other person coming within the provisions of section 271 of this title, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in preemption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law. (R.S. § 2309.)

**§ 278. Right of widow of veteran to make entry; rights of children on her death.**

In the case of the death of any person who would be entitled to a homestead under the provisions of sections 271 and 272 of this title, his widow, if unmarried and otherwise qualified, may make entry of public lands under the provisions of the homestead laws of the United States and shall be entitled to all the benefits enumerated in said sections subject to the provisions and requirements as to settlement, residence, and improvement therein contained: *Provided*,

That in the event of the death of such homestead entrywoman prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law. (R. S. § 2307; Feb. 25, 1919, ch. 37, 40 Stat. 1161; Sept. 21, 1922, ch. 357, 42 Stat. 990.)

**§ 279. Preference right of entry of World War II and Korean conflict veterans.**

Any person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged from the military or naval forces and who makes homestead entry subsequent to such discharge shall have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Credit shall be allowed for two years' service to any person who has served in the military or naval forces of the United States during the above period (1) if such person is discharged on account of wounds received or disability incurred during the above period in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability. When the homestead entry is made by a husband or wife whose spouse is entitled to any service credit under this section, such credit shall, with the consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled under this section. No patent shall issue to any such person who has not resided upon his homestead and otherwise complied with the provisions of the homestead laws for a period of at least one year: *Provided*, That such compliance shall include bona fide cultivation of at least one-eighth of the area entered under the homestead laws: *Provided further*, That no person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged shall be disqualified from making homestead entry or from any other benefits of sections 279–284 of this title merely by reason of not having reached the age of twenty-one years. (Sept. 27, 1944, ch. 421, § 1, 58 Stat. 747; June 25, 1946, ch. 474, 60 Stat. 308; May 31, 1947, ch. 88, § 1, 61 Stat. 123; June 18, 1954, ch. 306, § 1 (a), (b), 68 Stat. 253.)

**§ 280. Same; dependents' rights.**

The surviving spouse or the minor children, as hereinafter provided, shall be entitled (1) in case of the death of any person as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States during the period specified in section 279 of this title, to credit for two years' residence and cultivation on a homestead entry,

or (2) in the case of the death of any person after performing service that would be a basis for credit under section 279 of this title, to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor children by a guardian duly appointed and officially accredited at the Department of the Interior. An entry made by such surviving spouse or guardian shall be subject to the provisions contained in section 279 of this title respecting compliance with the provisions of the homestead laws for a period of at least one year. (Sept. 27, 1944, ch. 421, § 2, 58 Stat. 748; May 31, 1947, ch. 88, § 2, 61 Stat. 123).

**§ 281. Same; death as affecting minor children's patent rights.**

Where a person entitled to the benefits of section 279 or 280 of this title makes homestead entry and dies before completing title, leaving a minor orphan child, or minor orphan children, patent shall issue to such minor or minors upon proof showing such facts, without any proof as to compliance with the law in the matter of residence, cultivation, or improvements. (Sept. 27, 1944, ch. 421, § 3, 58 Stat. 748.)

**§ 282. Same; rights on revocation of withdrawal order.**

For the period of fifteen years following September 27, 1944, on the revocation of any order of withdrawal or the filing of a plat of survey or resurvey opening lands to entry, the order or notice taking such action shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, in which persons of the classes entitled to credit for service, under the provisions of sections 279–282 of this title, shall have a preferred right of application under the homestead or desert land laws, or section 682a of this title, subject to the requirements of applicable law, except as against the prior existing valid settlement rights and preference rights conferred by existing laws or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by section 682a of this title. During the same period if the Secretary of the Interior shall, without a prior petition therefor, classify any land as being suitable for disposition under section 682a of this title, the order of classification shall provide a similar preference right of application under section 682a of this title, subject to the exceptions contained in this section. (Sept. 27, 1944, ch. 421, § 4, 58 Stat. 748; May 31, 1947, ch. 88, § 3, 61 Stat. 124; June 18, 1954, ch. 306, § 1(c), 68 Stat. 254.)

**§ 283. Same; rules and regulations.**

The Secretary of the Interior is authorized to make such rules and regulations as may be necessary to carry the provisions of sections 279–283 of this title into full force and effect. (Sept. 27, 1944, ch. 421, § 6, formerly § 5, 58 Stat. 748, renumbered June 3, 1948, ch. 399, 62 Stat. 305.)

**§ 284. Same; definitions.**

As used in sections 279–283 of this title, the term “homestead” includes land hereafter disposed of under section 461 of Title 48: *Provided*, That nothing in this section shall be construed to extend any cultivation requirements to lands disposed of under section 461 of Title 48. As used in sections 279–283 of this title, the words “equitable claims subject to allowance and confirmation” include claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands. (Sept. 27, 1944, ch. 421, § 5, as added June 3, 1948, ch. 399, 62 Stat. 305.)

\* \* \* \* \*

## TITLE 50, APPENDIX, U.S. CODE—WAR AND NATIONAL DEFENSE

\* \* \* \* \*

## DISPOSAL OF SURPLUS POWER TRANSMISSION LINES

## § 1622. Disposal to local governments and nonprofit institutions.

\* \* \* \* \*

## (d) Power transmission lines.

Whenever any State or political subdivision thereof, or any State or Government agency or instrumentality certifies to the Administrator of General Services that any power transmission line determined to be surplus property under the provisions of this Act [former sections 1611–1614, 1615–1622, 1623–1632 and 1633–1646 of this Appendix] is needful for or adaptable to the requirements of any public or cooperative power project, such line and the right-of-way acquired for its construction shall not be sold, leased for more than one year, or otherwise disposed of, except as provided in section 12 [former section 1621 of this Appendix] or this section, unless specifically authorized by Act of Congress.

## EXPLANATORY NOTE

**Origin and Cross Reference.** This provision was contained in section 13 of the Surplus Property Act of 1944, 58 Stat. 770. For later general provisions dealing with the disposition of surplus property see the Fed-

eral Property and Administrative Services Act of 1949, extracts from which appear herein in chronological order under date of June 30, 1949.

## INDEX

### A

ABERNATHY, L. M. 1007

#### ACCOUNTING AND AUDITING

Federal agencies, generally 1949, 1953, 1959, 1990  
Power. *See* POWER.

#### ACCOUNTING AND AUDITING ACT OF 1950

Extracts from 1953

ACCRETION 43

ACEQUIA MADRE 114, 127

#### ACQUIRED LANDS

*See also* ACQUISITION OF PROPERTY.

As a "reservation" 30  
Sale of surplus acquired lands 162, 658

#### ACQUISITION OF PROPERTY

*See also* individual projects by name.

Arizona and New Mexico public lands 142

##### Donation

Bonneville Power Administration 569

Central Valley project 586

Columbia Basin project 734

Fish and wildlife purposes 510, 839

Fort Peck project transmission facilities 605

Generally 327

Middle Rio Grande project 902

Exchange. *See* CONSTRUCTION; OPERATION AND MAINTENANCE.

##### Federal agencies, generally

Condemnation proceedings 1974

Constitutional provisions 5

Inter-agency transactions. *See* FEDERAL AGENCIES.

Title, examination of 1972

Indian lands. *See* INDIAN LANDS.

Inverse condemnation 6, 75, 967

Leaseholds 74

Movable property. *See* MOVABLE PROPERTY ACT.

Moving expenses, payment of. *See* MOVING EXPENSES.

National Parks, lands in. *See* NATIONAL PARKS.

Purchase of land for resale to settlers

Middle Rio Grande project 902

## ACQUISITION OF PROPERTY—Continued

- Reclamation projects, generally
  - Editor's note, annotations 71
  - Express statutory authorization 71, 660
  - Repayment contracts as a prerequisite. *See* REPAYMENT CONTRACTS.
  - Title, examination of 419, 735
- Relocation. *See* CONSTRUCTION; OPERATION AND MAINTENANCE.
- Rights of way and easements. *See* RIGHTS OF WAY AND EASEMENTS.
- Supplies and services. *See* SUPPLIES AND SERVICES.
- Transfer to United States as security for loans
  - Distribution system loans 1218
- Transmission lines. *See* POWER.
- Withdrawal of lands. *See* RECLAMATION WITHDRAWALS.

## ACREAGE LIMITATIONS

- Carey Act 25
- Desert Land Act 12
- Homestead Act 2023
- Indian lands. *See* statutes relating to individual tribes by name.
- Reclamation projects. *See* EXCESS LANDS; FARM UNITS. *See also* individual projects by name.
- Sales of property
  - Small tracts. *See* SMALL TRACTS ACT.
  - Surplus acquired lands 163
  - Surplus improved withdrawn lands 255
  - Town sites. *See* TOWN SITES. *See also* individual town sites by name.
- Water Conservation and Utilization Act 673

ADAMS, ALVA B., TUNNEL 795

ADAMS COUNTY, Nebraska 35

## ADMINISTRATIVE EXPENSES ACT OF 1946

- Statutory references to 1281, 1470, 1534

## ADMINISTRATIVE PROCEDURE ACT

- Statutory references to 1418
- Text 1928

ADMINISTRATOR OF GENERAL SERVICES. *See* GENERAL SERVICES ADMINISTRATION.

ADVANCEMENT IRRIGATION DISTRICT 1080

## ADVANCE PAYMENTS

- By United States
  - General provisions relating to 970, 1962, 2000
  - Rehabilitation and betterment work 970
  - Road maintenance 658, 661
  - Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
- Contributed funds
  - Appropriation of 291
  - For construction 34, 291, 313, 353, 355, 539, 649, 1162, 1530
  - For fish and wildlife purposes 839
  - For investigations 36, 291, 315, 496, 1894
  - For land classification studies 642
  - Parker Dam 539

## ADVANCE PAYMENTS—Continued

- Operation and maintenance charges
  - Acceptance of, where land title disputed 67
  - Appropriation of 236, 353, 398, 1021
  - Overpayments, application or refund of 191, 259, 1021, 1025
  - Payment date fixed by Secretary 193
  - Required for individual projects 334, 336, 337, 338, 339, 351, 354, 392
  - Required, generally 325, 377, 639, 672
  - Reserved works 405

ADVANCES. *See* ADVANCE PAYMENTS; RECLAMATION FUND.

ADVICE. *See* SETTLER ASSISTANCE.

AGATE DAM AND RESERVOIR 1185, 1689

## AGRICULTURAL ACT OF 1949

- Statutory references to 1251, 1267, 1355, 1415, 1526, 1660, 1662, 1776, 1844, 1884, 1900

## AGRICULTURAL ADJUSTMENT ACT OF 1938

- Statutory references to 1251, 1267, 1355, 1415, 1526, 1660, 1662, 1776, 1844, 1885, 1900

## AGRICULTURE, DEPARTMENT OF

- Completion of land development and settlement work
  - Angostura unit 973
  - Eden project 954
- Conservation of fish and wildlife by, authorized 509
- Consultation with Chief of Engineers on forest and other conservation measures at Army reservoirs 1553
- Conveyance of Farson Pilot Farm on Eden Valley project to State of Wyoming 1653, 1911
- Exchange of lands on Eden project authorized 1136
- Flood control, authority to study, explained 545
- Joint studies with Secretary of the Army of watershed areas for flood control and water conservation 1684
- Loans to homestead and reclamation entrymen authorized 981
- Loans to settlers by Farm Security Administration 666
- National forests. *See* NATIONAL FORESTS.
- National recreation areas, administration of
  - Shasta and Clair Engle-Lewiston units 1863
- Participation in W.C.U. projects 668
- Reconveyance of Carey Act lands to United States for Eden project 714
- Secretary of, a member of Water Resources Council 1829
- Soil and moisture conservation
  - Programs authorized 517, 798
  - Studies and reports. *See* STUDIES AND REPORTS.
- Transfer of funds to, to construct water management and channel works in connection with Farwell unit, MRB 1326
- Transfer of lands from Bad Lands-Fall River land utilization project to Angostura unit, MRB 855
- Water Facilities Act program explained 621
- Water facilities loans and grants 1606
- Watershed protection
  - Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.

## AGRICULTURE, DEPARTMENT OF—Continued

## Watershed protection—Continued

Studies and reports. *See* STUDIES AND REPORTS.

Watershed improvement programs 798, 1170, 1171

Wilderness system. *See* WILDERNESS ACT.

AHTANUM CREEK 1889

AHTANUM UNIT, Yakima project 1889

AINSWORTH UNIT, MRB, Nebraska

Authorized 1186

Feasibility report approved 1267

ALABAMA, STATE OF

Executive Order No. 6964 and Taylor Grazing Act apply 516

Projects in. *See* individual dams and projects by name.

Southeastern Power Administration markets power from Army dams in 801

ALAMEDA COUNTY 979, 1454

ALAMITO CREEK 753

ALAMO CANAL 760, 1030

ALAMOGORDO DAM AND RESERVOIR 667, 1004, 1142, 1216, 1317

ALAMO RIVER 753

ALASKA, STATE OF

Disposition of proceeds from mineral leases in 249, 851

Framework plan by Army authorized 1922

Investigation and report on water resource projects authorized 1229

Investigations in 896, 1651

Location in, of field laboratory for water quality research 1282

Not a Reclamation state 33, 891

Projects in. *See* individual projects by name.

Small watersheds act applies to 1171

Treaty with Great Britain guarantees navigation 11

Wheeler-Howard Act extended to 863

ALBENI FALLS DAM 1579

ALCOVA DAM AND RESERVOIR 645, 658, 1389, 1445

ALCOVA IRRIGATION DISTRICT. *See* CASPER-ALCOVA IRRIGATION DISTRICT.

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT 1846

ALIENS 148, 230, 255

ALL-AMERICAN CANAL

Application and appropriation of payments received from Mexico 896

Appropriation act language 548, 854

Authorized 414, 423, 432

Coachella Valley, allocation of flood control costs to distribution system 548, 854

Land preparation 748

Liability for increased costs to complete construction of Coachella division 1055

Miscellaneous references to 440

- ALL-AMERICAN CANAL—Continued  
 Payment by Mexico of a portion of costs of 761  
 Reimbursability of investigation costs 254  
 Statutory references to 1473  
 Used for delivery of water to Mexico 760, 673  
 Veterans preference 435  
 Water salvage  
   Feasibility study authorized 1890  
   Feasibility study of East Mesa unit authorized 1893
- ALLEN CAMP UNIT, CVP 1890
- ALLOCATION OF COSTS. *See* COST ALLOCATION.
- ALMENA UNIT, MRB, Kansas  
 Road relocation for Norton Reservoir 1706
- ALPINE COUNTY 1319
- ALTUS CANAL 1007
- ALTUS PROJECT, Oklahoma. *See* LUGERT-ALTUS PROJECT.
- AMERICAN DIVERSION DAM  
 Additional appropriations for 543  
 Authorized 536
- AMERICAN FALLS DAM AND RESERVOIR 290, 310, 313, 1040, 1041, 1187, 1206, 1889
- AMERICAN FALLS RESERVOIR DISTRICT 313, 399, 1041
- AMERICAN FALLS RESERVOIR DISTRICT NUMBERED 2 1187
- AMERICAN FALLS, TOWN OF 290
- AMERICAN-MEXICAN CHAMIZAL ACT OF 1964  
 Miscellaneous references to 99, 775
- AMERICAN-MEXICAN TREATY ACT OF 1950  
 Text 1028
- AMERICAN REPUBLICS 687
- AMERICAN RIVER 978, 1887, 1889, 1890
- AMERICAN RIVER BASIN 978, 1893
- AMERICAN RIVER DIVISION, CVP 1847, 1889
- AMISTAD DAM  
 Authorized 1541  
 Location and construction of, explained 755  
 Marketing of power from, by Secretary of Interior 1736
- ANADROMOUS FISHERIES ACT  
 Text 1860
- ANCHORAGE, CITY OF 1010

- ANCHOR DAM 1328
- ANDERSON RANCH RESERVOIR 684, 827
- ANDRADE 1030
- ANDRADE, A. F. 211
- ANGOSTURA IRRIGATION DISTRICT 1654
- ANGOSTURA UNIT, MRB, South Dakota  
 Authorization explained 1654  
 Bankhead-Jones Farm Tenant Act extended to 1223  
 Completion of land development and settlement by Secretary of Agriculture au-  
 thorized 973  
 Temporary deferment of charges 1654  
 Transfer of lands to, from Bad Lands-Fall River land utilization project administered  
 by Agriculture 855
- ANIMAS-LA PLATA PROJECT, Colorado and New Mexico  
 Expeditious completion of planning report directed 1249
- ANNUAL RETURNS  
 Term defined 635
- ANTI-DEFICIENCY LAWS  
 References to. *See* REVISED STATUTES, Section 3679.  
 Text 1949, 1963
- ANTILON LAKE 1884
- ANTIOCH, California 1858
- ANTIQUITIES ACT  
 Miscellaneous references to 1534  
 Statutory references to 1780
- ANTISPECULATION. *See* EXCESS LANDS.
- ANTITRUST LAWS  
 Federal Power Commission license provisions 273  
 Miscellaneous references to 112
- ANZALDÚAS DAM 524, 1096
- APACHE TRAIL 1201
- APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965  
 Reorganization plan references to 1304
- APPLEGATE CREEK 1889
- APPLEGATE RESERVOIR 1703
- APPLEGATE VALLEY DIVISION, Rogue River Basin project 1889

## APPROPRIATIONS

## Availability of

(Editor's note: Questions involving the availability of appropriated funds for specific purposes, as distinguished from questions of the authorization to spend money for specific purposes, are not dealt with in this publication.)

Specific appropriations required	1963
Change from line-item to lump-sum basis	1027
Contract authority in excess of appropriations	659
Contracts contingent upon appropriations	659, 1012
Current provisions in appropriation acts	
Alaskan investigations	1651
Anzalduas Dam	1096
Archeological investigation and recovery	1055
Colorado River Storage project	1651
Construction and rehabilitation	1021
Damage claims	205
Earned but unpaid revenues shall not be obligated	897
Emergency repairs	1026
Forest or range fires	1026
General investigations	1020
Giving information and advice to settlers	484, 790
Interstate compact representatives	1022
Investigations requested by others	496
Loans beyond fiscal year contingent upon appropriations	1496
Non-availability of wheeling service as condition to construction of transmission lines (Keating Amendment)	1054
Operation and maintenance	790, 1021
Proviso regarding general administration, surveys, and general engineering and research	1023
Restriction on expenditure of appropriations for Colorado River Storage project to protect any national monument	1551
Restriction on transfer of funds of Southwestern Power Administration	1460
Restriction on use of funds for benefit of lands in arrears in payments	398, 1024
Return of expenditures for reimbursable functions	1023
San Luis interceptor drain	1858
Soil and moisture conservation	1021
Special funds	1022
Expenditures or obligations in excess of, prohibited	1949, 1963, 1989
Extracts from appropriation acts.	<i>See</i> Table of Contents.
Interchange of appropriations	210, 300, 1021
Permanent appropriations	
Advance payments on operation and maintenance charges.	<i>See</i> ADVANCE PAYMENTS.
Colorado River Storage project.	<i>See</i> UPPER COLORADO RIVER BASIN FUND.
Contributed funds.	<i>See</i> ADVANCE PAYMENTS.
Emergency work.	<i>See</i> EMERGENCY WORK.
To refund overcollections and to return excess deposits	1025
Reclamation fund, appropriations from.	<i>See</i> RECLAMATION FUND.
Requests for	1952
Secretary not required to spend	300

## AQUATIC PLANT CONTROL

Reimbursement and cost-sharing	1423
Secretary of the Army authorized to undertake	1423

- AQUEDUCT DIVISION, Provo River project 866
- ARAPAHOE INDIANS, Wyoming  
 Acquisition of lands of, for Boysen Unit, MRB 1109  
 Compensation for lands on Wind River Indian Reservation used for Riverton project 1125  
 Conveyance of Wind River Reservation land to United States 1328  
 Minerals in lands covered by Act of August 15, 1953, held in trust for Shoshone and Arapahoe tribes 1451
- ARBITRATION  
 Statutory provisions relating to individual projects  
 Boulder Canyon project 425, 702
- ARBUCKLE PROJECT, Oklahoma  
 Authorized 1676
- ARCHEOLOGY  
 Current appropriation act language 1055  
 Investigations and excavations  
 Authorized, generally 1533  
 Davis Dam project 716
- ARCH HURLEY CONSERVANCY DISTRICT 562, 596, 1113, 1224, 1444
- ARCHULETA MESA 1697
- AREAS OF ORIGIN. *See* POWER; WATER RIGHTS.
- ARIKAREE RIVER 741
- ARIZONA-CALIFORNIA BOUNDARY COMPACT  
 Consent to negotiate 1345  
 Text 1875
- ARIZONA-NEVADA BOUNDARY COMPACT  
 Text 1602
- ARIZONA POWER POOLING ASSOCIATION 650
- ARIZONA STATE EXPERIMENT FARM 598
- ARIZONA, STATE OF  
 Apportionment by Congress of Colorado River water among three lower basin States 420, 427  
 Compacts of. *See* ARIZONA-CALIFORNIA BOUNDARY COMPACT; ARIZONA-NEVADA BOUNDARY COMPACT; COLORADO RIVER COMPACT; UPPER COLORADO RIVER BASIN COMPACT.  
 Desert Land Act applies 13  
 Enabling Act  
 Extracts from 141  
 Irrigable lands reserved to United States 142  
 Power sites reserved to United States 142  
 School lands 143  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Opposition to Parker Dam 538  
 Projects in. *See* individual projects by name.  
 Quitclaim to, of United States interest in highway right-of-way designated as the Apache Trail 1201

- ARIZONA, STATE OF—Continued  
 Reclamation Act applies 31  
 School lands 42, 74, 143
- ARIZONA, UNIVERSITY OF 819
- ARKANSAS POWER AND LIGHT COMPANY 802
- ARKANSAS RIVER 806, 931, 1075, 1922  
*See also* ARKANSAS RIVER COMPACTS; FRYINGPAN-ARKANSAS PROJECT.
- ARKANSAS RIVER BASIN 832, 901, 1002, 1003, 1424, 1855, 1922
- ARKANSAS RIVER COMPACT ADMINISTRATION  
 Established 936  
 Statutory references to 1855
- ARKANSAS RIVER COMPACTS  
 Arkansas and Oklahoma  
 Consent to negotiate 1217  
 Colorado and Kansas  
 Consent to negotiate 815  
 Statutory references to 1230, 1673, 1855  
 Text 931  
 Kansas and Oklahoma  
 Consent to negotiate 1230  
 Text 1914
- ARKANSAS, STATE OF  
 Compacts of. *See* ARKANSAS RIVER COMPACTS; RED RIVER COMPACT.  
 Executive Order No. 6964 and Taylor Grazing Act apply 516  
 Included in marketing area of Southwestern Power Administration 974  
 Projects in. *See* individual dams and projects by name.  
 Reclamation investigations in 806
- ARMY, DEPARTMENT OF THE  
 Approval by, of structure on navigable waters required 27  
 Aquatic plant control program authorized 1423  
 Interest of local agencies in Army reservoirs 1722  
 Joint studies with Secretary of Agriculture of watershed areas for flood control and water conservation 1684  
 Jurisdiction over Red Willow Dam and Reservoir, Nebraska, transferred to Interior, and jurisdiction over Wilson Dam and Reservoir, Kansas, transferred to Army 1261  
 Missouri River Basin development  
 Authorized 806  
 Power facilities of, transfer to Interior 1053, 1054  
 Projects of. *See* COST ALLOCATION; EXCESS LANDS; FISH AND WILDLIFE; FLOOD CONTROL; FLOOD CONTROL ACTS; INTEREST; NAVIGATION; POWER; RECREATION; RIVER AND HARBOR ACTS; ROADS; WATER RIGHTS; WATER SERVICE; WATER SUPPLY.  
*See also* individual dams, rivers, and river basins by name.  
 Protection, reconstruction or relocation of structures or facilities of an agency of government authorized 1423  
 Provision of, and consultation with Secretary of Agriculture and State agencies on, forest and other conservation measures at Army reservoirs 1553  
 Public Buildings Act of 1959 not applicable to projects of 1494

## ARMY, DEPARTMENT OF THE—Continued

Reimbursement of construction charges when land acquired by. *See* FEDERAL AGENCIES.

Review of feasibility studies and reports by 150, 646, 797  
Secretary of, a member of Water Resources Council 1829  
Studies and reports. *See* STUDIES AND REPORTS.

ARNOLD IRRIGATION DISTRICT 856, 970, 976

## ARNOLD PROJECT, Oregon

Additional appropriations for 976, 1360  
Authorized 856  
Reclamation laws, application of. *See* CORDON AMENDMENT PROJECTS.

ARROW LAKES DAM, Canada 1561, 1594

ARROWROCK DAM AND RESERVOIR 657, 683, 833

ARROWROCK DIVISION, Boise project 358, 450, 683

ARROYO DEL VALLE 1332

ARTESIAN WELLS 35

ASHCROFT SITE ON CASTLE CREEK 1670

ASPEN SITE 1670

ASSESSMENTS. *See* IRRIGATION DISTRICTS.

ATCHISON, TOPEKA AND SANTA FE RAILWAY 216, 453

ATKINSON-KIER COMPANY 907

ATMOSPHERIC RESEARCH. *See* RESEARCH; WEATHER MODIFICATION.

## ATOMIC ENERGY ACT OF 1946

Miscellaneous references to 44  
Statutory references to 924

ATOMIC ENERGY COMMISSION 1274, 1685

## ATTORNEY GENERAL DECISIONS

<i>Date</i>	<i>Subject</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
May 1890.....	Effect of 1888 Act.....	19 Op. Atty. Gen. 564....	16
Dec. 1895.....	Rights of U.S. vs. Mexico in Rio Grande.	21 Op. Atty. Gen. 274....	117
Apr. 1897.....	Suit against dam on Rio Grande.	21 Op. Atty. Gen. 518....	98
Apr. 1905.....	Secretarial authority.....	F. Recl. L.....	89
Oct. 1906.....	Irrigation works.....	26 Op. Atty. Gen. 64....	52
Mar. 1908.....	<i>Orchard Const. Co.</i> .....	26 Op. Atty. Gen. 537....	54
May 1909.....	Water users assns.....	27 Op. Atty. Gen. 360....	52, 53, 58
Sept. 1909.....	Reclamation fund.....	27 Op. Atty. Gen. 591....	52, 53
July 1913.....	Utility Co. contract.....	30 Op. Atty. Gen. 197....	112
Do.....	O. & M. transfer.....	30 Op. Atty. Gen. 208....	70
July 1915.....	Timber from national forests....	30 Op. Atty. Gen. 398....	94, 168
Nov. 1916.....	National Forest withdrawn lands.	31 Op. Atty. Gen. 56.....	46
Sept. 1919.....	Warren Act proceeds.....	32 Op. Atty. Gen. 41.....	170

*See* footnote at end of table.

## ATTORNEY GENERAL DECISIONS—Continued

<i>Date</i>	<i>Subject</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Sept. 1925.....	Baker project.....	34 Op. Atty. Gen. 545....	52, 200, 300, 317, 351
Sept. 1926.....	do.....	17 N. Recl. Era 152.....	317
July 1926.....	do.....	35 Op. Atty. Gen. 125....	52, 300, 351
June 1929.....	Boulder Canyon project.....	36 Op. Atty. Gen. 72.....	422
Dec. 1929.....	Boulder Canyon project costs....	36 Op. Atty. Gen. 121....	418, 424
June 1930.....	Boulder Canyon project.....	36 Op. Atty. Gen. 270....	423, 430
Oct. 1935.....	Rocky Mountain National Park..	38 Op. Atty. Gen. 310....	203, 289
Jan. 1937.....	Surplus lands.....	38 Op. Atty. Gen. 549....	163, 256
July 1937.....	Feasibility finding.....	F. Recl. L.....	317
Sept. 1937.....	do.....	F. Recl. L.....	58, 317
June 1941.....	Presidential withdrawals.....	40 Op. Atty. Gen. 71.....	156
Aug. 1941.....	Soil conservation.....	Letter.....	520
July 1955.....	Preference clause, Clark Hill....	41 Op. Atty. Gen. 236....	572, 801, 802
Dec. 1958.....	Army projects, reclamation use..	41 Op. Atty. Gen. 377, 65 I.D. 549.	810
Dec. 1961.....	San Luis, Kings, excess lands....	68 I.D. 370.....	1525

<sup>1</sup> The citation "F. Recl. L." indicates that the source is a note in Volume I of *Federal Reclamation Laws, Annotated* (U.S. Department of the Interior 1958).

AUBURN DAM AND RESERVOIR 1847

AUBURN-FOLSOM SOUTH UNIT, CVP 1847

AUGUSTINE INDIAN RESERVATION 1457

AUSTIN, W. C., PROJECT, Oklahoma. *See* W. C. AUSTIN PROJECT.

AUSTRALIA 687

## AUTHORIZATION OF RECLAMATION PROJECTS

*See also* individual projects by name.

Administrative authorization by Secretary and/or President

Generally 35, 151, 316, 644, 797

Modification to include water supply storage 1427

On navigable waters 28, 538

Policy against projects with more than half of costs allocated to recreation and fish and wildlife enhancement 1826

Small reservoirs 582

Change in project plan. *See* CONSTRUCTION.

Reauthorization by Congress

Effect of 586, 728

AVALON DAM 393, 944

AVONDALE IRRIGATION DISTRICT 1615

AVONDALE PROJECT, Idaho

Additional work authorized 1615

Funds appropriated for rehabilitation 1114, 1142, 1551

Reclamation laws, application of. *See* CORDON AMENDMENT PROJECTS.

AVULSION 43, 775

AZALEA DIVISION, Umpqua River project 1892

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

267-975-72—vol. III—39

## B

- BAD LANDS-FALL RIVER LAND UTILIZATION PROJECT 855
- BAGBY DAM AND RESERVOIR 1546
- BAKER PROJECT, Oregon  
 Appropriations for 300  
 Authorization explained 1688  
 Repayment contract required 350  
 Upper Division  
 Authorized 1687
- BALLANTINE, TOWNSITE OF 1497
- BALMORHEA PROJECT, Texas  
 Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.  
 Miscellaneous references to 675, 1338
- BANKHEAD-JONES FARM TENANT ACT  
 Miscellaneous references to 520  
 Statutory references to 855, 981, 1120, 1223
- BANKS EQUALIZING RESERVOIR 1583
- BARANOF ISLAND 1892
- BASALT PROJECT, Colorado  
 Expedition of feasibility report required 1670
- BASIC MAGNESIUM PROJECT 897
- BASIC MANAGEMENT, INC. 1193, 1853, 1873
- BASIN ACCOUNTS. *See* BONNEVILLE POWER ADMINISTRATION; CENTRAL VALLEY PROJECT; COLORADO RIVER DAM FUND; COLORADO RIVER DEVELOPMENT FUND; COLUMBIA BASIN LAND DEVELOPMENT ACCOUNT; COLUMBIA RIVER POWER SYSTEM; MISSOURI RIVER BASIN PROJECT; UPPER COLORADO RIVER DEVELOPMENT FUND.
- BATTLEMENT MESA PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- BEAR LAKE 1398
- BEAR RIVER, California 979
- BEAR RIVER COMMISSION 1401
- BEAR RIVER COMPACT  
 Consent to negotiate 835  
 Text 1398
- BEAR RIVER PROJECT, Idaho-Utah  
 Completion of studies of first phase authorized 1887  
 Feasibility study authorized 1891
- BEAVER CREEK, Kansas-Nebraska 741, 1894

- BEAVER CREEK, Oklahoma 1737
- BEAVER CREEK, Utah-Wyoming 918
- BEAVER CREEK RESERVOIR, Montana 353
- BEAVER DAM, Arkansas 801
- BEAVERHEAD VALLEY 1351
- BELLE FOURCHE IRRIGATION DISTRICT 376, 984, 1129
- BELLE FOURCHE PROJECT, South Dakota  
 Amended contract approved 984  
 Certain administrative costs nonreimbursable 1129  
 Lands in townsite of Newell set apart for administrative purposes 228  
 Reduction and suspension of construction charges 357  
 Repayment contract required for drainage works 399
- BELLE FOURCHE RIVER COMPACT  
 Text 777
- BELTON RESERVOIR 832
- BENCH IRRIGATION DISTRICT 1080
- BIG BEND DAM 1425
- BIG BLUE RIVER 1892
- BIG BLUE RIVER COMPACT  
 Consent to negotiate 1532
- BIG CREEK, Kansas 1888
- BIG FLAT IRRIGATION DISTRICT 1746
- BIG FLAT UNIT, Missoula Valley project 1746
- BIG HOLE RIVER 1888
- BIGHORN CANYON NATIONAL RECREATION AREA  
 Authorized 1904
- BIG HORN DIVISION, MRB, Wyoming  
 Shoshone extension unit  
 Feasibility study authorized 1891
- BIGHORN RIVER 1063, 1893
- BIG JIMMY CREEK 1207
- BIG SPRING CREEK 1207
- BIG THOMPSON RIVER. *See* COLORADO-BIG THOMPSON PROJECT.
- BIG WOOD DIVISION, Upper Snake River project 1892
- BIG WOOD RIVER BASIN 1892

- BILLINGS PUMP UNIT, MRB 1892
- BIRCH CREEK 918
- BITTER ROOT IRRIGATION DISTRICT 475, 526, 926, 1129
- BITTER ROOT PROJECT, Montana  
 Amended contract approved; earlier acts for rehabilitation of project repealed 926  
 Certain administrative costs nonreimbursable 1129  
 Rehabilitation of, authorized 475, 526
- BLACK BUTTE RESERVOIR 809
- BLACK CANYON, Colorado River 414, 848
- BLACK CANYON DAM, Boise project 453
- BLACK CANYON IRRIGATION DISTRICT, Idaho 1189
- BLACK CANYON POWER PLANT, Boise project 352
- BLACK CANYON UNIT, Boise project 202
- BLACKFEET INDIANS  
 Compensation to John W. Wagner for lands on Blackfeet Reservation acquired by  
 Bureau of Reclamation 1016  
 Miscellaneous references to 635  
 Relief to Henkel for seepage damage to lands on Blackfeet Indian Reserva-  
 tion 1522  
 Relinquishment, in favor of Tribe, of lands acquired for reclamation purposes 588
- BLACK RIVER, Arizona 1890
- BLACK RIVER, Texas 392
- BLACK RIVER-SPRINGVILLE-SAINT JOHNS PROJECT, Arizona  
 Feasibility study authorized 1890
- BLACKWOOD CREEK 741
- BLAKELY MOUNTAIN DAM 801
- BLANCO RIVER 1660, 1662
- BLUE DIVISION, MRB, Nebraska  
 Feasibility studies of Little Blue and Sunbeam units authorized 1892
- BLUE RIVER, Colorado 1258
- BLUESTONE PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- BOARD OF SURVEY AND ADJUSTMENTS 357
- BOGA DAM AND RESERVOIR 712, 713
- BOISE AND ARROWROCK RAILROAD 657
- BOISE NATIONAL FOREST 1485

- BOISE PROJECT, Idaho-Oregon
- Allocation to, of power revenues from Minidoka project 352
  - Amended contract approved 1189
  - Drainage works 259, 300, 305, 312
  - Expenditures for extensions of project 242
  - Extension of Boise and Payette National Forests 1485
  - Miscellaneous references to 297
  - Power revenues, application of 453, 1189
  - Purchase of improvements on public lands for Anderson Ranch Reservoir 827
  - Relinquishment of certain Ridenbaugh or Nampa and Meridian irrigation district water rights 450
  - Repayment contract required 259
  - Repayment of costs of repair and enlargement of Arrowrock Dam 683
  - Reservation for park and community center 202
  - Reservation of storage capacity in Cascade Reservoir for other irrigation and power development 715
  - Sale of Boise and Arrowrock Railroad 657
  - Substitution of Anderson Ranch for Twin Springs Dam 684
  - Suspension of construction charges 358
- BOISE RIVER 684, 833, 1189
- BOISE RIVER BASIN 833
- BOKE, RICHARD L. 894
- BONDS
- Construction. *See* CONSTRUCTION.
  - Retirement of bonds issued by irrigation and other districts
    - Bitter Root Irrigation District 475, 526
    - Fort Sumner Irrigation District 963
    - Gila Valley Power District and Mohawk Municipal Water Conservation District 859
    - Kennewick Irrigation District 458
    - Maxwell Irrigation Company 1037, 1153
    - Middle Rio Grande Conservancy District 902
- BONNEVILLE BASIN, Utah 1893
- BONNEVILLE DAM 568, 1579
- BONNEVILLE POWER ADMINISTRATION
- Administrator designated chairman of United States Enty for Columbia River Treaty 1600
  - Allocation of interest on power sales from Grand Coulee Dam 856
  - Canadian entitlement power. *See* CANADIAN ENTITLEMENT EXCHANGE AGREEMENTS; COLUMBIA RIVER TREATY.
  - Columbia River Power System. *See* COLUMBIA RIVER POWER SYSTEM.
  - Designated as marketing agent for Grand Coulee Dam 539
  - Established 568
  - Hanford reactor and power exchange 1685
  - Intertie. *See* PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE.
  - Irrigation pumping power
    - See also* CHIEF JOSEPH DAM PROJECT; COLUMBIA RIVER POWER SYSTEM.
    - Oroville-Tonasket unit, Chief Joseph Dam project 1695
    - Western Division, The Dalles project 1554
  - Marketing area 1760

## BONNEVILLE POWER ADMINISTRATION—Continued

- Power revenues of, to pay certain irrigation costs.
  - See also* CHIEF JOSEPH DAM PROJECT; COLUMBIA RIVER POWER SYSTEM.
  - Avondale, Dalton Gardens and Rathdrum Prairie projects, Idaho 1615
  - Crooked River project (from The Dalles Dam) 1341
  - Lower Teton division, Teton Basin project (from Idaho projects) 1796
  - Mann Creek project (from Southern Idaho system) 1668
  - Manson unit, Chief Joseph Dam project 1884
  - Tualatin project 1899
  - Upper Division, Baker project (from McNary Dam) 1687
  - Western Division, The Dalles project 1554
- Purchase of power from Priest Rapids Dam 1155
- Rates and charges. *See* BONNEVILLE PROJECT ACT; COLUMBIA RIVER POWER SYSTEM.
- Regional preference 1760

## BONNEVILLE POWER ADVISORY BOARD 570

## BONNEVILLE PROJECT ACT

- Amendments of 1871
- Marketing of power from Army dams on Snake River 813
- Miscellaneous references to 1758
- Statutory references to 1155
- Text 568

## BOSTWICK DIVISION, MRB, Kansas

- Scandia unit
  - Feasibility study authorized 1893

## BOSTWICK PARK PROJECT, Colorado

- Authorized 1248, 1774

## BOULDER CANYON PROJECT, Arizona-California-Nevada

- Adjustments for costs of Boulder City 790
- All-American Canal. *See* ALL-AMERICAN CANAL.
- Annual justification to appropriations committees of allocation of expenditures between project and Federal activities at Boulder City required 895
- Appropriation act language 477, 895, 1021
- Appropriations for school, hospital, and recreation grounds in Boulder City 715
- Authorized 414
- Boulder Canyon Project Adjustment Act 697
- Boulder Dam renamed Hoover Dam 848
- Colorado River Dam Fund. *See* COLORADO RIVER DAM FUND.
- Colorado River Development Fund not a limit on investigation and construction of projects in Basin States 874
- Lease of reserved lands in Boulder City 685, 869
- Power revenues, application of 548, 619
- Recreational area
  - Appropriations to National Park Service for 549
  - National recreation area. *See* LAKE MEAD NATIONAL RECREATION AREA.
- Sale of houses in Boulder City 869
- School assistance 418, 497, 619, 868, 895
- Study of, authorized 253

## BOULDER CANYON PROJECT ACT

- Amendments of
  - Generally. *See* BOULDER CANYON PROJECT ADJUSTMENT ACT.
  - Section 9 821
- “Present perfected rights” 431, 445, 1853

## BOULDER CANYON PROJECT ACT—Continued

Statutory references to 538, 564, 599, 664, 685, 697, 791, 828, 848, 858, 861,  
1021, 1057, 1085, 1135, 1211, 1255, 1257, 1258, 1473, 1664, 1665, 1673,  
1674, 1769, 1852, 1853  
Text 414

## BOULDER CANYON PROJECT ADJUSTMENT ACT

Amendments of  
Requirement for annual report repealed 1200  
Section 2(d) 873  
Section 2(e) added 868  
Statutory references to 791, 861, 895, 1135, 1255, 1257, 1258, 1472, 1665,  
1673, 1674  
Text 697

BOULDER CITY 685, 715, 790, 825, 869, 895, 1472

## BOULDER CITY ACT OF 1958

Text 1472

## BOULDER CITY CEMETERY ACT

Text 825

BOULDER CITY MUNICIPAL FUND 1477

BOULDER CITY SCHOOL DISTRICT 619, 700, 868

BOULDER DAM 413, 414, 548, 694, 697

BOULDER POWER PLANT 702

BOUNDARY WATERS CANOE AREA 1783

BOUNDARY WATERS TREATY. *See* TREATIES AND CONVENTIONS.

BOWDOIN, TOWN SITE OF 391

BOX CANYON DAM 1579

BOYLE COMMISSION COMPANY 356

BOYSEN UNIT, MRB, Wyoming  
Acquisition of Indian lands authorized 1109

BRADLEY LAKE PROJECT, Alaska 1704

BRANTLEY PROJECT, New Mexico  
Feasibility study authorized 1891

BRAYS LANDING UNIT, Greater Wenatchee division 1415

BRAZOS RIVER BASIN 832

BRIDGE CANYON 424

BRIDGEPORT IRRIGATION DISTRICT 550, 726

## BRIDGES

- Across Colorado River near Glen Canyon Dam 1317
- Across Colorado River near Needles 1612
- Across Columbia River at Kettle Falls 665
- Damages to 209
- Use of Federal dams for public highways 1448

BRIGGS, ELVIE 1311

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY 1584, 1588, 1592, 1593

BROADWATER COUNTY 895, 1233

BROKEN BOW DAM 801

BROWNLEE DAM 1579

BRUNEAU DIVISION, Southwest Idaho Water Development project 1893

BUCHANAN DAM AND RESERVOIR 1702

BUDGETING AND ACCOUNTING ACT OF 1921  
 Statutory references to 1835

BUFFALO CREEK 741

## BUFFALO RAPIDS PROJECT, Montana

- Completion of construction authorized 972
- Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- Miscellaneous references to 317

BUFORD-TRENTON IRRIGATION DISTRICT 1349

## BUFORD-TRENTON PROJECT, North Dakota

- Acquisition of land of, for Garrison reservoir 1349
- Cancellation of charges and sale of property 389
- Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- Funds for emergency flood protection and minor completion work 1115

## BUILDING MATERIALS (earth, gravel, sand, stone, timber, etc.)

- Receipts from sales of 102
- Removal of, from reclamation project lands
  - Authorized, generally 46, 656
- Removal of, from public lands and national forests, generally
  - For construction of private canals and ditches 23
  - For construction of reclamation projects 94, 168
- Timber and Stone Act
  - Miscellaneous references to 42

BULL LAKE CREEK 680

BULL LAKE DAM AND RESERVOIR 680

BULLSHEAD DAM 716

BULLS SHOALS DAM 801

BULLY CREEK DAM AND RESERVOIR 1492

BULLY CREEK EXTENSION, Vale project 1492

- BUMPING LAKE ENLARGEMENT, Yakima project 1887
- BUMPING RIVER 1887
- BUREAU OF BIOLOGICAL SURVEY 509
- BUREAU OF FISHERIES 509, 602
- BUREAU OF MINES 845
- BUREAU OF RECLAMATION  
 Commissioner. *See* COMMISSIONER OF RECLAMATION.  
 Delegation. *See* DELEGATION OF AUTHORITY.  
 Foreign countries, authority to work in  
   Detail of J. L. Savage to governments of Australia and Punjab, India 687  
   Generally 89  
   Headquarters 325, 334  
   Organizational history 86  
   Powers of, vested in Secretary of the Interior 1005
- BURLEY IRRIGATION DISTRICT 352, 1655
- BURNT FORK 918
- BURNT RIVER, Oregon 1889
- BURNT RIVER PROJECT, Oregon  
 Dark Canyon division  
   Feasibility study authorized 1889
- BUTTE COUNTY 1033
- BUTTES RESERVOIR 1425
- BUTTE VALLEY 1366
- BUY AMERICAN ACT  
 Text 1987

## C

- CABALLO DAM AND RESERVOIR 99, 100, 536, 543, 564, 804, 902, 1667, 1805, 1891
- CABAZON INDIAN RESERVATION 1457
- CABEZA PRIETA GAME RANGE 1679
- CABINET GORGE 35
- CABINET GORGE DAM 1579
- CABRILLO LAND COMPANY 1315
- CACHE CREEK BASIN, California 1856
- CACHE NATIONAL FOREST 1720

- CACHUMA UNIT, Santa Barbara County project 659, 975  
*See also* SANTA BARBARA COUNTY WATER AGENCY.
- CADDOA RESERVOIR 1855
- CADDOA RESERVOIR PROJECT 932
- CALAVERAS COUNTY 1702
- CALAVERAS RIVER 810
- CALIXICO-MEXICALI SANITATION PROJECT  
 Authorization explained 1030
- CALIFORNIA AQUEDUCT 1530
- CALIFORNIA ELECTRIC POWER COMPANY 430
- CALIFORNIA LIMITATION ACT. *See* CALIFORNIA, STATE OF.
- CALIFORNIA OREGON POWER COMPANY 96, 97, 361, 1578
- CALIFORNIA PACIFIC UTILITIES COMPANY 430
- CALIFORNIA SLUCEWAY 415
- CALIFORNIA, STATE OF  
 Apportionment by Congress of Colorado River water among three lower basin States 420, 427  
 Compacts of. *See* ARIZONA-CALIFORNIA BOUNDARY COMPACT; COLORADO RIVER COMPACT; KLAMATH RIVER BASIN COMPACT; TRUCKEE, CARSON AND WALKER RIVERS AND LAKE TAHOE COMPACT.  
 Department of Water Resources 1454  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Lands ceded by, for Klamath project subject to reclamation laws 788  
 Legislation of, ceding lands exposed by lowering of Lower Klamath, Tule and Goose Lakes 95  
 Limitation Act  
   Described 421  
   Statutory references to 1057, 1212  
 Proceeds of public lands sales 32  
 Projects in. *See* individual dams and projects by name.  
 Quitclaim to, of lands of Goose Lake 723  
 Reclamation Act applies 31  
 School lands 44  
 State water plan 1524, 1530, 1850  
 Suit re ceded Klamath project lands authorized 307  
 Water Rights Board 586
- CALIFORNIA WATER RESOURCES DEVELOPMENT SYSTEM 1525
- CAMBRIDGE INDIAN IRRIGATION PROJECT 1664
- CAMELSBACK RESERVOIR 1425
- CAMERON COUNTY 1505
- CAMP CREEK 978

- CAMP PENDLETON 1158
- CAMPS, CONSTRUCTION. *See* CONSTRUCTION.
- CANADA  
Treaties and conventions with. *See* COLUMBIA RIVER TREATY; TREATIES AND CONVENTIONS.
- CANADIAN ENTITLEMENT EXCHANGE AGREEMENTS 662, 1589, 1598, 1764
- CANADIAN ENTITLEMENT PURCHASE AGREEMENT 1588, 1593
- CANADIAN RIVER, Oklahoma 1886
- CANADIAN RIVER COMMISSION  
Established 1077
- CANADIAN RIVER COMPACT  
Consent to negotiate 1001  
Statutory references to 1048  
Text 1075
- CANADIAN RIVER PROJECT, Texas  
Authorized 1048  
Creation of Alibates Flint Quarries, etc., National Monument 1846  
Lake impounded by Sanford Dam named Lake Meredith 1845  
Recreation development at Sanford Reservoir area authorized 1759
- CANAL ACT  
Payment of compensation for rights-of-way reserved under 1766  
Statutory references to 1418, 1497  
Text 17
- CANAL FLATS, Canada 1568
- CANALS AND DITCHES. *See* CLAIMS AGAINST UNITED STATES; INDIAN LANDS; NATIONAL PARKS; RIGHTS OF WAY AND EASEMENTS.
- CANNONBALL DIVISION, MRB, North Dakota  
Mott unit  
Feasibility study authorized 1891
- CANNONBALL RIVER 1891
- CANNON, CLARENCE, DAM 801
- CANTON PROJECT, Oklahoma  
Additional studies authorized 1886
- CANTON RESERVOIR 832, 901, 1002
- CANYON FERRY DAM AND RESERVOIR 895, 1233, 1763, 1888
- CANYON FERRY UNIT, MRB, Montana  
Excluded from Pacific Northwest Power Marketing Act 1763  
Maximum reservoir normal pool elevation limited until facilities provided to irrigate lands in Broadwater County 895

- CANYONLANDS NATIONAL PARK 1799
- CAREY ACT  
 Miscellaneous references to 55  
 Statutory references to 166, 242, 714  
 Text 25
- CARIBOU NATIONAL FOREST 1442
- CARLSBAD, CITY OF 1314
- CARLSBAD IRRIGATION DISTRICT 1314, 1392, 1800
- CARLSBAD PROJECT, New Mexico  
 Appropriations for public use facilities at Alamogordo Dam 1317  
 Authorization explained 667  
 Expenditures for increasing spillway of Alamogordo Dam made nonreimbursable  
 1142  
 Flood control included as a purpose of Alamogordo Dam 667  
 Reduction and suspension of construction charges 358  
 Relocation of Atchison, Topeka & Santa Fe Railway System tracks and right of way  
 453  
 Transfer of irrigation storage from Alamogordo Reservoir to Los Esteros Reservoir  
 1216
- CARLTON DIVISION, Willamette River project 1889
- CARPINTERIA COUNTY WATER DISTRICT 585
- CARR, JUDGE FRANCIS, POWERHOUSE 1765
- CARSON RIVER 453, 1232, 1319, 1890
- CASA GRANDE NATIONAL MONUMENT 288
- CASCADE RESERVOIR 715, 1486
- CASE AMENDMENT 1425
- CASES. *See* COURT DECISIONS.
- CASE-WHEELER ACT. *See* WATER CONSERVATION AND UTILIZATION ACT.
- CASITAS DAM AND RESERVOIR 1245
- CASPER-ALCOVA IRRIGATION DISTRICT 1389
- CASPER-ALCOVA PROJECT, Wyoming  
 Name changed from Kendrick Project 566  
 Study authorized 315  
 Water rights of Jackson County, Colorado, recognized 566
- CASTLE CREEK, Colorado 1670
- CATHERINE CREEK DAM AND RESERVOIR 1856
- CEDAR CITY 1768
- CEDAR RAPIDS DIVISION, MRB, Nebraska  
 Completion of studies authorized 1888

- CEDAR RIVER, Nebraska 1888  
 CENTER HILL DAM 801  
 CENTRAL ARIZONA PROJECT, Arizona  
     Miscellaneous references to 424  
 CENTRAL DIVISION, Deschutes project 1889  
 CENTRAL UTAH PROJECT, Utah  
     Initial phase authorized 1248  
     Ultimate phase  
         Feasibility study of Uintah unit authorized 1891  
 CENTRAL VALLEY 1758  
 CENTRAL VALLEY BASIN 1890  
 CENTRAL VALLEY PROJECT, California  
     Acquisition of Indian lands authorized 719  
     American River development  
         Authorized 978  
     Auburn-Folsom South unit, American River division  
         Authorized 1847  
     Authorization of, explained 584  
     Buchanan Dam and Reservoir  
         Irrigation repayment to be financially integrated into CVP 1702  
     Claims for levee damage from closing of outlet gates on Shasta Dam during May,  
         1948 1144  
     Conveyance of lands to Churntown Elementary School District 924  
     Cosumnes River division  
         Completion of studies of initial phase authorized 1887  
         Feasibility study of Fair Play unit authorized 1890  
     Delta division  
         Completion of studies of peripheral canal and Kellogg unit authorized 1887  
     Distribution systems authorized 711  
     Documents 584  
     East Side division  
         Additional capacity authorized in Folsom South Canal to provide for future  
             construction of East Side division 1848  
         Completion of studies of initial phase authorized 1887  
         Feasibility study for ultimate phase authorized 1890  
     Exchange of lands with Mary Saunders Moses 1617  
     Hidden Dam and Reservoir  
         Irrigation repayment to be financially integrated into CVP 1702  
     Intertie. *See* PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE.  
     Lands added to Shasta National Forest 865  
     Millerton Rancheria, use of 725  
     National recreation area. *See* WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREA-  
         TION AREA.  
     New Melones project  
         Made integral part of CVP 1701  
     Pit River division  
         Feasibility study of Allen Camp unit authorized 1890  
     Placerville Ridge unit, American River division  
         Feasibility study authorized 1889

- CENTRAL VALLEY PROJECT, California—Continued
- Pleasant Oaks unit, American River division
    - Feasibility study authorized 1889
  - Powerhouse on Clear Creek at head of Whiskeytown Reservoir named Judge Francis Carr Powerhouse 1765
  - Power revenues, application of 790
  - Reauthorizations, effect of 586
  - Relocation of highways, railroads and other properties 601
  - Sacramento River division
    - Completion of studies of West Sacramento canal unit authorized 1887
  - Sacramento Valley Canals
    - Authorized 1032
  - San Felipe division
    - Completion of studies authorized 1887
    - Study directed 1454, 1530
  - San Luis unit
    - Authorized 1524
    - Interceptor drain, appropriation act provisions 1858
  - Stanislaus River division
    - Feasibility study of Sonora-Keystone unit authorized 1890
  - Trinity River division
    - Authorized 1235
    - Increase in generating capacity 1273
    - Reservoir created by Trinity Dam named Clair Engle Lake 1817
    - Statutory references to 1529
  - Waterfowl management program
    - Authorized 1191
- CENTRAL VALLEY PROJECT DOCUMENTS 584
- CERRO CANAL 1725
- CERRO TRIBUTARY IRRIGATION UNIT 1660
- CHALLIS CREEK 1887
- CHALLIS PROJECT, Idaho
  - Completion of studies authorized 1887
- CHAMA RIVER. *See* SAN JUAN-CHAMA PROJECT.
- CHAMITA DAM 902
- CHAMIZAL 99, 775
- CHARGES. *See* FEES AND CHARGES; RECREATION; REIMBURSEMENTS AND COST SHARING.
- CHEHALIS RIVER PROJECT, Washington
  - Adna division
    - Feasibility study authorized 1892
- CHELAN DAM 1579
- CHELAN DIVISION, Chief Joseph Dam Project 1884, 1886
- CHEMEHUEVI INDIANS
  - Acquisition of lands of, for Parker Dam project 695
  - Miscellaneous references to 427
- CHENEY DIVISION, Wichita project 1557

- CHENEY RESERVOIR 1557
- CHICAGO & NORTH WESTERN RAILWAY 458
- CHICAGO, BURLINGTON & QUINCY RAILROAD 458
- CHICO CANAL 1032
- CHIEF JOSEPH DAM 1104, 1579
- CHIEF JOSEPH DAM PROJECT, Washington
- Foster Creek division
    - Authorized 1151
  - Greater Wenatchee division
    - Authorized 1415
  - Irrigation pumping power
    - Foster Creek division 1151
    - Greater Wenatchee division 1416
    - Spokane Valley project 1501, 1683
    - Whitestone Coulee unit 1803
  - Lake formed by Chief Joseph Dam named Rufus Woods Lake 1091
  - Manson unit, Chelan division
    - Additional studies authorized 1886
    - Authorized 1884
  - Okanogan unit, Okanogan-Similkameen division
    - Feasibility study authorized 1889
  - Oroville-Tonasket unit, Okanogan-Similkameen division
    - Authorized 1695
    - Feasibility study authorized 1893
  - Power revenues of, to pay certain irrigation costs
    - Foster Creek division 1151
    - Greater Wenatchee division 1416
    - Spokane Valley project 1501, 1683
    - Whitestone Coulee unit 1803
  - Study and report on irrigation assistance authorized 1104
  - Whitestone Coulee unit, Okanogan-Similkameen division
    - Authorized 1803
- CHIEF OF ENGINEERS. *See* ARMY, DEPARTMENT OF THE.
- CHIFLO DAM AND RESERVOIR 902
- CHIKASKIA PROJECT, Kansas-Oklahoma
- Completion of studies authorized 1888
- CHIKASKIA RIVER 1888
- CHINOOK DIVISION, Milk River project 363, 478
- CHOWCHILLA RIVER 1702
- CHURNTOWN ELEMENTARY SCHOOL DISTRICT 924
- CIBOLA VALLEY 35
- CIBOLO CREEK 1891

- CIBOLO PROJECT, Texas  
Feasibility study authorized 1891
- CIMARRON RIVER 1916
- CIMARRON RIVER BASIN 567
- CITIZENS UTILITIES COMPANY 430
- CIVILIAN CONSERVATION CORPS  
Established 560  
Statutory references to 669
- CIVIL RIGHTS ACT OF 1964  
Extracts from 2007
- CLAIMS AGAINST UNITED STATES  
Bonneville Power Administration, authority to settle 578  
Collection and settlement of  
Generally 1959  
Flood damage. *See* FLOOD CONTROL.  
For nontortious injury 205  
For taking of property  
Generally 5, 71  
Inverse condemnation 6, 75  
For tortious injury  
Federal Tort Claims Act 884  
Miscellaneous references 70  
Jurisdiction of district courts and Court of Claims 1950  
Seepage. *See* SEEPAGE.
- CLAIMS OF UNITED STATES  
Collection and settlement of  
Generally 1960, 1969
- CLARK CANYON DAM AND RESERVOIR 1351
- CLARK COUNTY, Nevada 825, 1193, 1472, 1851
- CLARK FORK RIVER 35
- CLARK HILL DAM 802
- CLARK HILL-GREENWOOD TRANSMISSION FACILITY 1114
- CLARKS FORK, Yellowstone River 1063
- CLEAN WATER RESTORATION ACT OF 1966  
Miscellaneous references to 1278, 1301
- CLEAR CREEK, California 1235, 1765, 1864
- CLEAR CREEK, Idaho 1207
- CLEAR LAKE 257, 307
- CLEAR LAKE NATIONAL WILDLIFE REFUGE 1771

- CLEAR LAKE WATERSHED  
 Study of water rights in  
   Authorized 555  
   Requirement for report discontinued 837
- C-L ELECTRIC COMPANY 1411
- CLINTON-SHERMAN AIR FORCE BASE 1460
- CLOSED BASIN 466, 622
- CLOSED BASIN DIVISION, San Luis Valley project 1888
- CLOSED BASIN DRAIN 468, 685
- COACHELLA DIVISION, All-American Canal 1055, 1890
- COACHELLA VALLEY 414, 423, 548, 647, 854, 1893
- COACHELLA VALLEY COUNTY WATER DISTRICT 417, 423, 428, 433, 962, 970, 1055,  
 1332, 1457
- COBB CREEK 1242
- COCHITI RESERVOIR 1544, 1744
- COCOPAHI INDIANS  
 Miscellaneous references to 427
- COEUR D'ALENE LAKE DAM 1579
- COLDWATER RIVER 396
- COLLBRAN FORMULA 1085  
*See also* CONSTRUCTION CHARGES.
- COLLBRAN PROJECT, Colorado  
 Authorized 1084  
 Secretary authorized to reconvey mineral interest in lands acquired for Vega Dam and  
 Reservoir 1896
- COLONIAL REALTY COMPANY 507, 508, 1196
- COLORADO-BIG THOMPSON PROJECT, Colorado  
 Authorization of, explained 565  
 Excess land laws not applicable to lands receiving only a supplemental water  
 supply 612  
 Miscellaneous references to 203, 662  
 Power revenues, application of 715  
 Repayment contract required 565  
 Reservation of 5,000 acre-feet annually of stored water in Green Mountain Reservoir  
 for Silt project 1249  
 Rights of western Colorado water users in Green Mountain Reservoir recognized  
 1672  
 Transmountain tunnel  
   Authorization for, in Rocky Mountain National Park 289  
   Named Alva B. Adams Tunnel 795  
 Water rights decree, explained 565

## COLORADO RIVER

*See also* LOWER COLORADO RIVER; UPPER COLORADO RIVER.

- Allotment of waters of, to Mexico
  - Provisions of 1944 treaty 759
- Apportionment by Congress among three lower basin States 420, 427
- Boundary between Arizona and California 1875
- Boundary between Arizona and Nevada 1602
- Bridges across. *See* BRIDGES.
- Centerline of, made eastern boundary of lands transferred to Colorado River Commission of Nevada 1517
- Colorado River Basin, defined 442
- Colorado River System, defined 442
- Comprehensive plan 439
- Diversion for Yuma and Colorado River Indians authorized 90
- Framework study by Army authorized 1857
- Funds appropriated to protect property from damage by 161, 211
- Land title disputes 43
- Lower Basin, defined 442
- Moratorium on FPC licenses 1756
- Palo Verde Valley flood protection 503
- Projects on main stem or tributaries of. *See* individual projects by name.
- Specific provisions of Mexican Water Treaty relating to 753, 770, 774
- States of the Lower Division, defined 442
- States of the Upper Division, defined 442
- Studies
  - Comprehensive development 439
  - Miscellaneous studies 35, 36, 253, 413
  - Water quality. *See* STUDIES AND REPORTS.
- Upper Basin, defined 442

COLORADO RIVER, Texas 587, 1886

COLORADO RIVER AQUEDUCT. *See* METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA.

COLORADO RIVER COMMISSION OF ARIZONA 439

COLORADO RIVER COMMISSION OF CALIFORNIA 439

## COLORADO RIVER COMMISSION OF NEVADA

- Contract with, authorized for water from Southern Nevada Water project 1852
- Conveyance of lands to 1394, 1517
- Establishment of, explained 439
- Miscellaneous references to 428
- Statutory references to 1194

COLORADO RIVER COMMISSION OF UTAH 439

## COLORADO RIVER COMPACT

- Background material on 415
- Boulder Canyon project subject to 414, 420, 433, 437
- Conditions of Congressional approval 419, 437
- Miscellaneous references to 416
- Ratification explained 420
- Ratification of, as condition to construction of Boulder Canyon project 419
- Statutory references to 538, 564, 704, 716, 858, 1057, 1085, 1211, 1248, 1250, 1251, 1255, 1257, 1258, 1480, 1664, 1665, 1666, 1673, 1674, 1769, 1852
- Text 441

## COLORADO RIVER DAM FUND

Allocation of expenditures between project and Federal activities at Boulder City  
 Annual justification to appropriations committees required 895  
 Report required 790  
 Amended provisions relating to 697  
 Appropriation act language 477, 548, 620, 1021, 1022, 1093  
 Established 417  
 Miscellaneous revenues credited to 685  
 Net proceeds from power development 433  
 Statutory references to 791, 869, 1472

## COLORADO RIVER DEVELOPMENT FUND

Appropriation act language 1022  
 Distribution of funds from 873  
 Established 699

## COLORADO RIVER FRONT WORK AND LEVEE SYSTEM

Appropriations for work adjacent to Yuma project 340, 402  
 Authority for, extended to Palo Verde Diversion Project 1211  
 Authorized 340, 401, 694, 828  
 Construction of temporary weir for Palo Verde Irrigation District 785  
 Conveyance of land to City of Needles 1693  
 Enlargement of project authority 828  
 Program extended from Yuma project to Boulder Dam 694  
 Purchase and improvement of lands subject to seepage and overflow; protection of  
 property in or near City of Needles 791  
 Transfer of accounts to, from Yuma and Yuma Auxiliary projects; credit to Imperial  
 Irrigation District 1018  
 Work within non-Federal reclamation projects 1414

## COLORADO RIVER INDIANS

Miscellaneous references to 427, 539  
 Reclamation of irrigable lands of 90  
 Use and protection of lands of, in connection with Palo Verde Diversion project  
 1211

## COLORADO RIVER PROJECT, Texas

Authorization of, including Marshall Ford Dam 587  
 Repayment contract required 620

## COLORADO RIVER STORAGE PROJECT

Appropriation act language 1651  
 Authorized 1248  
 Construction of power transmission lines 1652  
 Contribution by Secretary of Commerce to bridge across Colorado River near Glen  
 Canyon Dam 1317  
 Exchange of lands with Navajo Tribe in connection with construction of Glen  
 Canyon Unit 1462  
 Exchange of lands with Southern Ute Indian Tribe in connection with Navajo Dam  
 and Reservoir 1697  
 Page, Arizona, Accommodation School 1859  
 Participating projects. *See* BOSTWICK PARK; CENTRAL UTAH; EMERY COUNTY;  
 FLORIDA; FRUITLAND MESA; HAMMOND; LA BARGE; LYMAN; NAVAJO INDIAN IRRIGA-  
 TION; PAONIA; PINE RIVER EXTENSION; SAN JUAN-CHAMA; SAVERY-POT HOOK;  
 SEEDSKADEE; SILT; SMITH FORK.  
 Power revenues from, to be credited to Eden project 954  
 Restriction on expenditure of funds to protect any national monument 1551

- COLORADO RIVER SYSTEM 442, 909, 1852
- COLORADO STATE ENGINEER 1855
- COLORADO, STATE OF
- Amendment of State laws relating to water users' associations required as condition to amended contract, Uncompahgre project 480
  - Apportionment to, of excess revenues in Upper Colorado River Basin Fund 1253, 1258
  - Approval of definite plan report for Glendo unit required 976
  - Compacts of. *See* ARKANSAS RIVER COMPACTS; COLORADO RIVER COMPACT; COSTILLA CREEK COMPACT; REPUBLICAN RIVER COMPACT; RIO GRANDE COMPACT; SOUTH PLATTE RIVER COMPACT; UPPER COLORADO RIVER BASIN COMPACT.
  - Desert Land Act applies 13
  - Executive Order No. 6910 and Taylor Grazing Act apply 515
  - Projects in. *See* individual dams and projects by name.
  - Reclamation Act applies 31
  - Water Conservancy Act 565
  - Western slope-eastern slope water rights litigation 1258
- COLORADO WATER CONSERVATION BOARD 1855
- COLTON, CITY OF 528
- COLUMBIA BASIN 890
- COLUMBIA BASIN COMMISSION 1384
- COLUMBIA BASIN INTER-AGENCY COMMITTEE 1582
- COLUMBIA BASIN IRRIGATION DISTRICTS 690
- COLUMBIA BASIN LAND DEVELOPMENT ACCOUNT  
Established 737
- COLUMBIA BASIN ORCHARD 1134
- COLUMBIA BASIN PROJECT, Washington
- Acquisition of Indian lands for; Indian hunting, fishing, and boating rights 688, 794
  - Amendatory contracts approved; reclamation laws applied; farm unit limitations repealed 1690
  - Basin account. *See* BONNEVILLE POWER ADMINISTRATION; COLUMBIA RIVER POWER SYSTEM.
  - Compensation to Winston Bros. Company, Utah Construction Company, and J. A. Terteling & Sons, Inc. for construction delays caused by insufficient appropriations 1263
  - Deferment of reimbursement of costs allocated to irrigable lands on Wahluke Slope 1274
  - Emergency protection of Soap Lake 1273
  - Funds for lighting spillway at Grand Coulee Dam 1273
  - Grand Coulee Dam project reauthorized as Columbia Basin project; basic statutory provisions 728
  - Miscellaneous references to 6, 1583
  - Name of Potholes Dam changed to O'Sullivan Dam 892
  - Name of South Coulee Dam changed to Dry Falls Dam 1099
  - Power for Town of Coulee Dam 1385
  - Proceeds from sale of property in Town of Coulee Dam 1386
  - Temporary delivery of water authorized 1614

- COLUMBIA BASIN PROJECT, Washington—Continued  
 Third powerhouse, Grand Coulee Dam  
   Additional studies authorized 1886  
   Authorized 1870  
 Transfer of surplus property at Ephrata Air Force Base 1025  
 Washington State research farm 1484
- COLUMBIA BASIN PROJECT ACT  
 Amendments of  
   Farm unit limitations repealed; reclamation laws applied 1690  
   Provisions relating to State lands 1038  
   Recordable contract provisions 1034, 1388  
 Statutory references to 794, 1484  
 Text 728
- COLUMBIA RIVER  
 Compacts relating to. *See* COLUMBIA RIVER COMPACT.  
 Fishery development  
   Authorized 602  
   Fish passage facilities in McNary Dam required 813  
   Operation of Grand Coulee Dam project fish hatcheries by State of Washington 707  
   Highway and railroad bridge or bridges across, at Kettle Falls 665  
   Studies 35  
 Treaties concerning. *See* COLUMBIA RIVER TREATY; TREATIES AND CONVENTIONS.
- COLUMBIA RIVER BASIN 1831, 1856  
*See also* COLUMBIA BASIN.
- COLUMBIA RIVER COMPACT  
 Consent to negotiate 539, 1103
- COLUMBIA RIVER POWER SYSTEM  
 Annual consolidated financial statement; assistance to Pacific Northwest reclamation projects; rates and charges 1870  
 Irrigation pumping power  
   *See also* BONNEVILLE POWER ADMINISTRATION; CHIEF JOSEPH DAM PROJECT.  
   Crooked River project extension 1802  
   Manson unit, Chief Joseph Dam project 1884  
   Tualatin project 1899  
 Miscellaneous references to 1585  
 Power revenues of, to pay certain irrigation costs  
   *See also* BONNEVILLE POWER ADMINISTRATION; CHIEF JOSEPH DAM PROJECT.  
   Generally 1871, 1894  
 Statutory references to 1760
- COLUMBIA RIVER TREATY  
 Documents reprinted herein  
   Treaty 1560  
   Annex A 1574  
   Annex B 1577  
   Annex to January 22, 1964 exchange of notes 1580  
   Note from U.S. Secretary of State, January 22, 1964 1583  
   Attachment relating to terms of sale 1584

- COLUMBIA RIVER TREATY—Continued  
 Documents reprinted herein—Continued  
     Note from Canadian Secretary of State for External Affairs, September 16, 1964 1588  
     Minute of the Privy Council 1592  
     Canadian Entitlement Purchase Agreement 1593  
     Note from the American Ambassador, September 16, 1964 1599  
     Executive Order No. 11177 1600  
     Miscellaneous references to 662  
     Statutory references to 1763 1829
- COLUMBIA STORAGE POWER EXCHANGE 1588, 1593
- COLUMBUS BEND PROJECT, Texas  
     Additional studies authorized 1886
- COLUMBUS, TOWN OF 898
- COLUSA COUNTY 1032
- COLVILLE EXTENSION, Okanogan Project 367
- COLVILLE INDIANS  
     Disposition of lands of, under Reclamation Act 108  
     Lands used for Columbia Basin project; hunting, fishing and boating rights 688, 794
- COMMERCE CLAUSE 1
- COMMERCE, DEPARTMENT OF 509, 1317
- COMMISSIONER OF RECLAMATION  
     Appointed by President 390  
     Delegations. *See* DELEGATION OF AUTHORITY.  
     Origin of position 86  
     Power of, vested in Secretary of the Interior 1005
- COMMISSIONS AND COMMITTEES  
     Expenses of  
         Generally 1967, 1968
- COMMUNICATIONS FACILITIES. *See* RIGHTS OF WAY AND EASEMENTS.
- COMMUNITY PROPERTY 730
- COMPACTS  
     *See also* individual compacts by name.  
     Constitutional basis for 3  
     Federal representatives in negotiation and administration of  
         Payment of salary and expenses, generally 1022  
     General consent or encouragement to negotiate  
         Colorado River 440  
         Flood control 547  
         Water quality control 1280  
     Presidential statements regarding. *See* PRESIDENT.  
     Suits involving  
         United States an indispensable party 631

## COMPTROLLER GENERAL DECISIONS

<i>Date</i>	<i>Subject</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
July 1924...	Expenditures.....	A-2537.....	F. Recl. L.....	34
Mar. 1926...	Condemnations.....	A-13467.....	5 Comp. Gen. 737...	75, 290
May 1926.....	do.....	A-14244.....	5 Comp. Gen. 907...	75
June 1926...	Property acquisition.....	A-14629.....	F. Recl. L.....	74
Mar. 1927...	Emergency repairs.....	A-16521.....	F. Recl. L.....	341
Sept. 1927...	Canal Act.....	A-19652.....	7 Comp. Gen. 217.....	20
Dec. 1927...	Water rights.....	A-20551.....	F. Recl. L.....	372
Mar. 1928...	Refund of charges.....	A-21979.....	F. Recl. L.....	372
Mar. 1929...	Flood damage claims.....	A-23558.....	Letter.....	404
Feb. 1930...	Charges.....	A-29747.....	do.....	278
Mar. 1930...	Consultants.....	A-30788.....	F. Recl. L.....	449
May 1930...	Charges.....	A-29747.....	Letter.....	278
	(Supp.)			
Oct. 1930...	Boulder Canyon project.....	A-32702.....	F. Recl. L.....	423
May 1931...	Bitter Root project.....	A-34571.....	F. Recl. L.....	475
July 1931.....	do.....	A-34571.....	F. Recl. L.....	475
Oct. 1931...	Boulder Canyon project.....	A-38343.....	F. Recl. L.....	418
Jan. 1932.....	do.....	A-39589.....	F. Recl. L.....	419
Mar. 1932...	Bitter Root project.....	A-34571.....	F. Recl. L.....	475
June 1932...	Boulder Canyon project.....	A-41637.....	F. Recl. L.....	439
Do.....	Bitter Root project.....	A-34571.....	F. Recl. L.....	475
July 1932...	Boulder Canyon project.....	A-42691.....	F. Recl. L.....	419
Aug. 1932...	Consultants.....	A-44084.....	F. Recl. L.....	449
Oct. 1932...	Sun River project.....	A-43217.....	F. Recl. L.....	103
Feb. 1933...	Boulder Canyon project.....	A-42691.....	F. Recl. L.....	419
Do.....	do.....	A-46044.....	Letter.....	418
Apr. 1933...	Consultants.....	A-47819.....	F. Recl. L.....	449
June 1933...	Moratorium.....	A-48742.....	Letter.....	506
Dec. 1933...	Boulder Canyon project.....	A-32702.....	F. Recl. L.....	423
July 1934.....	do.....	A-56169.....	F. Recl. L.....	419
Dec. 1934...	Leases.....	A-58113.....	14 Comp. Gen. 430...	45
May 1935...	Boulder Canyon project.....	A-61595.....	F. Recl. L.....	419
Sept. 1935...	All-American Canal.....	A-32702.....	F. Recl. L.....	58
Nov. 1935...	Moratorium.....	A-48742.....	Letter.....	506
Jan. 1936...	Drainage work.....	A-66802.....	F. Recl. L.....	481
Do.....	Moratorium.....	A-48742.....	Letter.....	506
Mar. 1938...	Repayments.....	A-93229.....	17 Comp. Gen. 763...	565
May 1938...	Canal Act.....	A-95123.....	17 Comp. Gen. 1036...	20
Oct. 1939...	Consultants.....	B-6069.....	19 Comp. Gen. 418...	449
Aug. 1940...	Timber receipts.....	B-11729.....	Letter.....	246
Oct. 1940...	Boulder Canyon project.....	B-12615.....	do.....	700
Feb. 1941...	Boise project.....	B-10509.....	F. Recl. L.....	78
Aug. 1942...	Bitter Root project.....	B-27425.....	F. Recl. L.....	475, 718
Jan. 1943...	Kendrick project.....	B-31310.....	Letter.....	297
Sept. 1946...	Seepage.....	B-59368.....	do.....	791
Do.....	Relocation expenses.....	B-60222.....	do.....	661
Oct. 1946...	Overseas projects.....	B-60382.....	do.....	89
Jan. 1947...	Kendrick project.....	B-62789.....	do.....	291
Do.....	San Diego Aqueduct.....	B-48120.....	do.....	867
Feb. 1947...	Permanent legislation.....		do.....	830
June 1948...	Colorado River Dam Fund..	B-77260.....	do.....	896
Sept. 1948...	Contracting authority.....	B-79145.....	28 Comp. Gen. 163...	659
Oct. 1948...	Land titles.....	B-80025.....	Letter.....	735

<sup>1</sup> See footnote at end of table.

## COMPTROLLER GENERAL DECISIONS—Continued

<i>Date</i>	<i>Subject</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
May 1949...	Water rights exchanges.....	B-84264.....	Letter.....	662
Jan. 1950...	Ownership of facilities.....	B-91527.....	Memorandum.....	655, 656
		O.M.		
June 1951...	Aid to school districts.....	B-103904.....	Letter.....	893
July 1951...	Weather modification.....	B-104463.....	do.....	570
Aug. 1951...	Timber sales.....	B-48120.....	do.....	247
Sept. 1951...	Weather modification.....	B-105397.....	do.....	570, 578, 891, 975,
				1056
Dec. 1951...	Coachella division.....	B-106038.....	do.....	658, 661
July 1952...	Easements.....	B-109485.....	do.....	192, 962
Feb. 1955...	Housing facilities.....	B-120797.....	34 Comp. Gen. 374..	88
May 1955...	Glendo sewerage.....	B-123514.....	34 Comp. Gen. 599..	433
Sept. 1955...	Colorado River Dam Fund..	B-124783.....	Letter.....	192, 962
Nov. 1955...	Housing facilities.....	B-120797.....	35 Comp. Gen. 285..	803
Feb. 1956...	Southwestern Power Administration.	B-125127.....	Letter.....	
May 1956...	Reduction in charge.....	B-127709.....	do.....	860
Sept. 1956...	Klamath water rights.....	B-125866.....	do.....	80
Dec. 1958...	Payment in lieu of taxes.....	B-137273.....	do.....	898
June 1960...	CVP power rates.....	B-62789.....	do.....	586, 649, 1054
July 1962...	Hanford reactor.....	B-149016, B-149083.	do.....	570, 574, 662, 729, 1686
Sept. 1962...	Rehabilitation and better- ment contracts.	B-149629.....	do.....	971
Oct. 1962...	Hanford reactor.....	B-149083.....	do.....	1686
Sept. 1963...	Road relocation.....	B-152193.....	do.....	1706
Jan. 1964...	Sacramento diverters.....	B-152983.....	do.....	585, 662
Sept. 1964...	Keating amendment.....	B-153601.....	do.....	1054
May 1965...	Flood damage.....	B-152747.....	44 Comp. Gen. 746..	1045
May 1966...	Headwater benefits.....	B-156498.....	45 Comp. Gen. 724..	274, 601

<sup>1</sup> The citation "F. Recl. L." indicates that the source is a note in Volume I of *Federal Reclamation Laws, Annotated* (U.S. Department of the Interior 1958).

## COMPTROLLER OF THE TREASURY DECISIONS

<i>Date</i>	<i>Subject</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Apr. 1903.....	Options, abstracts.....	9 Comp. Dec. 569.....	76
Nov. 1905.....	Reclamation fund.....	12 Comp. Dec. 297.....	102
June 1906.....	do.....	12 Comp. Dec. 733.....	103
Oct. 1906.....	California lands.....	13 Comp. Dec. 289.....	33
Dec. 1906.....	Townsite lots.....	F. Recl. L.....	110, 112
Aug. 1907.....	Indian lands.....	14 Comp. Dec. 49.....	40
Nov. 1907.....	do.....	14 Comp. Dec. 285.....	33
Dec. 1907.....	Reclamation fund.....	14 Comp. Dec. 361.....	32
Apr. 1908.....	Value of water right.....	14 Comp. Dec. 724.....	36, 72
May 1911.....	Rewards.....	F. Recl. L.....	34
Mar. 1913.....	do.....	F. Recl. L.....	35
Dec. 1913.....	Townsite lands.....	20 Comp. Dec. 365.....	33, 110
Do.....	O & C lands.....	20 Comp. Dec. 397.....	33
Do.....	Reclamation fund.....	20 Comp. Dec. 415.....	33
Mar. 1914.....	do.....	20 Comp. Dec. 597.....	33
June 1914.....	Litigation costs.....	F. Recl. L.....	34
June 1915.....	Damages.....	F. Recl. L.....	208
July 1915.....	Sales of material.....	22 Comp. Dec. 54.....	102

See footnote at end of table.

## COMPTROLLER OF THE TREASURY DECISIONS—Continued

Date	Subject	File No.	Source <sup>1</sup>	Page
Jan. 1916	Sales of material	22	Comp. Dec. 289	102
June 1916	Interagency charges	22	Comp. Dec. 684	32
Dec. 1916	Litigation costs	F. Recl. L.		34
Dec. 1918	Reclamation fund	F. Recl. L.		33
Apr. 1919	Stamp taxes	F. Recl. L.		34
Jan. 1921	Purchase of property	27	Comp. Dec. 662	76
Apr. 1921	O & M charges	27	Comp. Dec. 849	200, 236
May 1921	Reclamation fund	F. Recl. L.		231
July 1921	do.	F. Recl. L.		231

<sup>1</sup>The citation "F. Recl. L." indicates that the source is a note in Volume I of *Federal Reclamation Laws, Annotated* (U.S. Department of the Interior 1958).

CONCESSIONS 1945, 1982

CONCHAS DAM 1075

CONCHOS RIVER 753

CONCONULLY CEMETERY ASSOCIATION 692

CONDEMNATION. *See* ACQUISITION OF PROPERTY.

CONEJOS DIVISION, San Luis Valley Project 1083

CONEJOS RIVER 623

CONEJOS WATER CONSERVANCY DISTRICT 383, 1514

CONFIDENTIAL INFORMATION 1932, 1949

## CONGRESS

Approval by, of amended repayment contracts 641

Committee review of proceedings under Leavitt Act 504

Committee review of proposed executive action

Contracts for scientific and technical research 1907

Conveyance of land to Colorado River Commission of Nevada 1396, 1518

Drainage and Minor Construction Act 1269

Hanford reactor contracts 1686

Pacific Northwest-Pacific Southwest intertie contracts 1758

Rehabilitation and Betterment Act 969, 988

San Luis unit, CVP 1526, 1531

Small Reclamation Projects Act of 1956 1334, 1335, 1348

Small watershed projects 1164

Water resources research 1750

Powers of 1

Reports to. *See* STUDIES AND REPORTS.

CONSERVANCY DISTRICTS. *See* IRRIGATION DISTRICTS.

CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Extracts from 1606

CONSTITUTION OF THE UNITED STATES

Extracts from 1

## CONSTRUCTION

*See also* individual projects by name.

## Appropriations for

Change from line-item to lump-sum basis 1027  
Current appropriation act language 1021

## Camps and housing

Boulder City. *See* BOULDER CITY ACT OF 1958.  
Coulee Dam, Town of. *See* COULEE DAM COMMUNITY ACT OF 1957.  
Generally 962  
Sewerage systems 1227

Charges. *See* CONSTRUCTION CHARGES.

## Contracts

Bonds of contractors 1976  
Buy American Act 1987  
Contingent upon appropriation 659  
Defaulting contractors, recoveries from 463  
Editor's note, annotations 52  
Generally 51  
Indian property 126  
Public contracts, generally 1949, 1987

Contributed funds. *See* ADVANCE PAYMENTS.

## Costs of

*See also* CONSTRUCTION CHARGES.

Allocation of. *See* COST ALLOCATION.

Distinguished from operation and maintenance costs 190, 969

Generally 51

Increase in 59, 379, 654, 1055

Repayment of. *See* CONSTRUCTION CHARGES; REIMBURSEMENT AND COST SHARING.

What constitutes, special problems 58, 59, 379, 645, 970

Damage claims. *See* CLAIMS AGAINST UNITED STATES.

## Exchange of property

Generally 76, 660

Feasibility reports. *See* STUDIES AND REPORTS.Historical and archeological data. *See* ARCHEOLOGY.

## Labor provisions

Boulder Canyon project 704  
Eight-hour day 51, 1982  
Indian labor 126  
Mongolian labor 51  
Prevailing wage rates 1978

## Relocation of property

Generally 72, 660

Roads. *See* ROADS.

Town of American Falls 290

Repayment contract, when required. *See* REPAYMENT CONTRACTS.School assistance. *See* SCHOOLS.

## Works authorized

Change in project plan 1040, 1249  
Discretion of Secretary 52, 300  
Distribution systems. *See* DISTRIBUTION SYSTEMS.  
Drainage. *See* DRAINAGE WORKS.  
Generally 35, 36, 51, 88  
Power facilities. *See* POWER.  
Roads. *See* ROADS.  
Small reservoirs 582  
Warren Act 166

## CONSTRUCTION CHARGES

*See also* individual projects and irrigation districts by name.

- Apportionment
  - Based on land classification 52, 318, 638, 652
  - Generally 52, 221
- Authorized
  - Generally 37, 51, 62, 166, 186, 376
  - Repayment contracts. *See* REPAYMENT CONTRACTS.
- Contracts with organizations. *See* DRAINAGE AND MINOR CONSTRUCTION ACT; FISH AND WILDLIFE; RECREATION; REHABILITATION AND BETTERMENT ACT; REPAYMENT CONTRACTS; SMALL RECLAMATION PROJECTS ACT; WATER SERVICE; WATER SUPPLY.
- Cost allocation. *See* COST ALLOCATION.
- Credits against, from other revenues
  - See also* RECLAMATION FUND.
  - Generally 320, 598, 644
  - Miscellaneous revenues 102, 163, 202, 236, 251, 256, 320, 323, 451, 461, 463, 598, 654, 658, 999
  - Power revenues 111, 320, 352, 598, 644, 647, 807, 830
  - Strawberry Valley project 137
  - Warren Act contracts 323
- Defined 634, 969
  - See also* CONSTRUCTION.
- Development period
  - Generally 186, 318, 640, 652, 1681
- Extension, deferment and other interim relief
  - Generally 61, 305, 308, 324, 373, 375, 636, 639, 640, 643, 652, 663, 817, 1503
  - Normal and percentages plan 636, 664
  - Relief and moratorium acts 292, 293, 294, 305, 308, 350, 375, 376, 387, 490, 506, 511, 521, 541, 581, 632, 663
  - Variable annual payment 653, 664
- Increase of
  - Collbran formula 1085, 1185, 1245, 1319
  - Miscellaneous opinions 58, 59, 61, 379, 654, 729, 1055
  - Statutory provisions governing 189, 211
  - Statutory provisions relating to 1275
  - Where delay in application for water service 195
- Indian lands. *See* INDIAN LANDS.
- Nonreimbursable funds. *See* REIMBURSEMENT AND COST SHARING.
- Obligation of irrigators, generally.
  - Amount of construction costs repaid by irrigators, explanatory note 51
  - Based on ability to repay 634, 644, 654, 663, 786, 1084, 1205, 1503
  - Different rates for irrigation and municipal uses permitted 585
- Payment of, by individual water users
  - Generally 60, 62, 67, 177, 186, 187, 296, 372, 373
  - Lien for 178, 179, 298
  - To local organization as fiscal agent of the United States 195
- Penalties for delinquent payment
  - Delivery of water withheld 398, 639, 1024
  - Forfeiture 62, 68, 178, 188, 296
  - Interest 178, 188, 296, 320, 375, 639
- Public notice of water availability and terms
  - Generally 51, 186, 196, 297, 318, 377
  - Withdrawal of notice 164
- Refunds of 103, 331, 372, 373, 1025
- Repayment period
  - Administrative discretion 646, 648, 650, 656

## COST ALLOCATION—Continued

- Repayment period, generally
  - Forty years 375, 377, 636, 652
  - Ten years 51
  - Twenty years 186, 187
- Variable annual payment
  - Generally 318
- Waiver or reduction of
  - Irrigable lands transferred to nonirrigation uses 297
  - Nonirrigable lands, generally 61, 68, 372, 373, 374, 643
- Warren Act contracts 166

## CONSULTANTS

- Authority to hire consulting engineers, geologists, appraisers, and economists 448, 682, 812

CONTINUING FUNDS. *See* EMERGENCY WORK.

CONTRA COSTA COUNTY 979, 1858

CONTRACTORS. *See* CONSTRUCTION.

CONTRACTS. *See* CONSTRUCTION; DRAINAGE AND MINOR CONSTRUCTION ACT; EXCESS LANDS; OPERATION AND MAINTENANCE; RECREATION; REHABILITATION AND BETTERMENT; REPAYMENT CONTRACTS; SMALL RECLAMATION PROJECTS ACT; SUPPLIES AND SERVICES; WATER SERVICE; WATER SUPPLY.

## CONTRACT WORK HOURS STANDARDS ACT

Text 1982

CONTRIBUTED FUNDS. *See* ADVANCE PAYMENTS.

## CONTRIBUTED FUNDS ACT

Text 291

COOK INLET 1704

COOPER, CHARLES 1060

COORDINATION ACT 842

## CORDON AMENDMENT PROJECTS

- Deferment of construction charges 1503
- Individual projects. *See* ARNOLD PROJECT; AVONDALE PROJECT; CRESCENT LAKE PROJECT; DALTON GARDENS PROJECT; GRANTS PASS PROJECT; OCHOGO DAM PROJECT; RATHDRUM PRAIRIE PROJECT (Hayden Lake Unit).
- Reclamation laws, application of 634, 970, 1503

## CORPORATIONS

- Excess lands 66
- Water service to 54, 148

CORPS OF ENGINEERS. *See* ARMY, DEPARTMENT OF THE.

## COST ALLOCATION

- Army projects
  - Columbia River projects 575
  - Cumberland River projects 801
  - Federal Power Commission role 575, 800
  - Fort Peck project 606

## COST ALLOCATION—Continued

- Federal water projects, generally
    - Fish and wildlife costs 841, 842, 1820
    - Recreation costs 1820
    - Water quality costs 1279
    - Water supply costs 1427
  - Reclamation projects
    - Fish and wildlife costs 842, 1436, 1823
    - Flood control and navigation costs; consultation with Army 646
    - Generally 644, 646, 647, 652, 655
    - Small reclamation projects 1333
    - Small watershed projects. *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
    - W.C.U. projects
      - Flood control costs, consultation with Army 670
      - Generally 670, 678
- COSTILLA COUNTY 1725
- COSTILLA CREEK COMPACT  
Text 1724
- COSTILLA RESERVOIR 1725
- COST SHARING. *See* REIMBURSEMENT AND COST SHARING.
- COSUMNES RIVER 978, 1889, 1890
- COSUMNES RIVER DIVISION, CVP 1887, 1890
- COTTONWOOD BENCH AREA, Riverton project 1741
- COULEE DAM COMMUNITY ACT OF 1957  
Text 1379
- COULEE DAM SCHOOL DISTRICT 716
- COUNTY LINE DAM AND RESERVOIR 1847
- COURT DECISIONS
- Alford, et al. v. Hesse*, 279 P. 831 (Calif. 1929) 89
  - City of Altus, Oklahoma v. Carr*, 255 F. Supp. 828 (W.D. Tex. 1966) aff'd per curiam, 385 U.S. 35 (1966) 2
  - American Falls Reservoir District No. 2 v. Crandall, et al.*, 82 F. 2d 973, 85 F. 2d 864 (C.C.A. Idaho 1936) 83
  - Anderson v. United States*, 138 F. Supp. 332 (N.D. Cal. 1956) 887
  - Arizona v. California*, 283 U.S. 423 (1931) 2, 78, 415, 416
  - Arizona v. California, et al.*, 298 U.S. 558 (1936), rehearing denied, 299 U.S. 618 (1936) 77, 83, 416
  - Arizona v. California*, 373 U.S. 546 (1963); decree, 376 U.S. 340 (1964) 1, 2, 4, 42, 77, 78, 415, 416, 421, 422, 424, 427, 428, 432, 434, 438, 439, 440, 662, 1481, 1853
  - Avina v. United States*, 115 F. Supp. 579 (W.D. Tex. 1953) 886
  - Bean v. United States*, 163 F. Supp. 838, 143 Ct. Cl. 363 (1958), cert. denied, 358 U.S. 906 (1958) 7, 82, 83, 85, 86, 99, 100, 167
  - Beaver v. United States*, 350 F. 2d 4 (9th Cir. 1965), cert. denied, 383 U.S. 937 (1966) 43
  - Bethune v. Salt River Valley Water Users' Ass'n*, 26 Ariz. 525, 227 P. 989 (1924) 54, 57

## COURT DECISIONS—Continued

- Board of Directors of Wilder Irrigation District v. Jorgensen*, 64 Idaho 538, 136 P. 2d 461 (1943) 297
- Bothwell v. United States*, 254 U.S. 231 (1920), affirming 54 Ct. Cl. 203 (1918) 75
- Bowen v. Hickey*, 53 Cal. App. 250, 200 P. 46 (1921), cert. denied, 257 U.S. 656 (1921) 41, 48, 63
- Brown v. United States*, 263 U.S. 78 (1923), affirming *United States v. Brown*, 279 F. 168 (1922) 72, 290
- Buell v. County Court of Jefferson County, et al.*, 152 P. 2d 578 (Ore. 1944), rehearing denied, 154 P. 2d 188 (1944) 221
- Burley v. United States, et al.*, 179 F. 1, 33 L.R.A. (N.S.) 807 (Idaho 1910), affirming 172 F. 615 (C.C.D. Idaho 1909) 4, 52, 72, 78, 87
- Burley Irr. Dist. v. Ickes*, 116 F. 2d 529, 73 App. D.C. 23 (1940), cert. denied, 312 U.S. 687 (1941) 84, 88, 112, 322, 352
- California v. Rank*, 293 F. 2d 340 (9th Cir. 1961), modified, 307 F. 2d 96 (1962); affirmed in part sub. nom. *City of Fresno v. California*, 372 U.S. 627 (1963); affirmed in part, reversed in part sub. nom. *Dugan v. Rank*, 372 U.S. 609 (1963) 74, 75, 76, 82
- California v. United States*, 169 F. 2d 914 (1948) 661
- California v. United States*, 146 F. Supp. 341 (S.D. Cal. 1956) 889
- California v. United States*, 151 F. Supp. 570 (N.D. Calif. 1957) 889
- California Electric Power Co. v. United States*, 60 F. Supp. 344, 104 Ct. Cl. 289 (1945) 430
- California Oregon Power Co. v. Federal Power Commission*, 239 F. 2d 426 (D.C. Cir. 1956) 96
- Capron v. Van Horn*, 201 Cal. 486, 258 P. 77 (1927) 43, 46, 47, 48
- Caruthers v. Sunnyside Valley Irrigation Dist.*, 29 Wash. 2d 530, 188 P. 2d 136 (1947) 192
- Casey v. Butte County*, 217 N.W. 508 (S. Dak. 1927) 63
- Cheney v. Minidoka County*, 26 Idaho 471, 144 P. 343 (1914) 63, 178
- Citizens Utilities Co. v. United States*, 149 F. Supp. 158, 137 Ct. Cl. 547 (1957), cert. denied, 355 U.S. 892 (1957) 430
- Clinton v. Elder, et al.*, 277 P. 968 (Wyo. 1929) 222
- Clyde v. Cummings*, 35 Utah 461, 101 P. 106 (1909) 45, 88, 89
- Colorado v. Kansas*, 320 U.S. 383 (1943) 932
- Columbia Basin Orchard v. United States*, 132 F. Supp. 707 (1955), 116 Ct. Cl. 348 (1950), motion for new trial overruled, 117 Ct. Cl. 814 (1950), order to reinstate cause, 130 Ct. Cl. 810 (1955), 132 Ct. Cl. 445 (1955) 7
- Confederated Bands of Ute Indians v. United States*, 112 Ct. Cl. 123 (1948) 47
- Continental Land Co. v. United States*, 88 F. 2d 104 (9th Cir. 1937) 74
- Cosby v. Danziger*, 38 Cal. App. 204, 175 P. 809 (1918) 18
- Cotton Land Co. v. United States*, 75 F. Supp. 232, 109 Ct. Cl. 816 (1948) 6, 7
- Crow Tribe v. United States*, Civil No. 214, D.C. Mont., 1963 1430
- Culpepper v. Ocheltree*, 185 P. 971 (Cal. 1919), affirmed 256 U.S. 483 (1921) 47
- City and County of Denver v. Northern Colo. Water Conservancy Dist.*, 130 Colo. 375, 276 P. 2d 992 (1954) 84
- Desert Beach Corp. v. United States*, 128 F. Supp. 581 (S.D. Cal. 1955) 889
- Donley v. Van Horn*, 49 Cal. App. 383, 193 P. 514 (1920), cert. dismissed, 258 U.S. 634 (1922), error dismissed, 260 U.S. 697 (1922) 43, 44
- Donley v. West*, 189 P. 1052 (Cal. App. 1920), reversed on rehearing, 49 Cal. App. 796, 193 P. 519 (1920), error dismissed, 260 U.S. 697 (1922) 38, 43
- Dopps v. Alderman*, 12 Wash. 2d 268, 121 P. 2d 388 (1942) 18
- Dugan v. Rank*, 372 U.S. 609 (1963) 6, 75, 585, 586, 1098
- Edwards v. Bodkin*, 267 F. 1004 (D. Cal. 1919), affirmed, 265 F. 621 (9th Cir. 1920) 47

## COURT DECISIONS—Continued

- Edwards v. Bodkin*, 249 F. 562, 161 C.C.A. 488 (Cal. 1918), overruling 241 F. 931 (1917), 42 L.D. 172; affirmed, 265 F. 621 (9th Cir. 1920), affirmed, 255 U.S. 221 (1921) 47, 48, 89, 125
- Elephant Butte Irrigation Dist. v. Gatlin*, 61 N.M. 58, 294 P. 2d 628 (1956) 100
- El Paso County Water Imp. Dist. No. 1 v. City of El Paso*, 133 F. Supp. 894 (D. Tex. 1955), affirmed in part, reformed in part, 243 F. 2d 927 (5th Cir. 1957), cert. denied, 355 U.S. 820 (1957) 80, 85, 100, 170, 181, 251, 631
- Enterprise Irr. Dist. v. Enterprise Land and Investment Co.*, 300 P. 507 (Ore. 1931) 65
- Federal Power Commission v. Idaho Power Co.*, 344 U.S. 17 (1952) 269, 274
- Federal Power Commission v. Southern California Edison Co.*, 376 U.S. 205 (1964) 432, 528
- Federal Power Commission v. Oregon*, 349 U.S. 435 (1955) 4, 9, 14, 268, 269
- First Iowa Cooperative v. Federal Power Commission*, 328 U.S. 152 (1946) 2, 268, 271, 285
- Fort Shaw Irr. Dist. v. Ward*, 81 Mont. 170, 261 P. 962 (1927) 297
- Fort Worth v. United States*, 188 F. 2d 217 (1951) 661
- Foster v. United States*, 183 F. Supp. 524 (D. N.M. 1959), affirmed, 280 F. 2d 431 (10th Cir. 1960) (per curiam) 887
- Fox v. Ickes*, 137 F. 2d 30 (D.C. Cir. 1943), 78 U.S. App. 84 (1943), cert. denied, 320 U.S. 792 (1943) 58, 59, 81, 83, 85, 211
- The Frenchman Valley Irrigation District v. Smith, et al.*, 167 Neb. 78, 91 N.W. 2d 415 (1958) 6, 380
- City of Fresno v. California*, 372 U.S. 627 (1963) 77, 585, 586, 651
- Goshen Irr. Dist., In re. See Lincoln Land Co. v. Goshen Irr. Dist.*
- Green v. Wilhite*, 14 Idaho 238, 93 P. 971 (1908) 17, 18
- Green v. Wilhite*, 160 F. 755 (C.C. Idaho 1906) 18
- Green River Drainage Area*, 147 F. Supp. 127 (D. Utah 1956) 1098
- Greeson, et al. v. Imperial Irr. Dist., et al.*, 59 F. 2d 529 (9th Cir. 1932) 429
- Griffiths v. Cole*, 264 F. 369 (D. Idaho 1919) 18, 84, 87
- Gustine Land & Cattle Co., Inc. v. United States*, 174 Ct. Cl. 556 (1966) 6, 7
- Gutierrez v. Albuquerque Land & Irr. Co.*, 188 U.S. 545 (1903) 85
- Hedrick v. United States*, 184 F. Supp. 927 (D. N.M. 1960) 889
- Henkel v. United States*, 237 U.S. 43 (1915), affirming 196 F. 345, 116 C.C.A. 165 (1912) 73, 87
- Hillcrest Irr. Dist. v. Brose*, 24 Idaho 376, 133 P. 663 (1913) 167
- Horstmann Co. v. United States and Natron Soda Co. v. United States*, 257 U.S. 138 (1921), affirming 54 Ct. Cl. 169 (1919) 76
- Hudson County Water Co. v. McCarter*, 209 U.S. 349 (1908) 2
- Hudspeth County Conservation and Reclamation Dist. No. 1 v. Robbins*, 213 F. 2d 425 (5th Cir. 1954), cert. denied, 348 U.S. 833 (1954) 80, 83, 100, 101, 167
- Hunter v. United States*, 159 Ct. Cl. 356 (1962) 83
- Ickes v. Fox*, 85 F. 2d 294, 66 App. D.C. 128 (1936), affirmed, 300 U.S. 82 (1937), rehearing denied, 300 U.S. 640 (1937) 14, 70, 80, 83, 85
- Ide v. United States*, 263 U.S. 497 (1924), affirming *United States v. Ide*, 277 F. 373 (C.C.A. Wyo. 1921) 18, 79, 84
- Imperial Water Co. No. 5 v. Holabird*, 197 F. 4, 116 C.C.A. 526 (Cal. 1912) 85
- Irwin v. Wright*, 258 U.S. 219 (1922) 63, 149, 178, 179
- Ivanhoe Irr. Dist. v. All Parties*, 47 Cal. 2d 597, 306 P. 2d 824 (1957) 585
- Ivanhoe Irr. Dist. v. All Parties*, 53 Cal. 2d 692, 350 P. 2d 69 (1960) 78, 378, 379, 381, 585
- Ivanhoe Irr. Dist. v. McCracken*, 357 U.S. 275 (1958) 1, 4, 5, 6, 64, 77, 86, 87, 380, 382, 584, 585, 586, 655, 656, 1277
- Jacobs v. United States*, 290 U.S. 13 (1933) 6
- Johnson v. Warm Springs Irr. Dist.*, 118 Ore. 239, 246 P. 527 (1926) 337

## COURT DECISIONS—Continued

- Jolley v. Minidoka County*, 61 Idaho 696, 106 P. 2d 865 (1940) 63, 409
- Kansas City Power & Light Co. v. McKay*, 115 F. Supp. 402 (D.D.C. 1953), judgment vacated for lack of standing to sue, 225 F. 2d 924 (D.C. Cir. 1955), cert. denied, 350 U.S. 884 (1955) 802, 803, 975
- Kenite Corp. v. United States*, 157 Ct. Cl. 721 (1962), cert. denied, 372 U.S. 912 (1963) 6
- Klamath County v. Colonial Realty Co.*, 139 Ore. 311, 7 P. 2d 976 (1932) 65, 170
- Klamath Irr. Dist. v. Carlson*, 176 Ore. 336, 157 P. 2d 514 (1945) 70, 71
- Lawrence v. Southard*, 192 Wash. 287, 73 P. 2d 722 (1937) 190
- Lincoln Land Co. v. Goshen Irr. Dist.*, 42 Wyo. 229, 293 P. 373 (1930) 57, 65, 198, 297
- Loney v. Scott*, 57 Ore. 378, 112 P. 172 (1910) 40, 44
- City of Los Angeles v. United States*, 107 Ct. Cl. 315, 68 F. Supp. 974 (1946) 36
- Lower Yellowstone Irr. Dist. No. 2 v. Nelson*, 2 N.W. 2d 180, 71 N.D. 439 (1942) 409
- McGowan v. United States*, 206 F. Supp. 439 (D. Mont. 1962) 7
- McLaren v. Fleischer*, 181 Cal. 607, 185 P. 967 (1919), affirmed, 256 U.S. 477 (1921) 47
- McLean v. Truckee-Carson Irr. Dist.*, 49 Nev. 278, 245 P. 285 (1926) 169
- Madera Irr. Dist. v. All Parties*, 47 Cal. 2d 681, 306 P. 2d 886 (1957) 585
- Magruder v. Belle Fourche Valley Water Users' Ass'n.*, 219 F. 72, 133 C.C.A. 524 (S.D. 1914) 4, 61, 69, 72, 88
- Malone v. El Paso County Improvement District No. 1*, 20 S.W. 2d 815 (Tex. Civ. App. 1929) 70
- Metropolitan Water District of Southern California v. Marquardt*, 59 Cal. 2d 159, 379 P. 2d 28 (1963) 1525
- City of Mesa v. Salt River Project Agricultural Improvement and Power District*, 101 Ariz. 74, 416 P. 2d 187 (1966) 71, 302
- Michaelson v. Miller*, 26 P. 2d 378 (Idaho 1933) 55
- Middle Rio Grande Water Users Ass'n. v. Middle Rio Grande Conservancy District*, 57 N.M. 287, 258 P. 2d 391 (1953) 904
- Miller v. Jennings*, 243 F. 2d 157 (5th Cir. 1957), cert. denied, 355 U.S. 827 (1957) 100, 1098
- Minidoka & S.W.R.R. Co. v. United States*, 235 U.S. 211 (1914), reversed, 190 F. 491 (1911) and affirmed, 176 F. 762 (1910) 50
- Minidoka & S.W.R.R. Co. v. Weymouth*, 19 Idaho 234, 113 P. 455 (1911) 19
- Moody v. Johnston*, 66 F. 2d 999 (9th Cir. 1933) 69
- Moore v. Anderson*, 68 F. 2d 191 (9th Cir. 1933) 69
- Mosher v. Salt River Valley Water Users' Ass'n.*, 24 Ariz. 339, 209 P. 596 (1922) 74
- Mower v. Bond*, 8 F. 2d 518 (S.D. Idaho 1925) 194, 308
- Nampa & Meridian Irr. Dist. v. Bond*, 283 F. 569 (D. Idaho 1922), 288 F. 541 (9th Cir. 1923), 268 U.S. 50 (1925) 36, 190, 192
- Nampa & Meridian Irrigation District v. Petrie, et al.*, 28 Idaho 227, 153 P. 425 (1915) 88, 167, 169, 170, 195
- Nampa & Meridian Irrigation District v. Petrie*, 37 Idaho 45, 223 P. 531 (1924) 88, 167
- Natress v. United States*, 186 F. Supp. 180 (D. N.M. 1960) 1309
- Nebraska v. Wyoming*, 295 U.S. 40 (1935), order modified, 345 U.S. 981 (1953) 4, 79
- Nebraska v. Wyoming, et al.*, 325 U.S. 589 (1945), order modified, 345 U.S. 981 (1953) 78, 80, 81, 83, 84, 168, 566, 1148
- State of Nevada v. United States*, 279 F. 2d 699 (9th Cir. 1960) 1098
- New Mexico v. Backer*, 199 F. 2d 426 (10th Cir. 1952) 101
- New Jersey v. New York*, 347 U.S. 995 (1954) 1623, 1624
- New York Canal Co., Ltd. v. Bond*, 273 F. 825 (D. Idaho 1921), affirmed, 265 F. 228 (9th Cir. 1920) 59, 170, 192

## COURT DECISIONS—Continued

- New York Canal Co. v. United States*, 277 F. 444 (D. Idaho 1913) 167, 169  
*New York Trust Co. v. Farmers' Irr. Dist.*, 280 F. 785 (8th Cir. 1922) 170  
*North v. United States*, 94 F. Supp. 824 (D. Utah 1950) 7, 889  
*Northern Pac. Ry. Co. v. United States*, 277 F. 2d 615 (10th Cir. 1960), reversed,  
 169 F. Supp. 735 (D. Wyo. 1959) 20  
*Northside Canal Co., Ltd. v. State Board of Equalization of Wyoming*, 8 F. 2d 739  
 (D. Wyo. 1925), reversed, 17 F. 2d 55 (8th Cir. 1926), cert. denied, 274 U.S. 740  
 (1927) 80  
*Northside Canal Co., Ltd. v. Twin Falls Canal Co.*, 12 F. 2d 311 (D.C. Idaho 1926)  
 83  
*Ogden River Water Users' Ass'n. v. Weber Basin Water Conservancy, et al.*, 238 F. 2d  
 936 (1956) 7, 967  
*Oregon Short Line R.R. Co. v. Minidoka Irr. Dist.*, 283 P. 614 (Idaho 1929) 192  
*Owen v. United States*, 8 F. 2d 992 (C.C.A. Tex. 1925) 75  
*In re Owl Creek Irr. Dist.*, 71 Wyo. 70, 258 P. 2d 220 (1953), affirming 71 Wyo. 30,  
 253 P. 2d 867 (1953) 381  
*Pashley v. United States*, 156 F. Supp. 737, 140 Ct. Cl. 535 (1957) 6  
*Payette-Boise Water Users' Ass'n., Ltd. v. Bond*, 269 F. 159 (D. Idaho, 1920)  
 58, 60  
*Payette-Boise Water Users' Ass'n., Ltd. v. Cole*, 263 F. 734 (D. Idaho 1919) 55,  
 56, 58, 59, 60, 193  
*Pelton Dam case*. See *Federal Power Commission v. Oregon*.  
*Commonwealth of Pennsylvania v. State of West Virginia*, 262 U.S. 553 (1923) 2  
*People ex rel. Rogers v. Letford*, 102 Colo. 284, 79 P. 2d 274 (1938) 565  
*Pfeiler v. Greig and Owyhee Irr. Dist.*, unpublished, Circuit Court of Oregon (1937)  
 387  
*Pioneer Irrigation District v. American Ditch Association, et al.*, 50 Idaho 732,  
 1 P. 2d 196 (1931) 78, 81  
*Pioneer Irr. Dist. v. Stone*, 23 Idaho 344, 130 P. 382 (1913) 88, 167  
*Quincy Columbia Basin Irrigation District*, 63 Wash. 2d 115, 385 P. 2d 715 (1963),  
 cert. denied, 376 U.S. 953 (1964) 1690  
*Ramshorn Ditch Co. v. United States*, 269 F. 80 (8th Cir. 1920), affirming 254 F.  
 842 (D. Neb. 1918) 80, 84, 167, 168  
*Richard v. United States*, 282 F. 2d 901, 152 Ct. Cl. 225 (1960), amended, 285 F.  
 2d 129, 152 Ct. Cl. 266 (1961) 6  
*Rio Grande Dam and Irrigation Co. v. United States*, 215 U.S. 266 (1909) 98  
*Salt River Valley Water Users' Ass'n. v. Spicer*, 28 Ariz. 296, 236 P. 728 (1925)  
 53  
*San Joaquin & Kings River C. & I. Co. v. Stanislaus County*, 191 F. 875 (C.C. Cal.  
 1911), reversed on other grounds, 233 U.S. 454 (1914) 85  
*Santa Barbara County Water Agency v. All Persons*, 47 Cal. 2d 699, 306 P. 2d 875  
 (1957) 585  
*Santa Barbara County Water Agency v. All Persons*, 53 Cal. 2d 743, 3 Cal. Rptr. 348,  
 350 P. 2d 100 (1960) 585  
*Saylor v. Gray*, 41 Ariz. 558, 20 P. 2d 441 (1933) 65  
*Shoshone Irr. Dist. v. Ickes*, 70 F. 2d 771 (D.C. Cir. 1934), cert. denied, 293 U.S. 571  
 (1934) 454  
*Shoshone Irr. Dist. v. Lincoln Land Co.*, 51 F. 2d 128 (D. Wyo. 1930) 65  
*Shotwell v. United States*, 163 F. Supp. 907 (E.D. Wash. 1958) 658  
*Six Companies, Inc. v. DeVinney, County Assessor*, 2 F. Supp. 693 (D. Nev. 1933)  
 3, 88, 416  
*Smith v. United States*, 224 F. Supp. 402 (D. Wyo. 1963), affirmed, 333 F. 2d 70  
 (10th Cir. 1964) 317, 889  
*Southern Pacific Company v. United States*, 68 Ct. Cl. 223 (1929) 161  
*Sperry v. Elephant Butte Irr. Dist.*, 33 N.M. 482, 270 P. 889 (1928) 194

## COURT DECISIONS—Continued

- City of Stanfield v. Umatilla River Water Users' Ass'n.*, 192 F. 596 (D. Ore. 1911)  
87
- Swigart v. Baker*, 229 U.S. 187 (1913) 32, 59, 69, 85
- Terra v. Pinney and Owyhee Irr. Dist.*, unpublished, Circuit Court of Oregon (1937)  
387
- Texas v. New Mexico*, 352 U.S. 991 (1957) 631
- Turner v. Kings River Conservation Dist.*, 360 F. 2d 184 (9th Cir. 1966) 65, 75,  
77, 382, 798, 805, 810, 1097
- Twin Falls Canal Co. v. American Falls Reservoir Dist. No. 2*, 59 F. 2d 19 (9th Cir.  
1932), affirming 49 F. 2d 632 (D. Idaho 1931) 70, 399
- Twin Falls Canal Co., Ltd. v. Foote*, 192 F. 583 (D. Idaho 1911) 87
- Twin Falls Canal Co. v. Teton County*, Unpublished Mem'ndum (Dist. Ct. Wyo.,  
Nov. 14, 1928) 80
- United States v. 0.886 of an Acre*, 65 F. Supp. 827 (1946) 661
- United States v. 3.08 Acres of Land, More or Less*, 209 F. Supp. 652 (D. Utah 1962)  
79
- United States v. 5.61 Acres of Land, More or Less, in El Dorado County, California*,  
148 F. Supp. 467 (N.D. Cal. 1957) 20
- United States v. 20.53 Acres of Land in Osborne County, Kansas, City of Downs*,  
263 F. Supp. 694 (D. Kan. 1967) 74
- United States v. 31.07 Acres of Land, More or Less*, 189 F. Supp. 845 (D. Mont.  
1960) 7
- United States v. 277.97 Acres of Land*, 112 F. Supp. 159 (D. Cal. 1953) 72, 75,  
378, 585
- United States v. 5,677.94 Acres of Land, More or Less*, 152 F. Supp. 861 (D. Mont.  
1957) 73
- United States v. 5,677.94 Acres of Land, More or Less*, 162 F. Supp. 108 (D. Mont.  
1958) 808
- United States v. Alderson*, 53 F. Supp. 528 (1944) 661
- United States v. Anderson*, 109 F. Supp. 755 (E.D. Wash. 1953) 79
- United States v. Arizona*, 295 U.S. 174 (1935) 28, 91, 415, 539
- United States v. Bennett*, 207 F. 524 (C.C.A. Wash. 1913) 82, 85
- United States v. Brown, et al.*, 279 F. 168 (1922) 290
- United States v. Buffalo Pitts Co.*, 234 U.S. 228 (1914) 74
- United States v. Bunting*, 206 F. 341 (D. Ore. 1913) 55
- United States v. Burley*, 172 F. 615 (C.C. Idaho 1909), affirmed, 179 F. 1, 102  
C.C.A. 429, 33 L.R.A. (N.S.) 807 (1910) 72
- United States v. Cantrall*, 176 F. 949 (C.C. Ore. 1910) 59, 70
- United States v. Canyon County*, 232 F. 985 (D. Idaho 1916) 63, 178, 179
- United States v. Causby*, 328 U.S. 256 (1946) 6
- United States v. Chandler-Dunbar Water Power Co.*, 229 U.S. 53 (1913) 2, 8
- United States v. Coachella Valley County Water District*, 111 F. Supp. 172 (S.D.  
Cal. 1953) 379, 654, 1055
- United States v. Conrad Inv. Co.*, 156 F. 123 (C.C. Mont. 1907), affirmed, 161  
F. 829, 88 C.C.A. 645 (1908) 85
- United States v. Des Moines County*, 148 F. 2d 448 (1945) 661
- United States v. Dickinson*, 331 U.S. 745 (1947) 6, 7
- United States v. District Court of Fourth Judicial Dist. in and for Utah County,  
et al.*, 121 Utah 1, 238 P. 2d 1132 (1951), rehearing denied, 121 Utah 18, 242  
P. 2d 774 (1952) 81
- United States v. Chas. L. Donohoe Co.*, 33 F. 2d 362 (N.D. Cal. 1929) 191
- United States v. Fall*, 276 F. 622, 57 App. D.C. 100 (1921) 39, 46, 154
- United States v. Fallbrook Public Utility Dist.*, 165 F. Supp. 806 (D. Cal. 1958)  
78
- 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) 269, 802

## COURT DECISIONS—Continued

- United States v. Ft. Belknap Irr. Dist.*, 197 F. Supp. 812 (D. Mont. 1961) 190,  
192, 970, 971
- United States v. Fuller*, 20 F. Supp. 839 (D. Ida. 1937) 79
- United States v. Gerlach Live Stock Co.*, 339 U.S. 725 (1950) 1, 77, 87, 586
- United States v. Grand River Dam Authority*, 363 U.S. 229 (1960) 7
- United States v. Gregory*, 300 F. 2d 11 (10th Cir. 1962) 888
- United States v. Hanson*, 167 F. 881, 93 C.C.A. 371 (9th Cir. 1909) 4, 39, 41,  
88, 122
- United States v. Humboldt Lovelock Irr. Light & Power Co.*, 19 F. Supp. 489  
(D. Nev. 1937), reversed and remanded, 97 F. 2d 38 (9th Cir. 1938), cert. denied,  
305 U.S. 630 (1938) 81, 85
- United States v. Ide*, 277 F. 373 (8th Cir. 1921), affirmed, 263 U.S. 497 (1924)  
36, 79, 84
- United States v. Midwest Oil Co.*, 236 U.S. 459 (1915) 155
- United States v. Minidoka and S.W.R.R. Co.*, 176 F. 762 (C.C. Ida. 1910), reversed,  
190 F. 491 (1911), affirmed, 235 U.S. 211 (1914) 19
- United States v. Northern Colorado Water Conservancy District*, Civil Nos. 2782,  
5016 and 5017 565, 1257
- United States v. O'Neill*, 198 F. 677 (D. Colo. 1912) 72, 75, 76
- United States v. Parkins*, 18 F. 2d 643 (1926) 61
- United States v. Power County, Idaho, et al.*, 21 F. Supp. 684 (1937) 71
- United States v. Pruden*, 172 F. 2d 503 (10th Cir. 1949) 79
- United States v. Rio Grande Dam and Irrigation Co.*, 174 U.S. 690 (1899), 184  
U.S. 416 (1902) 2, 9, 14, 24, 28, 98
- United States ex rel. Shoshone Irr. Dist. v. Ickes*, 70 F. 2d 771 (D.C. Cir. 1934),  
cert. denied, 293 U.S. 571 (1934) 322, 454
- United States v. Tilley*, 124 F. 2d 850 (8th Cir. 1941), cert. denied, 316 U.S. 691  
(1942) 80, 84, 167, 168
- United States v. Twin-City Power Co.*, 350 U.S. 222 (1956) 8
- United States v. Union Gap Irrigation Co.*, 209 F. 274 (D.C. Wash. 1913) 85
- United States v. Union Gap Irrigation District*, 39 F. 2d 46 (9th Cir. 1930) 81,  
82
- United States v. Ure*, 225 F. 2d 709 (9th Cir. 1955) 886, 888
- United States v. Van Horn*, 197 F. 611 (D. Colo. 1912) 17, 18, 19, 21
- United States v. Warm Springs Irr. Dist.*, 38 F. Supp. 239 (D. Ore. 1940) 83,  
338
- United States v. West Side Irrigating Company*, 230 F. 284 (D. Wash. 1916) 81
- United States v. Wishkah Boom Co.*, 136 F. 42, 68 C.C.A. 592 (Wash. 1905), appeal  
dismissed, 202 U.S. 613 (1906) 28
- United States v. Wunderlich*, 342 U.S. 98 (1951) 1390
- Ure v. United States*, 93 F. Supp. 779 (D. Ore. 1950) 886, 888
- Utah Power & Light Co. v. United States*, 243 U.S. 389 (1917) 29
- Verde River Irrigation & Power District v. Work*, 24 F. 2d 886 (D.C. Cir. 1928),  
cert. denied, 279 U.S. 854 (1929) 170
- Verde Water & Power Co. v. Salt River Valley Water Users' Ass'n.*, 22 Ariz. 305,  
197 P. 227, cert. denied, 257 U.S. 643 (1921) 39
- Walkeng Mining Co., v. Covey*, 352 P. 2d 768 (Ariz. 1960) 41
- Washington v. United States*, 214 F. 2d 33 (1954) 661
- Washington Water Power Co. v. United States*, 135 F. 2d 541 (9th Cir. 1943) 74
- West v. Kansas Natural Gas Co.*, 221 U.S. 229 (1911) 2
- West Side Irr. Co. v. United States*, 246 F. 212, 158 C.C.A. 372 (Wash. 1917),  
affirming *United States v. West Side Irr. Co.*, 230 F. 284 (D.C. 1916) 81
- Weymouth v. Lincoln Land Co.*, 277 F. 384 (8th Cir. 1921) 36
- Whiffin v. Cole*, 264 F. 252 (D. Ida. 1919) 87
- White v. United States*, 193 F. 2d 505 (9th Cir. 1951) 886

## COURT DECISIONS—Continued

- Wieland, Adelbert A., State Engineer of Colorado v. Pioneer Irrigation Co.*, 259 U.S. 498 (1922) 743
- Wilbur v. Burley Irrigation Dist.*, 58 F. 2d 871 (D.C. Cir. 1932) 322
- Wilbur v. Minidoka Irr. Dist.*, 50 F. 2d 495, 60 App. D.C. 205 (1931), cert. denied, 284 U.S. 634 (1931) 171, 323, 352
- Winters v. United States*, 207 U.S. 564 (1908) 4
- Wolfsen v. United States*, 162 F. Supp. 403, 142 Ct. Cl. 383 (1958), cert. denied, 358 U.S. 907 (1959) 7, 82
- Wood v. Canyon County*, 43 Idaho 556, 253 P. 839 (1927) 63, 178
- Wunderlich v. United States*, 117 Ct. Cl. 92 (1950) 1390
- Wyoming v. Colorado*, 259 U.S. 419 (1922) 79
- Yuma County Water Users' Ass'n. v. Schlecht*, 275 F. 885 (9th Cir. 1921), affirmed, 262 U.S. 138 (1923) 56, 57, 59, 61, 191, 195
- Yuma Mesa Irr. and Drainage Dist. v. Udall*, 253 F. Supp. 909 (D. D.C. 1966) 416, 428

COURTS. *See* COURT DECISIONS; SUITS.

COVE POWERPLANT 1340

COW CREEK 1235

COW CREEK, Oregon 1892

COW CREEK, Wyoming 1887

COYOTE CREEK 1245

CRACKER BOX UNIT, MRB 1892

CRATER LAKE, Alaska 1704

CRATER LAKE NATIONAL PARK 1375

CRATER-LONG LAKES DIVISION, Snettisham project 1704

CRESCENT LAKE DAM PROJECT, Oregon

Funds for emergency rehabilitation 1142

Reclamation laws, application of. *See* GORDON AMENDMENT PROJECTS.

CRESTON-FAIRPORT INTERTIE 808

CRIMES, REGULATION OF. *See* FISH AND WILDLIFE; RECREATION.

CROOK COUNTY 1340

CROOKED RIVER BASIN 1889

CROOKED RIVER PROJECT, Oregon

Authorized 1340

Extension

Authorized 1802

Extra canal capacity authorized 1500

CROPS, SURPLUS. *See* AGRICULTURE ACT OF 1949; AGRICULTURAL ADJUSTMENT ACT OF 1938.

CROW CREEK PUMP UNIT, MRB, Montana

Interim contract with Toston Irrigation District 1233

- CROW INDIANS  
 Acquisition of lands of, for Yellowtail Dam 808  
 Ceded lands to be disposed of under reclamation law 92  
 Compensation for lands used for Huntley project 461, 1440  
 Compensation to, for lands utilized for Yellowtail Dam and Reservoir 1429  
 Lands for transmission line to Yellowtail dam site 863  
 Lands of, excluded from Bighorn Canyon National Recreation Area without consent of tribal council 1905
- CRSP. *See* COLORADO RIVER STORAGE PROJECT.
- CRYSTAL CREEK 1768
- CRYSTAL IRRIGATION DISTRICT 1080
- CSPE. *See* COLUMBIA STORAGE POWER EXCHANGE.
- CUDAI INDIAN IRRIGATION PROJECT 1664
- CUERO PROJECT, Texas  
 Completion of studies authorized 1888
- CULBERTSON DAM 930
- CUMBERLAND RIVER 801
- CURECANTI UNIT, CRSP 1248, 1257
- CUSTER COUNTY 855, 973
- CVP. *See* CENTRAL VALLEY PROJECT.
- D**
- DALE HOLLOW DAM 801
- DALLAS CREEK PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- DALLES. *See* THE DALLES.
- DALTON GARDENS IRRIGATION DISTRICT 1615
- DALTON GARDENS PROJECT, Idaho  
 Additional work authorized 1615  
 Funds appropriated for rehabilitation 1114, 1551  
 Reclamation laws, application of. *See* CORDON AMENDMENT PROJECTS.
- DAMAGES. *See* CANAL ACT; CLAIMS AGAINST UNITED STATES.
- DARDANELLE DAM 801
- DARK CANYON DIVISION, Burnt River project 1889
- DAVIS-BACON ACT  
 Text 1978
- DAVIS COUNTY 965

- DAVIS DAM. *See* PARKER-DAVIS PROJECT.
- DEADWOOD RESERVOIR 453
- DEAVER IRRIGATION DISTRICT 985, 1129
- DECISIONS. *See* ATTORNEY GENERAL DECISIONS; COMPTROLLER GENERAL DECISIONS; COMPTROLLER OF THE TREASURY DECISIONS; COURT DECISIONS; FEDERAL POWER COMMISSION DECISIONS; OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR.
- DEER CREEK DIVISION, Provo River project 866
- DEER FLAT RESERVOIR 450
- DEFENSE HOMES CORPORATION 869
- DEFENSE PLANT CORPORATION 899, 1194
- DE GRAY DAM 801
- DELAWARE CREEK, Texas 392
- DELAWARE RIVER, Texas 943
- DELAWARE RIVER BASIN COMPACT  
Text 1618
- DELAWARE, STATE OF  
Compacts of. *See* DELAWARE RIVER BASIN COMPACT.
- DELEGATION OF AUTHORITY  
Bureau of Reclamation 658, 721  
By Secretary of the Interior, generally 1005  
Government agency heads generally 1927  
Southwestern Power Administration 802
- DEL RIO 1542
- DELTA DIVISION, CVP 1887
- DELTA-MENDOTA CANAL 1529
- DE LUZ CREEK 1158
- DE LUZ DAM 1158
- DENISON DAM AND RESERVOIR 615, 616, 801, 1053
- DENISON-PAYNE TRANSMISSION LINE 1053
- DENTON, PHILIP J. 1357
- DENVER, CITY OF 1258
- DEPOSITS 259, 1025
- DESCHUTES PROJECT, Oregon  
*See also* ARNOLD PROJECT.  
Amended contract approved 1173  
Authorization explained 1173

## DESCHUTES PROJECT, Oregon—Continued

- Central division
  - Feasibility study authorized 1889
  - Haystack Dam authorized 1173
  - Miscellaneous references to 651
  - Study authorized 315

## DESCHUTES RIVER BASIN 1889

## DESERT LAND ACT

- Carey Act 25
- Classification of lands for disposition under 13, 422, 516
- Entries
  - Assignment of 176
  - In Imperial Valley 422
  - Lands in irrigation districts covered by Smith Act 224
  - Patents and water-right certificates 184
  - Relationship to Reclamation projects 13, 41, 42, 47, 49, 55, 123, 176, 184, 286, 295, 462, 1121
  - Taxation of. *See* TAXATION.
  - Text (original act) 12

DEVELOPMENT PERIOD. *See* CONSTRUCTION CHARGES.

## DEVELOPMENT UNIT

- Term defined 635

## DEVILS RIVER 753

## DIABLO DAM 1542

## DICKINSON DAM 1490

## DICKINSON UNIT, MRB, North Dakota

- Appropriations for public use facilities 1317
- Lake formed by Dickinson Dam named Edward Arthur Patterson Lake 1490

## DISASTER RELIEF ACT OF 1950

- Reimbursement of expenditures by Bureau of Reclamation for purposes of 1909
- Text 1043

## DISASTER RELIEF ACT OF 1966

- Extracts from 1912
- Miscellaneous references to 1608

## DISCRIMINATION 2007

## DISTRIBUTION SYSTEM LOANS ACT

- Amendments of 1264
- Statutory references to 1496, 1556
- Text 1218

## DISTRIBUTION SYSTEMS

- Central Valley project 584, 585, 711
- Coachella Valley. *See* ALL-AMERICAN CANAL.
- Loans for. *See* DISTRIBUTION SYSTEM LOANS ACT.
- Repayment contracts for
  - Generally 651, 656

- DIVISION OF A PROJECT**  
Term defined 635
- DIXIE PROJECT, Utah**  
Authorized 1768
- DOLORES PROJECT, Colorado**  
Expeditious completion of planning report directed 1249
- DOLTON, ROBERT, PEARL AND CLIFFORD** 1523
- DOMESTIC WATER SUPPLY.** *See* WATER SUPPLY.
- DONATIONS.** *See* ACQUISITION OF PROPERTY; ADVANCE PAYMENTS; SURPLUS PROPERTY.
- DOUGLAS-AQUA PRIETA SANITATION PROJECT**  
Authorization explained 1030
- DOUGLAS COUNTY** 1379
- DRAINAGE AND MINOR CONSTRUCTION ACT**  
Text 1269
- DRAINAGE WORKS**  
Canal Act 18  
Construction by the repayment organization  
Authorization of loans for 1269  
Excess land laws 64  
Reclamation projects, generally  
Express statutory authorization 1269  
Implied authority 36, 59, 169  
Seepage. *See* SEEPAGE; WATER RIGHTS.  
Special authorizations for individual projects  
Belle Fourche project 399  
Boise project 259, 300, 312  
Colorado Front work and levee system 401  
Klamath project 257  
Newlands project 314, 394  
Rio Grande project 235, 240  
San Luis unit 1524, 1529, 1858  
Uncompahgre project 479, 491, 506, 511, 521  
Vale project 337  
Wellton-Mohawk division 1757, 1858
- DRIFTWOOD CREEK** 741
- DRY FALLS DAM** 1099
- DUCK LAKE** 367
- DUE PROCESS CLAUSE** 5
- DUNCAN LAKE DAM, Canada** 1561, 1594
- DUST BOWL** 616
- DUST CONTROL** 1240

## E

- EAGLE DIVIDE PROJECT, Colorado  
Expeditious completion of planning report directed 1249
- EARTH, STONE AND TIMBER. *See* BUILDING MATERIALS.
- EASEMENTS. *See* ACQUISITION OF PROPERTY; RIGHTS OF WAY AND EASEMENTS.
- EAST BAY MUNICIPAL UTILITY DISTRICT 1546
- EAST BENCH UNIT, MRB, Montana  
Excess lands limit set at 130 acres of class 1 equivalent lands 1351
- EAST COLUMBIA BASIN IRRIGATION DISTRICT 1614, 1690
- EASTDALE RESERVOIR 1725
- EAST DIVISION, Umatilla project 369, 370
- EASTERN DIVISION, Huntley project 359
- EASTERN NEW MEXICO WATER SUPPLY PROJECT, New Mexico  
Feasibility study authorized 1891
- EAST GREENACRES UNIT, Rathdrum Prairie project 1887
- EAST MESA 436, 1893
- EAST MESA UNIT, All-American Canal water salvage 1893
- EAST RIVER PROJECT, Colorado  
Expeditious completion of planning report directed 1249
- EAST SIDE DIVISION, CVP 1848, 1887, 1890
- EAST UNIT, Greater Wenatchee division 1415
- ECHO RESERVOIR 338
- ECONOMISTS. *See* CONSULTANTS.
- ECONOMY ACT  
Extracts from 1967  
Miscellaneous references to 419, 449
- EDDY COUNTY 1314
- EDEN PROJECT, Wyoming  
Completion of construction of, authorized 954  
Conveyance of Farson Pilot Farm to State of Wyoming by Secretary of Agriculture  
1653, 1911  
Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION  
ACT.  
Deferment of operation and maintenance charges 1743  
Exchange of lands authorized 1136  
Reconveyance of Carey Act lands to United States 714  
Statutory references to 1251, 1253

- EDEN VALLEY IRRIGATION AND DRAINAGE DISTRICT 1743
- EDWARDS UNDERGROUND RESERVOIR 1548
- EEL RIVER 1893
- EEL RIVER BASIN 1890
- EEL RIVER DIVISION, North Coast project 1890
- EKLUTNA PROJECT, Alaska  
Authorized 1010, 1123
- EL CHAMIZAL. *See* CHAMIZAL.
- EL DORADO COUNTY 978, 1847
- ELECTRICITY. *See* POWER.
- ELPHANT BUTTE DAM AND RESERVOIR 98, 127, 216, 468, 489, 537, 543, 564, 623,  
1308, 1667
- ELPHANT BUTTE IRRIGATION DISTRICT 367, 412, 564
- ELK CREEK RESERVOIR 1703
- ELKHORN DIVISION, MRB, Nebraska  
Highland unit  
Feasibility study authorized 1894
- ELLIS UNIT, MRB 1888
- ELLSWORTH AIR FORCE BASE 1115
- EL PASO, CITY OF 100, 543, 941, 1805
- EL PASO COUNTY WATER IMPROVEMENT DISTRICT No. 1 100, 367, 412, 564, 1881
- EL VADO DAM 1661
- ELVERTA SUBSTATION 1847
- EMERGENCY WORK  
Current appropriation act language 1026  
Disaster relief. *See* DISASTER RELIEF ACTS.  
Earlier appropriation act language 300  
Emergency or continuing funds  
Bonneville Power Administration 578  
Bureau of Reclamation 891  
Colorado River Storage project 1252  
Eklutna project 1011  
Fort Peck project 608  
Southeastern Power Administration 1053  
Southwestern Power Administration 974  
Federal agencies generally 1043  
Fontenelle Dam. *See* SEEDSKADEE PROJECT.  
Protection of Yuma project 341  
Reimbursement of costs of 1045
- EMERY COUNTY PROJECT, Utah  
Authorized 1248

- EMIGRANT RESERVOIR 1184
- EMINENT DOMAIN. *See* ACQUISITION OF PROPERTY.
- EMPIRE IRRIGATION DISTRICT 313
- EMPLOYMENT  
 Construction labor. *See* CONSTRUCTION.  
 Consulting engineers, etc. *See* CONSULTANTS.  
 Indians. *See* CONSTRUCTION.
- ENABLING ACTS  
 Arizona and New Mexico  
 Extracts from 141
- ENDERS DAM AND RESERVOIR 1364
- ENGINEERS. *See* ARMY, DEPARTMENT OF THE; CONSULTANTS.
- ENGLE, CLAIR, LAKE 1817, 1863
- ENGLE DAM 98, 114
- ENGLE FORMULA. *See* EXCESS LANDS.
- ENGLISH RIDGE UNIT, North Coast project 1890
- ENID, CITY OF 832, 901
- ENTERPRISE IRRIGATION DISTRICT 65
- ENTRIES AND ENTRYMEN. *See* DESERT LAND ACT; HOMESTEAD LAWS; RECLAMATION  
 ENTRIES; WATER RIGHTS.
- EPHRATA AIR FORCE BASE 1025
- ESCONDIDO RIVER 753
- ESTUARIES 1282
- EUFULA DAM 801
- EUREKA DIVISION, North Coast project 1893
- EXCESS LANDS  
 Farm units. *See* FARM UNITS.  
 General statutory provisions 62, 166, 168, 179, 197, 376, 1307, 1550  
 Opinions  
 Excess land laws, miscellaneous topics 64, 170, 180, 197, 380, 399, 417, 586,  
 806, 843, 904, 1122, 1525, 1530  
 Ownership of excess lands 66, 100, 170, 181, 384, 675, 1550  
 Preexisting holdings and antispeculation 198, 386, 586, 1550  
 Special statutory problems  
 Army projects 805  
 Boulder Canyon project 417, 424, 439  
 San Luis unit, State service area 1525  
 Small reclamation projects (Engle formula) 1336, 1338  
 W.C.U. projects 673

**EXCESS LANDS—Continued**

- Statutory provisions relating to individual projects
  - Acreage limit raised 1389
  - Class 1 equivalency 1351, 1456, 1687, 1741, 1774
  - Columbia Basin project 556, 729, 1034, 1692
  - Contract required including antispeculation provisions 337, 339
  - Contract required with Southern Pacific Company for disposition of lands 336
  - General excess land law provisions applied 351, 354
  - Incremental value contracts 556, 562, 596, 1224
  - Payment of interest on costs attributable to excess lands (Engle formula) 1318, 1412, 1505
  - Research farms 1484
  - Statutory approval of contracts terminating excess land limitations on payout 641, 929, 986, 987, 1080, 1082, 1108, 1138, 1141, 1173, 1187, 1190, 1324
  - Tucumcari project 562, 596, 1224
  - Waiver of excess land laws 612, 712, 1083, 1215
  - Yuma project 983

**EXCHANGE OF PROPERTY.** *See* CONSTRUCTION; FARM UNITS; OPERATION AND MAINTENANCE; POWER; WATER RIGHTS.

**EXCLUSIVE JURISDICTION CLAUSE** 3

**EXECUTIVE ORDERS**

- Number 1032, land in Okanogan County for wildlife preserve
  - Statutory references to 692
- Number 6910, general withdrawal
  - Miscellaneous references to 43, 223, 515
  - Statutory references to 515
- Number 6964, general withdrawal
  - Miscellaneous references to 43, 515
  - Statutory references to 515
- Number 8038, Cabeza Prieta Game Range
  - Statutory references to 1679
- Number 8526, BPA as marketing agent for Grand Coulee Dam
  - Miscellaneous references to 539
- Number 9337 (superseded by 10355)
  - Miscellaneous references to 155
- Number 10355, Secretary of the Interior authority to withdraw lands
  - Miscellaneous references to 155
- Number 11177, designating United States Entity and United States Section of Permanent Engineering Board for purposes of Columbia River Treaty
  - Text 1601
- Number 11200, recreation area fees
  - Miscellaneous references to 1788

**EXPERIMENT FARMS.** *See* RESEARCH.

**F****FACT FINDERS' ACT**

- Amendments of
  - Repeal of subsections E, F, and L 387
  - Repeal of subsection M 1121
  - Subsection O 816
- Statutory references to
  - Generally 375, 376, 387, 412, 637, 927
  - Subsection B 562, 596
  - Subsection C 435, 666, 734, 1691
  - Subsection D 1239
  - Subsection F 493

## FACT FINDERS' ACT—Continued

## Statutory references to—Continued

Subsection I 352, 451, 494, 513, 685, 871, 1040, 1106, 1107, 1611

Subsection J 494, 871, 1106, 1107

Subsection K 357, 388

Text 316

FAIR EMPLOYMENT PRACTICES 658

FAIR PLAY UNIT, CVP 1890

## FALCON DAM

Location and construction of, explained 755

Power facilities at, approved 968

Secretary of Interior to market power from 1139

Statutory references to 1541

FALLBROOK PUBLIC UTILITY DISTRICT 1097, 1158

FALLING WATER 648, 1235

*See also* LEASES AND PERMITS.

FALL RIVER COUNTY 855, 973

## FARM CREDIT ACT OF 1933

Statutory references to 542

FARM CREDIT ADMINISTRATION 542

FARMS, EXPERIMENT. *See* RESEARCH.

FARMERS HOME ADMINISTRATION 1606

FARMERS' IRRIGATION DISTRICT 513, 850, 1024, 1352

FARMERS' IRRIGATION DISTRICT CANAL 871

FARM SECURITY ADMINISTRATION 616, 666

FARM TENANT ACT. *See* BANKHEAD-JONES FARM TENANT ACT.

## FARM UNIT EXCHANGE ACT

Statutory references to 734, 1691, 1740

Text 1118

## FARM UNITS

*See also* statutes relating to individual projects by name.

Assignment of entries 145, 176, 214

Establishment and administration

Amendment of units 1120

Columbia Basin project 556, 729, 734

Establishment of units required before entry 152

Generally 37, 51, 198, 998

Maximum size 320 acres, including not more than 160 acres of irrigable lands 1121

Minimum size reduced to ten acres or less 121

Excess land limitations. *See* EXCESS LANDS.

Exchanges

Generally 213, 324, 374, 1118

W.C.U. Act 673

- FARSON PILOT FARM 1653
- FARWELL UNIT, MRB, Nebraska  
Reauthorized 1326
- FEASIBILITY STUDIES AND REPORTS. *See* STUDIES AND REPORTS.
- FEATHER RIVER 585
- FEATHER WATER DISTRICT 585
- FEDERAL AGENCIES  
Interagency transfers of funds or property  
Economy Act provisions 1967  
Excess property 957  
Miscellaneous references to 32  
Reimbursement of project costs when land taken by  
Generally 297
- FEDERAL COLUMBIA RIVER POWER SYSTEM. *See* COLUMBIA RIVER POWER SYSTEM.
- FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS 611
- FEDERAL EMPLOYEES COMPENSATION ACT  
Statutory references to 1357
- FEDERAL FARM LOAN ACT  
Statutory references to 299, 542
- FEDERAL FARM MORTGAGE ASSOCIATION 542
- FEDERAL LAND BANKS 542
- FEDERAL POWER ACT  
Miscellaneous references to 429  
Part I  
Federal Power Commission. *See* FEDERAL POWER COMMISSION.  
Miscellaneous references to 28, 30, 45  
Moratorium on Colorado River licenses 1756  
No licenses in national parks without specific congressional authority 288  
Policy of, governs conflicting applications for power privileges at Hoover Dam  
426  
Requirements of, apply to lease and operation of power at Hoover Dam 431  
Statutory references to 576, 607, 863, 1780  
Temporary suspension of licensing authority 431  
Text 262  
Parts II and III  
Extracts from 527  
Statutory references to 576, 607
- FEDERAL POWER COMMISSION  
*See also* FEDERAL POWER ACT.  
Authority to approve Federal power rates. *See* POWER.  
Chairman of, a member of Water Resources Council 1829  
Creation and composition of 262  
Licensing of Priest Rapids Dam 1154  
Role in reviewing cost allocations at Army projects. *See* COST ALLOCATION.  
Statutory references to 431, 1799, 1871

## FEDERAL POWER COMMISSION DECISIONS

<i>Date</i>	<i>Subject</i>	<i>Source</i>	<i>Page</i>
Jan. 1954.....	Calif. Oregon Power Co.....	13 F.P.C. 1.....	96
Feb. 1956.....	do.....	15 F.P.C. 14.....	96
Aug. 1957.....	SPA aluminum contract.....	18 F.P.C. 153.....	802
May 1958.....	Cumberland project rates.....	19 F.P.C. 774.....	801
Dec. 1964.....	do.....	32 F.P.C. 1523.....	801
Feb. 1965.....	Utah P. & L.C. wheeling charges.....	33 F.P.C. 314.....	528

## FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Contracting provisions	
Extracts from	1987, 1996
Surplus property provisions	
Extracts from	956
Miscellaneous references to	192, 327
Statutory references to	534, 1204, 1788

## FEDERAL TORT CLAIMS ACT

Extracts from	884
Statutory references to	1144

## FEDERAL WATER POLLUTION CONTROL ACT

Text	1278
------	------

## FEDERAL WATER POLLUTION CONTROL ADMINISTRATION 1278, 1303

## FEDERAL WATER POWER ACT

References to. <i>See</i> FEDERAL POWER ACT (PART I).	
Text	262

## FEDERAL WATER PROJECT RECREATION ACT

Statutory references to	1851, 1884, 1899
Text	1820

## FEES AND CHARGES

Federal agencies, generally	1960
Recreation. <i>See</i> RECREATION	
Reimbursement of Federal costs. <i>See</i> REIMBURSEMENT AND COST SHARING.	

## FERRY COUNTY 665

## FINNEY COUNTY 936

## FINNEY COUNTY WATER USERS' ASSOCIATION 261

## FIRE SUPPRESSION

Current appropriation act language	1026
------------------------------------	------

## FIRST MESA UNIT, Yuma Auxiliary project 950

## FISH AND WILDLIFE

<i>See also</i> individual projects by name.	
Administration of project areas by Forest Service	
Generally	844
Administration of project areas by State or local bodies	
Existing reclamation projects, generally	1825
Federal water projects, generally	841, 844, 845, 1820, 1823
Grand Coulee Dam project fish hatcheries	707
Reclamation projects, generally	1825
Allocation of costs. <i>See</i> COST ALLOCATION.	

## FISH AND WILDLIFE—Continued

- Anadromous fisheries. *See* ANADROMOUS FISHERIES ACT; COLUMBIA RIVER.
  - As a project purpose
    - Generally 509, 839, 1820, 1861
    - Policy against projects with more than half of costs allocated to recreation and fish and wildlife enhancement 1826
    - Small reclamation projects 1333
  - Columbia River fisheries development. *See* COLUMBIA RIVER.
  - Conservation of, authorized 509, 839
  - Investigation of effect upon, as a condition to issuing Federal permits and licenses 840, 1434
  - Regulation of hunting and fishing
    - Crow Tribe of Indians 1430
    - Miscellaneous references to 69
    - National recreation areas. *See* individual national recreation areas by name.
    - Penalties for violating fish and wildlife conservation regulations 846
    - Spokane and Colville Indians 688
    - Wind River Reservation 681, 1329
  - Reimbursement and cost sharing
    - Anadromous fisheries 1860
    - Generally 839, 1434, 1820
    - Revised treatment of mitigation costs explained 842
    - Small reclamation projects 1336
  - Research. *See* RESEARCH.
  - Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
  - Studies. *See* STUDIES AND REPORTS.
  - Wilderness system. *See* WILDERNESS ACT.
- FISH AND WILDLIFE COORDINATION ACT
- Amendments of 1823
  - Named and amended 1434
  - Statutory references to 881, 1036, 1236, 1320, 1339, 1342, 1343, 1529, 1555, 1558, 1668, 1678, 1688, 1689, 1696, 1701, 1862
  - Text 839
- FISH AND WILDLIFE SERVICE
- Creation of, explained 510
- FISHER CONTRACTING COMPANY 1000
- FISHING. *See* FISH AND WILDLIFE.
- FLAGSTAFF-WILLIAMS PROJECT, Arizona
- Feasibility study authorized 1890
- FLAMING GORGE UNIT, CRSP 1248, 1257
- FLATHEAD INDIANS
- Miscellaneous references to 19, 69
- FLATHEAD RIVER 786
- FLATHEAD RIVER BASIN 1889
- FLATHEAD RIVER PROJECT, Montana
- Feasibility study authorized 1889
- FLOOD CONTROL
- See also* FLOOD CONTROL ACTS and individual dams, rivers, river basins and projects by name.

## FLOOD CONTROL—Continued

- As a project purpose
  - Generally 545
  - Reclamation projects 646
- Claims against United States for flood damage
  - Generally 206, 207, 208, 889
  - Private relief acts 404, 1144, 1308
  - Statutory disclaimer of liability 889, 1971
- Cost allocation. *See* COST ALLOCATION.
- Flood damage repair
  - Colorado River 161
  - Columbia Basin 890
  - Disaster relief acts. *See* DISASTER RELIEF ACTS.
  - Reclamation emergency fund 891
- Regulation of reclamation projects for, by Army
  - Generally 804
- Reimbursement and cost sharing
  - Army projects, generally 546, 614, 798
  - Boulder Canyon project 702
  - Central Valley project 583
  - Protection of Imperial Valley 161
  - Reclamation projects, generally 646
- Research. *See* RESEARCH.
- Small reclamation projects, loans for 1332
- Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
- Studies. *See* STUDIES AND REPORTS.

## FLOOD CONTROL ACT OF 1917

- Extract from 234

## FLOOD CONTROL ACT OF 1936

- Extracts from 545
- Miscellaneous references to 520
- Statutory references to 614, 932, 1855

## FLOOD CONTROL ACT OF 1938

- Extracts from 614
- Statutory references to 806, 1170

## FLOOD CONTROL ACT OF 1939

- Statutory references to 1004

## FLOOD CONTROL ACT OF 1944

- Extracts from 796
- Statutory references to
  - Section 1 1003, 1149, 1333, 1427, 1662
  - Section 2 1170
  - Section 4 1787
  - Section 5 1341, 1425
  - Section 6 832, 901
  - Section 7 979, 1161, 1261, 1546, 1547, 1688, 1848
  - Section 8 832, 901, 1003, 1427, 1432, 1722
  - Section 9. *See* MISSOURI RIVER BASIN PROJECT. *See also* individual units and divisions of MRB by name.
  - Section 13 1170, 1171

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

- FLOOD CONTROL ACT OF 1946  
 Extracts from 832  
 Miscellaneous references to 807
- FLOOD CONTROL ACT OF 1948  
 Extracts from 901
- FLOOD CONTROL ACT OF 1950  
 Extracts from 1002  
 Miscellaneous references to 807  
 Statutory references to 1155, 1170
- FLOOD CONTROL ACT OF 1954  
 Extracts from 1216
- FLOOD CONTROL ACT OF 1958  
 Extracts from 1424  
 Miscellaneous references to 807
- FLOOD CONTROL ACT OF 1960  
 Extracts from 1544  
 Miscellaneous references to 807
- FLOOD CONTROL ACT OF 1962  
 Extracts from 1701  
 Statutory references to 1787, 1900
- FLOOD CONTROL ACT OF 1965  
 Extracts from 1855
- FLOOD CONTROL ACT OF 1966  
 Extracts from 1921
- FLORIDA PROJECT, Colorado  
 Authorized 1248
- FLORIDA, STATE OF  
 Executive Order No. 6964 and Taylor Grazing Act apply 516  
 Southeastern Power Administration markets power from Army dams in 801
- FLY CREEK DIVISION, Huntley project 359
- FOLSOM DAM AND RESERVOIR 809, 978, 1310, 1311
- FOLSOM-MALBY AREA 1847
- FOLSOM SOUTH CANAL 1847
- FONTENELLE DAM 1249, 1254
- FOREIGN COUNTRIES. *See* BUREAU OF RECLAMATION; COLUMBIA RIVER TREATY; INTERNATIONAL BOUNDARY AND WATER COMMISSION; MEXICAN WATER TREATY; POWER; TREATIES AND CONVENTIONS.
- FOREST EXCHANGE ACT  
 Statutory references to 865
- FOREST HILL DIVIDE 1847
- FORMAN, DAVID H. 1709
- FORT ASSINIBOINE MILITARY RESERVATION 40
- FORT BELKNAP IRRIGATION DISTRICT 970

FORT BENTON UNIT, MRB	1891
FORT BUFORD MILITARY RESERVATION	40
FORT COBB RESERVOIR	1242
FORT GIBSON DAM	801
FORT HALL BOTTOMS	1207
FORT HALL INDIAN PROJECT, Idaho	
Funds for reconstructing main canal	311
Provision for Michaud division and water storage in American Falls and Palisades Reservoirs	1206
FORT HALL INDIAN RESERVATION	
Lands for American Falls Reservoir	310, 313
Reconstruction, main canal, Fort Hall Indian project	311
Water storage in American Falls and Palisades Reservoirs	1206
FORT LARAMIE DIVISION, North Platte project	365, 366, 1352
FORT LARAMIE IRRIGATION DISTRICT. <i>See</i> GERING AND FORT LARAMIE IRRIGATION DISTRICT.	
FORT MOJAVE INDIANS	
Acquisition of lands of, for Parker Dam project	695
Miscellaneous references to	427
Statutory references to	1517
FORT PECK INDIAN RESERVATION	
Furnishing of electric service to	864
Reverter of Indian lands acquired for Fort Peck project	822
FORT PECK PROJECT, Montana	
Acquisition of Indian lands authorized	822
Authorized	604
Indian power facilities acquired for use in connection with	864
Requirement for annual report repealed	1200
School assistance	876
Transfer of certain power transmission facilities to Interior	1054
FORT QUITMAN	116, 117, 466, 522, 524, 622, 717, 750, 1541
FORT RANDALL DAM	1888
FORT SHAW DIVISION, Sun River project	369, 1656
FORT SHAW IRRIGATION DISTRICT	1656
FORT SHAW MILITARY RESERVATION	118
FORT SUMNER IRRIGATION DISTRICT	890, 963
FORT SUMNER PROJECT, New Mexico	
Appropriation to protect diversion dam of Fort Sumner Irrigation District from flood damage	890
Authorized	963
FORT SUPPLY RESERVOIR	1002

- FORT THOMPSON UNIT, MRB, South Dakota  
Feasibility study authorized 1893
- FOSS DAM AND RESERVOIR 1242, 1460
- FOSTER CREEK DIVISION, Chief Joseph Dam project 1151
- FOURMILE LAKE 1367
- FOX, DOROTHY ATWOOD 1540
- FRANKLIN CANAL 99, 941
- FRANNIE DIVISION, Shoshone project 355, 368, 595, 985
- FREEDOM OF INFORMATION. *See* PUBLIC INFORMATION ACT.
- FREMONT COUNTY 1125
- FREMONT DAM AND RESERVOIR 1796
- FRENCHMAN-CAMBRIDGE DIVISION, MRB, Nebraska  
Lake formed by Medicine Creek Dam named Harry Strunk Lake 1095  
Name of Culbertson Dam changed to Trenton Dam and reservoir named Swanson  
Lake 930  
Red Willow Dam and Reservoir  
Feasibility report approved 1453  
Transfer from Army to Interior 1261  
Relief to Village of Wauneta for drainage to water and sewer facilities 1364
- FRENCHMAN CREEK 741, 1364
- FRENCHMAN VALLEY IRRIGATION DISTRICT 380
- FRENCHTOWN IRRIGATION DISTRICT 1082, 1129
- FRENCHTOWN PROJECT, Montana  
Amended contract approved 1082  
Certain administrative costs nonreimbursable 1129
- FRESNO DAM AND RESERVOIR, Milk River project 708
- FRESNO RIVER 1702
- FRIANT DAM 584, 585, 1097
- FRIANT-KERN CANAL 383
- FRIO RIVER 1891
- FRONTIER CANAL 936
- FRONTIER COUNTY 1095
- FRUIT GROWERS EXTENSION PROJECT, Colorado  
Expeditious completion of planning report directed 1249
- FRUITLAND INDIAN IRRIGATION PROJECT 1664
- FRUITLAND MESA PROJECT, Colorado  
Authorized 1248, 1774
- FRYINGPAN-ARKANSAS PROJECT, Colorado  
Authorized 1670

## G

- GADSDEN PURCHASE 775
- GALISTEO RESERVOIR 1544
- GARDEN CITY PROJECT, Kansas 261
- GARDEN VALLEY DIVISION, Southwest Idaho water development project 1889
- GARFIELD PUMPING DIVISION, Grand Valley project 359
- GARLAND DIVISION, Shoshone project 368, 376, 491, 595, 1145
- GARRISON DAM 1349
- GARRISON DIVERSION UNIT, MRB, North Dakota-South Dakota  
Missouri-Souris unit reauthorized as Garrison Diversion unit 1841
- GEM IRRIGATION DISTRICT 312, 491, 610, 1080
- GENERAL BRIDGE ACT  
Statutory references to 1612
- GENERAL GRANT NATIONAL PARK 29
- GENERAL RAILROAD RIGHT OF WAY ACT  
Miscellaneous references to 46
- GENERAL SERVICES ADMINISTRATION 956, 1025, 1203, 1494, 1822, 1843, 1849
- GENERAL WELFARE CLAUSE 1
- GEOLOGICAL SURVEY 15, 86  
*See also* individual compacts by name.
- GEOLOGISTS. *See* CONSULTANTS.
- GEORGIA ELECTRIC MEMBERSHIP CORPORATION 802
- GEORGIA POWER COMPANY 802
- GEORGIA, STATE OF  
Southeastern Power Administration markets power from Army dams in 801
- GERBER RESERVOIR 361
- GERING AND FORT LARAMIE IRRIGATION DISTRICT 1106, 1352
- GILA CANAL 435
- GILA COUNTY 1202
- GILA NATIONAL FOREST 427
- GILA PROJECT, Arizona  
Furnishing of water to reduced Yuma Auxiliary project 950  
Land preparation 748  
Lands to University of Arizona for experimental farm 819  
Repayment contract authorized 1239  
Subject to Boulder Canyon Project Act and Colorado River Compact 564  
Water for use of Arizona State Experimental Farm 598  
Withdrawal of lands for Luke-Williams Air Force Range 1679  
Yuma Mesa division defined and reauthorized; Wellton-Mohawk division authorized 858

- GILA RIVER 35, 420, 431, 661, 1425, 1891
- GILA RIVER BASIN 1425
- GILA VALLEY POWER DISTRICT 859
- GIRVIN, TOWN OF 1800
- GLACIER NATIONAL PARK  
Use of, for reclamation projects 139
- GLASGOW DIVISION, Milk River project 353, 1081
- GLASGOW IRRIGATION DISTRICT 971, 1080
- GLEN CANYON DAM 424, 1248, 1756
- GLEN CANYON UNIT, CRSP 1248, 1257, 1317, 1462
- GLENDO DAM AND RESERVOIR 1226, 1893
- GLENDO INUNDATED IRRIGATION WATER RIGHTS UNIT, MRB 1893
- GLENDO, TOWN OF 1226
- GLENDON UNIT, MRB, Wyoming  
Approval of definite plan report by Nebraska, Wyoming, Colorado and Congress required 976  
Definite plan report approved and construction authorized 1148  
Design and construction limited unless specifically authorized by Congress 895  
Extra sewerage capacity to serve town of Glendo 1226  
Gray Reef Dam and Reservoir authorized 1445
- GLEN ELDER IRRIGATION UNIT, MRB 1894
- GLENN COUNTY 1032
- GOLETA COUNTY WATER DISTRICT 585
- GOODING DIVISION, Minidoka project 382
- GOODWIN DAM 1701
- GOOSEBERRY PROJECT, Utah  
Expeditious completion of planning report directed 1249
- GOOSE LAKE 95, 257, 307, 723
- GORE RANGE-EAGLES NEST PRIMITIVE AREA 1779
- GORRELL, ISABELLE S. 1247
- GOSHEN IRRIGATION DISTRICT 198, 297, 1106, 1352
- GOVERNMENT CORPORATION CONTROL ACT  
Statutory references to 957
- GRACE CREEK, Alaska 1892
- GRAND CANYON NATIONAL PARK  
Use of, for reclamation projects 244
- GRAND COULEE, CITY OF 1379, 1385
- GRAND COULEE DAM 538, 556, 724, 856, 907, 1273, 1579, 1870, 1886

- GRAND COULEE DAM PROJECT, Washington  
 Acquisition of Indian lands 688  
 Allocation of interest on power sales from 856  
 Appropriations for operation of camp and facilities 724  
 Authorization of 538  
 Claims of Silas Mason, Walsh Construction, and Atkinson-Kier Companies 907  
 Final payment to Grand Coulee School District 1053  
 Jurisdiction of claims of Columbia Basin Orchard, et al., for flooding resulting from drilling operations 1134  
 Name changed to Columbia Basin project 728  
 Operation of fish hatcheries by State of Washington 707  
 Payments to local school districts 716  
 Prevention of speculation on irrigated lands 556  
 Quitclaim of lands 1221  
 Sale of housing. *See* COULEE DAM COMMUNITY ACT OF 1957.
- GRAND COULEE SCHOOL DISTRICT 1053
- GRANDE RIVER, Oregon 1889
- GRANDE RONDE PROJECT, Oregon  
 Feasibility study authorized 1889
- GRANDE RONDE RIVER 1856
- GRAND ISLAND ARMY AIRFIELD 898
- GRAND ISLAND, CITY OF 898
- GRAND MESA PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- GRAND-NEOSHO RIVER 1915, 1916
- GRAND TETON NATIONAL PARK 875, 996
- GRAND VALLEY 52
- GRAND VALLEY PROJECT, Colorado  
 Authorization for lease of power privileges 486, 492, 506, 511, 521, 1543  
 Miscellaneous references to 251, 651  
 Modification of repayment contract authorized 1713  
 Reduction and suspension of construction charges 358
- GRAND VALLEY WATER USERS' ASSOCIATION 486, 1543, 1713
- GRANITE REEF DAM 1202
- GRANT COUNTY, North Dakota 1431
- GRANT COUNTY, Washington 1134, 1154, 1379
- GRANTS PASS IRRIGATION DISTRICT 976
- GRANTS PASS PROJECT, Oregon  
 Appropriations for Northwest unit pipeline 976  
 Fish protective facilities at Savage Rapids Dam 1273  
 Reclamation laws, application of. *See* CORDON AMENDMENT PROJECTS.  
 Rehabilitation of Savage Rapids Dam 1093
- GRASS ROPE UNIT, MRB 1893
- GRASSY LAKE RESERVOIR 996

- GRAVEL. *See* BUILDING MATERIALS.
- GRAVITY DIVISION, Minidoka project 364, 1610
- GRAVITY EXTENSION UNIT, Minidoka project 66, 313, 382, 398, 1187
- GRAY REEF DAM AND RESERVOIR 1445
- GRAYS LAKE 1039
- GRAZING. *See* LEASES AND PERMITS; TAYLOR GRAZING ACT.
- GRAZING DISTRICTS 515
- GREAT BASIN 1857
- GREAT BRITAIN. *See* TREATIES AND CONVENTIONS.
- GREATER WENATCHEE DIVISION, Chief Joseph Dam project 1415
- GREAT LAKES 1282, 1860, 1922
- GREAT NORTHERN RAILWAY COMPANY 362, 559, 657, 665
- GREAT PLAINS 620, 668, 1137  
*See also* WATER CONSERVATION AND UTILIZATION ACT.
- GREAT SALT LAKE 1213, 1398
- GREENFIELDS DIVISION, Sun River project 1112
- GREENFIELDS IRRIGATION DISTRICT 453, 1112
- GREEN MOUNTAIN DAM AND RESERVOIR 1249, 1258, 1672
- GREEN RIVER 918, 1098
- GREENWOOD COUNTY ELECTRIC POWER COMMISSION 1114
- GREENWOOD UNIT, MRB 1888
- GREERS FERRY DAM 801
- GROUND WATER  
*See also* SEEPAGE; WELLS.  
Consent to Nebraska, Wyoming and South Dakota to negotiate compact relating to extraction and use of ground waters common thereto 1117  
Drainage. *See* DRAINAGE WORKS.  
Excess land laws  
Miscellaneous opinions 383, 1525  
Waiver of 1215  
Exportation of, outside of State 2  
Recharge of  
Edwards Underground Reservoir 1548  
Santa Maria project 1215  
Seepage. *See* SEEPAGE; WATER RIGHTS.  
Wells. *See* WELLS.
- GUADALUPE RIVER 1888
- GUADALUPE RIVER BASIN 1548

- GUARDS 718
- GUERNSEY RESERVOIR 998
- GULF INTRACOASTAL WATERWAY-CHANNEL 1493
- GULF OF CALIFORNIA 1753
- GUNNISON-ARKANSAS PROJECT, Colorado  
Statutory references to 1670
- GUNNISON RIVER 1248
- H**
- HALL COUNTY 899
- HALOGETON GLOMERATUS CONTROL ACT  
Text 1100
- HAMILTON COUNTY 936
- HAMMOND PROJECT, New Mexico  
Authorized 1248
- HANFORD NEW PRODUCTION REACTOR 1685
- HANKS MARSH 1771
- HARDIN UNIT, MRB 1893
- HATCH, TOWN OF 404
- HAVASU LAKE NATIONAL WILDLIFE REFUGE 427
- HAWAII, STATE OF  
Framework plan by Army authorized 1922  
Investigations in 1020  
Investigation of certain projects in, authorized 1188  
Small watersheds act applies to 1171
- HAWTHORNE NAVAL AMMUNITION DEPOT 1098
- HAYDEN LAKE IRRIGATION DISTRICT 1615
- HAYDEN LAKE UNIT, Rathdrum Prairie project 1273, 1551, 1615
- HAYDEN-O'MAHONEY AMENDMENT  
Text 598
- HAYSTACK DAM 1173
- HEAD GATE ROCK 538
- HEADGATE ROCK DAM 1876
- HEADWATER BENEFITS 273
- HEALTH, EDUCATION, AND WELFARE, DEPARTMENT OF 1303, 1807, 1829, 1858, 1862
- HEART BUTTE DAM 1431
- HEART BUTTE UNIT, MRB, North Dakota  
Reservoir above Heart Butte Dam named Lake Tschida 1431

- HEART MOUNTAIN DIVISION, Shoshone Project 831, 899, 1247, 1346
- HEART MOUNTAIN IRRIGATION DISTRICT 1471
- HELENA-GREAT FALLS DIVISION, MRB, Montana  
Fort Benton unit  
Feasibility study authorized 1891
- HENDERSON, CITY OF 897, 1266, 1715
- HENKEL, CAROLINE, WILLIAM AND GEORGE 1522
- HENLY, GEORGE B., CONSTRUCTION COMPANY 1102
- HENRY'S FORK 918
- HERMISTON IRRIGATION DISTRICT 369, 370, 1138
- HERON NUMBERED 4 RESERVOIR 1661
- HEYBURN, TOWNSITE OF 356, 1710
- HEYBURN, VILLAGE OF 122
- HIDALGO AND CAMERON COUNTIES WATER CONTROL AND IMPROVEMENT DISTRICT NUMBERED 9 1412
- HIDDEN DAM AND RESERVOIR 1702
- HIERSCHKE, ANTON 660
- HIGHLAND UNIT, MRB 1894
- HILLSBORO, CITY OF 1054
- HOGBACK INDIAN IRRIGATION PROJECT 1664
- HOMESTEAD LAWS  
Extracts from 2023  
Lands in irrigation districts covered by Smith Act 224  
Relation to reclamation entries  
Generally 37  
Statutory references to 93, 257, 286, 295, 374, 515, 1118
- HOOVER DAM 414, 528, 539, 848, 898, 1021, 1479, 1758
- HOOVER DAM DOCUMENTS 415
- HOPE VALLEY DIVISION, Washoe project 1890
- HORNER, A. S., CONSTRUCTION COMPANY 1009
- HORSEFLY IRRIGATION DISTRICT 360, 361
- HORSEHEAD FLATS UNIT, MRB 1893
- HOSPITALS  
Boulder City 715  
Disposition of land for, on Gila project 860
- HOT SPRINGS COUNTY 1328
- HOT SULPHUR SPRINGS, TOWN OF 662

## HOUSING

- Construction camps. *See* CONSTRUCTION.
- Disposition of surplus Government housing on Gila project 860
- Sale of Boulder City houses 869
- Sale of Coulee Dam houses 1379
- Transfer of construction workers' houses to Coachella Valley County Water District 962

## HOUSING ACT OF 1954

- Statutory references to 1792, 1837

## HOUSING ACT OF 1961

- Statutory references to 1792

## HOUSING AND HOME FINANCE ADMINISTRATION 860

## HOUSING AND HOME FINANCE AGENCY 1384, 1474, 1791

## HOUSING AND URBAN DEVELOPMENT ACT OF 1965

- Reorganization plan references to 1304

## HOWARD COUNTY 1326

## HOWARD FLAT UNIT, Greater Wenatchee division 1415

## HOWARD PRAIRIE RESERVOIR 1184

## HUALAPAI INDIANS

- Lands of, within boundaries of Lake Mead National Recreation Area 1814

## HUDSPETH COUNTY CONSERVATION AND RECLAMATION DISTRICT No. 1 100

## HUMBOLDT COUNTY 1236

## HUMBOLDT PROJECT, Nevada

- Waiver of excess land laws 712

## HUMBOLDT RIVER RESERVOIR 712

## HUMPHREY-THYE-BLATNIK-ANDRESEN ACT

- Statutory references to 1780

## HUNGRY HORSE DAM 786, 1579, 1764

## HUNGRY HORSE PROJECT, Montana

- Authorized 786
- Subject to Federal reclamation laws 1417

HUNTING. *See* FISH AND WILDLIFE.

## HUNTLEY PROJECT, Montana

- Amended contract approved 1613
- Compensation to Crow Tribe for lands 1440
- Conveyance of lands to Huntley Project Schools 1497
- Miscellaneous references to 93
- Reduction and suspension of construction charges 359

## HUNTLEY PROJECT IRRIGATION DISTRICT 1613

## HUNTLEY, TOWNSITE OF 1497

## HUNT PROJECT, Idaho 831

- HYRUM PROJECT, Utah  
Amended contract approved 1015
- I
- ICE HARBOR DAM 1579
- ICKES, HAROLD L. 538
- IDAHO POWER COMPANY 352
- IDAHO, STATE OF  
Compacts of. *See* BEAR RIVER COMPACT; COLUMBIA RIVER COMPACT; SNAKE RIVER COMPACT.  
Desert Land Act applies 13  
Executive Order No. 6910 and Taylor Grazing Act apply 515  
Proceeds of public lands sales 33  
Projects in. *See* individual dams and projects by name.  
Reclamation Act applies 31  
School lands 110
- ILLINOIS, STATE OF  
Compacts of. *See* WABASH VALLEY COMPACT.
- ILLINOIS VALLEY DIVISION, Rogue River Basin project 1887
- IMPERIAL COUNTY 422
- IMPERIAL DAM 415, 761, 1753, 1877
- IMPERIAL DIVISION, All-American Canal 1890
- IMPERIAL IRRIGATION DISTRICT  
Acquisition of Alamo Canal authorized 1030  
Application of payments by, to costs of Yuma and Yuma auxiliary project 395, 447, 950  
Contract with 415, 423, 433, 491  
Contribution of funds  
Flood protection 211  
Studies 254  
Credit to, for costs of Colorado River flood protection works 1018  
Desert land entries within 222, 422  
East Mesa lands 436  
Excess lands 417  
Seven-party contract 428
- IMPERIAL NATIONAL WILDLIFE REFUGE  
Miscellaneous references to 44, 156
- IMPERIAL VALLEY 161, 211, 253, 414, 417, 422, 423, 433, 548, 854, 1890, 1893
- INDIA 687
- INDIANA, STATE OF  
Compacts of. *See* WABASH VALLEY COMPACT.
- INDIAN CAMP RESERVOIR 1661
- INDIAN IRRIGATION PROJECTS  
Damage claims 205, 208  
Deferment or adjustment of charges  
Lands in Indian ownership 504  
Relief acts 308, 521, 541, 581, 632  
Miscellaneous references to 247, 635

## INDIAN IRRIGATION PROJECTS—Continued

## Statutory references to

- Construction of distribution system and drainage works to serve Cabazon Augustine, and Torres-Martinez Indian Reservations 1457
- Crow Indian Irrigation Department 1429
- Fort Hall Indian project 311, 1206
- Fort Peck Indian irrigation project 864
- Fruitland, Hogback, Cudai and Cambridge projects 1664
- Navajo Indians. *See* NAVAJO INDIAN IRRIGATION PROJECT.
- Not covered by Hayden-O'Mahoney amendment 599
- Pine River (Southern Ute) 1150
- Taxation of ceded Indian lands within 408
- Wapato Indian irrigation project 589, 693, 1491
- Yakima Indians 185
- Study Commission 580

## INDIAN LANDS

## Acquisition, withdrawal or other use of, for reclamation projects

- Canal Act 18
- Compensation for Chemehuevi Indian lands withdrawn 696
- Generally 40, 73, 120, 157, 808, 862
- Statutes relating to individual tribes 90, 91, 92, 105, 108, 137, 310, 680, 688, 695, 719, 725, 727, 794, 822, 1109, 1125, 1328, 1429, 1440, 1462
- Arizona and New Mexico Enabling Act 141

## Ceded lands

- Reclamation entries on, generally 177
- Riverton project 260
- Taxation of. *See* TAXATION.
- Construction charges, generally
  - Not collected while lands in Indian ownership 128, 504

## Drainage of 304

## Fish and wildlife, conservation of 509

Indian irrigation projects. *See* INDIAN IRRIGATION PROJECTS.

## Rights of way in, to others than United States

- Federal Power Act 264, 267, 272
- Generally 29, 173, 862

Water rights of. *See* WATER RIGHTS.

## Water service to, from reclamation projects

- Authorized, generally 128
- Colorado River Storage project 1251
- Fort Hall Indian Reservation 1206
- Paiute Indians 394
- Pima Indians 127
- Salt River Indians 215
- Wapato Indians 589, 693, 1491
- Yakima Indians 185
- Yuma and Colorado River Indians 395
- W.C.U. projects 670

INDIANS. *See* CONSTRUCTION; FISH AND WILDLIFE; INDIAN IRRIGATION PROJECTS; INDIAN LANDS; WATER RIGHTS. *See also* individual tribes and reservations by name.

INDUSTRIAL WATER SUPPLY. *See* WATER SUPPLY.

## INFORMATION

- Disclosure of confidential information 1949
- Public Information Act 1930

## INTEREST

- "Coupon rate"
  - Miscellaneous formulas 1048, 1084, 1160, 1170, 1242, 1245, 1354, 1557, 1704, 1851
  - Water Supply Act formula 1253, 1336, 1427, 1501, 1536, 1537, 1671, 1676, 1769, 1775, 1843, 1899
- Farmers Home Administration loans 1608
- "Interest component" 650, 655, 856, 857, 882, 1104
- Penalty interest. *See* CONSTRUCTION CHARGES; OPERATION AND MAINTENANCE CHARGES.
- Small reclamation projects 1336
- Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
- Special statutory provisions for individual projects
  - Bitter Root project rehabilitation 476
  - Boulder Canyon project 417, 701, 1021
  - Boulder City water supply 1480
  - Collbran project 1084
  - Columbia Basin project 737
  - Grand Coulee Dam power sales 856
  - Kennewick division, Yakima project 881
  - Middle Rio Grande project 903
  - Missouri River Basin project and Army power investment 1843
  - Water Supply Act formula applied. *See under* "Coupon rate" above.
- Water resource projects, generally
  - Irrigation, no interest on costs allocated to 58, 424, 1219
  - Power. *See* POWER.
  - Recreation. *See* RECREATION.
  - Water supply. *See* WATER SUPPLY.
- "Yield rate" 1254 *expl. note*, 1337 *expl. note*, 1412, 1505

INTERIOR, DEPARTMENT OF THE. *See* OPINIONS AND DECISIONS OF THE INTERIOR DEPARTMENT; REORGANIZATION PLAN NO. 3 OF 1950.

## INTERNATIONAL BOUNDARY AND WATER COMMISSION

- Chamizal problem 99, 775
- Compact references to 915
- Establishment of. *See* MEXICAN WATER TREATY.
- International Boundary Commission
  - Establishment of and treaties relating to, explained 775
  - Name changed to International Boundary and Water Commission 751
- International Water Commission explained 524
- Presidential letter to Secretary of State regarding flood control works and credits to Imperial Irrigation District 1019
- Projects of commission. *See* AMISTAD DAM; FALCON DAM; LOWER COLORADO RIVER; LOWER RIO GRANDE; RIO GRANDE RECTIFICATION PROJECT; TIJUANA RIVER.
- Projects of United States Section. *See* AMERICAN DIVERSION DAM; CALEXICO-MEXICALI SANITATION PROJECT; DOUGLAS-AQUA PRIETA SANITATION PROJECT; LOWER RIO GRANDE; LOWER RIO GRANDE FLOOD CONTROL PROJECT; RIO GRANDE CANALIZATION PROJECT; TIJUANA RIVER.
- Recreation fees and charges 1785
- Statutory authority of United States Section, generally 522, 534, 1028
- Statutory references to 1018, 1829
- Treaties relating to. *See* MEXICAN WATER TREATY; TREATIES AND CONVENTIONS.

INTERNATIONAL BOUNDARY COMMISSION. *See* INTERNATIONAL BOUNDARY AND WATER COMMISSION.

- INTERNATIONAL JOINT COMMISSION  
 Established 132  
 Statutory references to 1828  
 Treaty references to 1561 *et seq.*
- INTERNATIONAL WATER COMMISSION. *See* INTERNATIONAL BOUNDARY AND WATER COMMISSION.
- INTERSTATE COMPACTS. *See* COMPACTS.
- INTERSTATE DIVISION, North Platte project 365, 366, 1131, 1352
- INVENTIONS 1088
- INVERSE CONDEMNATION. *See* ACQUISITION OF PROPERTY; CLAIMS AGAINST UNITED STATES.
- INVESTIGATIONS. *See* STUDIES AND REPORTS.
- IOWA, STATE OF  
 Construction of transmission lines in 808
- IRON COUNTY, Utah 1768
- IRRIGATION BLOCK  
 Development period for 652, 1681  
 Term defined 635
- IRRIGATION DISTRICTS  
 Application of State laws to public lands within, authorized 220, 299  
 Appointment of, as fiscal agents of United States to collect charges against individual water users, authorized 195  
 Assessments by  
   Columbia Basin project 736  
   Excess lands 65, 170, 381  
   Generally 221, 297, 298, 639, 904  
   Liens for 221, 542  
 Included within the term "organization" 635, 1331  
 Repayment contracts with. *See* CONSTRUCTION CHARGES; DRAINAGE AND MINOR CONSTRUCTION ACT; FISH AND WILDLIFE; OPERATION AND MAINTENANCE CHARGES; RECREATION; REHABILITATION AND BETTERMENT ACT; REPAYMENT CONTRACTS; SMALL RECLAMATION PROJECTS ACT; WATER SERVICE; WATER SUPPLY.  
 Taxation. *See* TAXATION.  
 Term "irrigation district or other public agency" defined 1218  
 Transfer of operation and maintenance to. *See* OPERATION AND MAINTENANCE.
- IRRIGATION PUMPING. *See* BONNEVILLE POWER ADMINISTRATION; CHIEF JOSEPH DAM PROJECT; COLUMBIA RIVER POWER SYSTEM; POWER.
- IRRIGATION SUBSIDY. *See* POWER; WATER SUPPLY.
- ISABELLA RESERVOIR 806, 809
- IVANHOE IRRIGATION DISTRICT 585
- IVINS BENCH 1768

## J

JACKSON COUNTY, Colorado	566
JACKSON COUNTY, Oklahoma	1007
JACKSON COUNTY, Oregon	1184
JACKSON LAKE	168, 210, 484
JAMES AND PHELPS CONSTRUCTION COMPANY	905
JAMES DIVISION, MRB, South Dakota	
Oahe unit	
Completion of studies (exclusive of Mitchell area) authorized	1888
Feasibility study of Mitchell section authorized	1893
JAMES RIVER VALLEY	1888
JAMESTOWN UNIT, MRB, North Dakota	
Expenditures for public use and safety facilities made nonreimbursable	1142
JASKAR, ADE E.	1132
J. A. TERTELING & SONS, INC.	1263
JEFFERSON RIVER	1888
JEFFERSON UNIT, MRB	1888
JEMEZ CANYON RESERVOIR	1544
JENNY CREEK	1371
JOB CORPS	
Established	2009
JOHN DAY DAM	1579, 1758
JOHNSON CREEK	357
JOHNSON, HARRY	1132
JONES, J. N.	989
JORDAN CREEK	1892
JORDAN VALLEY DIVISION, Upper Owyhee project	1892
JULESBURG IRRIGATION DISTRICT	345
JUMPOFF JOE CREEK	1886
JUNIPER DIVISION, Wapinitia project	1268
JUNIPER PROJECT, Colorado	
Expeditious completion of planning report directed	1250
JUST COMPENSATION CLAUSE	5

## K

- KANSASKA DIVISION, MRB, Kansas  
     Nelson Buck unit  
         Feasibility study authorized      1894
- KANOPOLIS DAM      1894
- KANOPOLIS UNIT, MRB      1894
- KANSAS CITY POWER & LIGHT COMPANY      802
- KANSAS FORESTRY, FISH AND GAME COMMISSION      1558
- KANSAS-OKLAHOMA ARKANSAS RIVER COMMISSION  
     Established      1918
- KANSAS STATE HIGHWAY COMMISSION      1706
- KANSAS, STATE OF  
     Compacts of. *See* ARKANSAS RIVER COMPACTS; BIG BLUE RIVER COMPACT; REPUBLICAN RIVER COMPACT.  
     Executive Order No. 6964 and Taylor Grazing Act apply      516  
     Included in marketing area of Southwestern Power Administration      974  
     Projects in. *See* individual dams and projects by name.  
     Reclamation Act applies      31
- KAWEAH RIVER      383, 809
- KAYSINGER BLUFF DAM      801
- KEARNEY COUNTY      936
- KEATING AMENDMENT      1054
- KELLOGG UNIT, CVP      1887
- KENDRICK PROJECT, Wyoming  
     Amended contract; excess land limit raised to 480 acres      1389  
     Miscellaneous references to      291, 297  
     Name changed to Casper-Alcova project      566  
     Power revenues, application of      619
- KENNETT DAM      584
- KENNEWICK DIVISION, Yakima project      881, 1886
- KENNEWICK HIGHLANDS UNIT, Yakima project      457, 503
- KENNEWICK IRRIGATION DISTRICT      457
- KENTUCKY, STATE OF  
     Southeastern Power Administration markets power from Army dams in      801
- KERN RIVER      806, 809, 1887, 1890
- KERR DAM      1579
- KERR, ROBERT S., DAM      801

- KETTLE FALLS 665
- KEYSTONE DAM 801
- KING HILL IRRIGATION DISTRICT 512
- KING HILL PROJECT, Idaho  
 Feasibility report required 235  
 Reclamation laws and Carey Act, application of 242  
 Reduction and suspension of construction charges 360  
 Termination of project and conveyance of property authorized 512
- KINGMAN PROJECT, Arizona  
 Feasibility study authorized 1891
- KINGS CANYON NATIONAL PARK  
 Rights of way 30
- KINGS RIVER 805, 806, 809, 823
- KINGS RIVER AND TULARE LAKE PROJECT, California 809, 823
- KINGS RIVER CONSERVATION DISTRICT 805
- KINKAID ACT 254**
- KITTITAS DIVISION, Yakima project 338, 928
- KITTITAS IRRIGATION DISTRICT 1129
- KITTITAS RECLAMATION DISTRICT 928
- KLAMATH COUNTY 257, 788, 1050, 1203, 1771
- KLAMATH DRAINAGE DISTRICT 788, 1738, 1772
- KLAMATH FALLS, CITY OF 1050
- KLAMATH INDIANS  
 Termination legislation, references to 1374
- KLAMATH IRRIGATION DISTRICT 360, 361, 502, 1051, 1322
- KLAMATH LAKE. *See* LOWER KLAMATH LAKE, UPPER KLAMATH LAKE
- KLAMATH LAKE BIRD RESERVE 258
- KLAMATH LAKE RESERVATION (wildlife) 97
- KLAMATH PROJECT, Oregon-California  
 Acquisition of War Relocation Centers 831  
 Acquisition and use of lands exposed by lowering Lower Klamath, Tule and Goose  
 Lakes 95  
 Amended contract approved; adjustment of charges, etc. 788, 926, 1322  
 Compact references to 1366  
 Conveyance of land to City of Klamath Falls 1050  
 Conveyance of lands to State of California for fairgrounds 1110  
 Entry on lands uncovered by lowering of Lower Klamath Lake 257  
 Exchange of lands with Colonial Realty Company 507, 508, 1196  
 Miscellaneous references to 80, 169

- KLAMATH PROJECT, Oregon-California—Continued**  
 Reduction and suspension of construction charges 360, 502  
 Refunds to lessees of marginal lands 406  
 Reimbursement of Modoc unit from grazing revenues 684  
 Revenues credited to cost of water rights program 1738  
 Suit by California authorized 307  
 Transfer by GSA of certain property in Klamath County to State of Oregon 1203  
 Wildlife management  
     Ceded lands administered by Fish and Wildlife Service 788  
     Costs assigned to refuge lands nonreimbursable 1323  
     Migratory waterfowl management policy; accommodation with agricultural use 1771  
     Miscellaneous opinions 97
- KLAMATH RIVER** 97, 1228, 1366, 1890
- KLAMATH RIVER BASIN COMPACT**  
     Consent to negotiate 1228  
     Text 1365
- KLAXA TOWN SITE** 688
- KNIGHTS VALLEY UNIT, North Coast project** 1890
- KOLOB RESERVOIR** 1768
- KOLOB RESERVOIR AND STORAGE ASSOCIATION, INC.** 1768
- KOOTENAI RIVER, Montana** 1567
- KOOTENAY LAKE** 1567
- KOOTENAY LAKE DAM** 1579
- KOOTENAY RIVER, Canada** 1561, 1568, 1581
- KUHN IRRIGATION AND CANAL COMPANY** 210

## L

- LA BARGE PROJECT, Wyoming**  
     Authorized 1248
- LABOR.** *See* CONSTRUCTION.
- LA FERIA DIVISION, Lower Rio Grande Rehabilitation project** 1505
- LA FERIA WATER CONTROL AND IMPROVEMENT DISTRICT** 1505
- LAGUNA DAM** 253, 414, 423, 432, 491, 1877
- LAHONTAN RESERVOIR** 336
- LAKE BERRYESSA** 1260
- LAKE COUNTY** 257
- LAKE EKLUTNA** 1010

- LAKE ERIE 131
- LAKE GRACE PROJECT, Alaska  
Feasibility study authorized 1892
- LAKE HAVASU 38
- LAKE McMILLAN RESERVOIR 358
- LAKE MEAD 1756, 1851
- LAKE MEAD NATIONAL RECREATION AREA  
Miscellaneous references to 427  
Statute providing improved basis for administration of 1813  
Statutory references to 1394
- LAKE MEREDITH 1845
- LAKE MOHAVE 1006
- LAKE PONCHARTRAIN 1857
- LAKEPORT DAM AND RESERVOIR 1856
- LAKE POWELL 1249, 1551
- LAKE SOLANO 1421
- LAKE TAHOE 1232, 1320, 1893
- LAKE TAHOE CANAL 365
- LAKE TAHOE PROJECT, California-Nevada  
Feasibility study authorized 1893
- LAKE TSCHIDA 1431
- LAMPASAS VALLEY 832
- LAND AND WATER CONSERVATION FUND  
Established 1785  
Receipts to 1785, 1824
- LAND AND WATER CONSERVATION FUND ACT OF 1965  
Amendments of 1827  
Statutory references to 1823, 1824, 1837  
Text 1785
- LAND ACQUISITION. *See* ACQUISITION OF PROPERTY.
- LAND CLASSIFICATION  
Authorized at intervals of not less than 5 years 642  
Class I equivalency. *See* EXCESS LANDS.  
Permanently unproductive land  
Generally 371, 372, 373, 375  
Sale of 460  
Required for reclamation projects, generally 318, 1094, 1115  
Taylor Grazing Act 515  
Temporarily unproductive land  
Generally 373, 375  
Sale of 460

- LAND GRANT COLLEGES 31, 1747
- LAND PREPARATION. *See* SETTLER ASSISTANCE.
- LANGELL VALLEY IRRIGATION DISTRICT 360, 361, 514
- LANHAM ACT  
Miscellaneous references to 860
- LA PLATA RIVER 917
- LA PLATA RIVER COMPACT  
Compact references to 917  
Text 328
- LA PRELE CREEK 1892
- LA PRELE UNIT, MRB 1892
- LARAMIE DIVISION, MRB, Wyoming  
Wheatland unit  
Feasibility study authorized 1892
- LARAMIE RIVER 1892
- LASSEN VOLCANIC NATIONAL PARK  
Use of, for reclamation projects 218
- LAS VAGAS ARROYO 753
- LAVA BEDS NATIONAL MONUMENT 1375
- LAVACA FLATS UNIT, MRB, Nebraska  
Authorized 1186
- LAVACA RIVER, Texas 1886
- LA VERKIN SPRINGS 1768
- LEASBURG DIVISION, Rio Grande project 367
- LEASES AND PERMITS  
*See also* individual projects by name.  
Building materials. *See* BUILDING MATERIALS.  
Federal agencies, between. *See* FEDERAL AGENCIES.  
Federal Power Commission. *See* FEDERAL POWER ACT.  
Fish and wildlife. *See* FISH AND WILDLIFE.  
Power privileges  
Generally 111, 169, 647  
Statutes relating to individual projects 111, 431, 433, 486, 613, 1235, 1543  
Public buildings and other public works 1214, 1982  
Reclamation projects, generally  
Express statutory authority 656, 1017  
Implied authority 33, 45, 56, 88, 416  
Recreation. *See* RECREATION.  
Revenues from. *See* CONSTRUCTION CHARGES; FISH AND WILDLIFE; OPERATION AND  
MAINTENANCE CHARGES; RECLAMATION FUND; RECREATION.  
Rights of way. *See* RIGHTS OF WAY AND EASEMENTS.

## LEASES AND PERMITS—Continued

Transfer of projects to water users. *See* OPERATION AND MAINTENANCE.  
Water service. *See* WATER SERVICE.

## LEAVITT ACT

Statutory references to 1206, 1251, 1329, 1458  
Text 504

LEE FERRY 427, 442, 909, 1664, 1666, 1857

LEON RIVER 832

LEON VALLEY 832

LEWISTON DAM 1890

LEWISTON ORCHARDS PROJECT, Idaho  
Authorized 836

LEWISTON RESERVOIR 1863

LIBBY DAM 1567

LIBERIA 687

LIBERTY BOTTOMS PROJECT, Oklahoma  
Completion of studies authorized 1888

LIENS. *See* CONSTRUCTION CHARGES; IRRIGATION DISTRICTS.

LIMITROPHE 752, 759, 762, 767, 774

LITTLE ARKANSAS RIVER 1915

LITTLE BIGHORN RIVER 1063

LITTLE BLUE RIVER 1892

LITTLE COLORADO RIVER, Arizona 1890

LITTLEJOHN CREEK 810

LITTLE KLAMATH LAKE. *See* LOWER KLAMATH LAKE.

LITTLE MISSOURI RIVER COMPACT  
Consent to negotiate 1362

LITTLE NAVAJO RIVER 1660

LITTLE RIVER, Oklahoma 1535

LITTLE RIVER VALLEY 832

LITTLE SNAKE RIVER 917

LITTLE TRUCKEE RIVER 713, 1319

LITTLE WOOD RIVER PROJECT, Idaho  
Authorized 1343

LLANO TRIBUTARY IRRIGATION UNIT 1660

- LOANS. *See* ADVANCE PAYMENTS; AGRICULTURE, DEPARTMENT OF; BANKHEAD-JONES FARM TENANT ACT; CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961; DISTRIBUTION SYSTEM LOANS ACT; DRAINAGE AND MINOR CONSTRUCTION ACT; REHABILITATION AND BETTERMENT ACT; SETTLER ASSISTANCE; SMALL RECLAMATION PROJECTS ACT; WATER FACILITIES ACT; WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
- LODGEPOLE CREEK 343
- LOMA SIPHON LAND EXTENSION, Grand Valley project 359
- LOMPOC PROJECT, California  
Feasibility study authorized 1890
- LONG LAKE, Alaska 1704
- LOOKINGGLASS CREEK 1887
- LOS ANGELES, CITY OF 423, 429, 430, 501
- LOS ANGELES COUNTY 500
- LOS ESTEROS RESERVOIR 1216
- LOS PINOS RIVER 623
- LOST CREEK PROJECT, Oregon 1909
- LOST CREEK RESERVOIR 1703
- LOST RIVER 1228
- LOST RIVER VALLEY 1366
- LOUDEN IRRIGATING CANAL AND RESERVOIR COMPANY 1332
- LOUISIANA, STATE OF  
Compacts of. *See* RED RIVER COMPACT; SABINE RIVER COMPACT.  
Executive Order No. 6964 and Taylor Grazing Act apply 516  
Included in marketing area of Southwestern Power Administration 974  
Reclamation investigations in 806
- LOUP RIVER 1886, 1888
- LOWER BIGHORN DIVISION, MRB, Montana  
Hardin unit  
Feasibility study authorized 1893
- LOWER CALIFORNIA, Mexico 1018
- LOWER COLORADO RIVER  
Exchange of water rights in, for rights in Gila River 661  
International flood control programs 1753  
Lease of lands for recreation purposes 658  
Permits to trespassers 658  
Study of, as basis for treaty with Mexico 522
- LOWER COLORADO RIVER BASIN  
Defined 442, 910

- LOWER COLORADO RIVER BASIN PROJECT  
     Additional studies authorized 1886
- LOWER COLORADO RIVER LAND USE PLAN 38
- LOWER GRANDE RONDE DAM AND RESERVOIR 1856
- LOWER KLAMATH LAKE 95, 257, 307, 788, 1322
- LOWER KLAMATH LAKE DIVISION, Klamath project 788, 789, 1738
- LOWER KLAMATH NATIONAL WILDLIFE REFUGE 1771
- LOWER KLAMATH RIVER BASIN 1890
- LOWER KLAMATH RIVER DIVISION, North Coast project 1890
- LOWER MUSSELSHELL UNIT, MRB 1891
- LOWER NIOBRARA DIVISION, MRB, Nebraska  
     O'Neill unit  
         Authorized 1186  
         Completion of studies authorized 1888
- LOWER RIO GRANDE  
     Fort Quitman, Texas, as dividing point between Lower and Upper Rio Grande,  
     explained 117  
     Salinity control  
         Drainage facilities under I.B.W.C. supervision authorized 1897  
         Statutory references to 522  
         United States Section, I.B.W.C.  
             Flood control project 524  
             Valley Gravity Canal and Storage project 716
- LOWER RIO GRANDE FLOOD CONTROL PROJECT  
     Appropriation act language relating to Anzaldúas Dam 1096  
     Establishment of, explained 524
- LOWER RIO GRANDE REHABILITATION PROJECT, Texas  
     La Feria division  
         Authorized 1505  
     Mercedes division  
         Authorized 1412  
         Work may be accomplished by contract, etc. 1556
- LOWER TETON DIVISION, Teton Basin project 1796
- LOWER TRINITY RIVER DIVISION, North Coast project 1890
- LOWER TWO MEDICINE DAM 635
- LOWER YELLOWSTONE IRRIGATION DISTRICT NUMBERED 1 877
- LOWER YELLOWSTONE IRRIGATION DISTRICT NUMBERED 2 877
- LOWER YELLOWSTONE PROJECT, Montana-North Dakota  
     Amended repayment contracts approved 877  
     Reduction and suspension of construction charges 362  
     Repayment contract required 353
- LUCKY PEAK RESERVOIR 833

LUGERT-ALTUS PROJECT, Oklahoma  
 Authorized 616  
 Limit of \$3,000,000 on reimbursable construction costs 748  
 Name changed to W. C. Austin project 849  
 Relief act for Stamey Construction and/or Oklahoma Paving companies 1086

LUGERT RESERVOIR 615

LUKE-WILLIAMS AIR FORCE RANGE 1679

LUTHER BROTHERS CONSTRUCTION COMPANY 906

LYM ENGINEERING COMPANY 1447

LYM, JOSEPH H. 1447

LYMAN PROJECT, Wyoming  
 Authorized 1248

LYNN CRANDALL DIVISION, Upper Snake River project 1889

## M

MADERA COUNTY 1617

MADERA EQUALIZING RESERVOIR 1617

MADERA IRRIGATION DISTRICT 585

MAD RIVER 1890, 1893

MALHEUR COUNTY 989

MALTA, CITY OF 1757

MALTA DIVISION, Milk River project 353

MALTA IRRIGATION DISTRICT 971, 1080

MANCOS PROJECT, Colorado  
 Amended contract with Mancos Water Conservancy District approved 852  
 Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.

MANCOS WATER CONSERVANCY DISTRICT 852

MANN CREEK PROJECT, Idaho  
 Appropriations authorization increased 1819  
 Authorized 1668

MANSON UNIT, Chief Joseph Dam project 1884, 1886

MARCUS WEITMAN DIVISION, Walla Walla project 1889

MARIAS DIVISION, MRB, Montana  
 Marias-Milk unit  
 Feasibility study authorized 1892

MARIAS-MILK UNIT, MRB 1892

- MARIAS RIVER BASIN 1892
- MARICOPA CANAL 1201
- MARICOPA COUNTY 1201, 1680, 1709
- MARSHALL FORD DAM 587, 620
- MARTIN, JOHN, RESERVOIR PROJECT 931, 1855
- MARTIN WUNDERLICH COMPANY 1390
- MARYSVILLE DAM AND RESERVOIR 1922
- MASON CITY SCHOOL DISTRICT 716
- MAXWELL IRRIGATION COMPANY 1036, 1153
- MAXWELL IRRIGATION DISTRICT, New Mexico 1036
- McCARRAN AMENDMENT  
Text 1097
- McCracken MESA 1466
- McDONALD, JAMES S., Post 5054, VFW 880
- McKAY DAM AND RESERVOIR 491, 986
- McMILLAN DELTA PROJECT, New Mexico  
Authorized 1391  
Condition on clearing of floodway 1800
- McNARY DAM 575, 813, 1566, 1579, 1687
- MEDFORD IRRIGATION DISTRICT 1184
- MEDICINE CREEK 714
- MEDICINE CREEK DAM AND RESERVOIR 1095
- MERCEDES DIVISION, Lower Rio Grande Rehabilitation project 1412, 1556
- MERCED IRRIGATION DISTRICT 1546
- MERCED RIVER 1546
- MEREDITH, A. A. 1845
- MERIDIAN IRRIGATION DISTRICT. *See* NAMPA AND MERIDIAN IRRIGATION DISTRICT.
- MERLIN DIVISION, Rogue River Basin project 1886
- MESA DIVISION, Yuma Auxiliary project 333
- METEOROLOGY. *See* RESEARCH; WEATHER MODIFICATION.
- METHOW-OKANOGAN IRRIGATION DISTRICT 259
- METROPOLITAN WATER DISTRICT OF SALT LAKE CITY 866, 962, 1515

- METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
 Contract regarding Parker Dam described 539  
 Miscellaneous references to 40, 428, 430, 1525  
 Payment for Indian lands acquired for Parker Dam project 695  
 Right of way granted for aqueduct and other facilities 500  
 San Diego aqueduct connected to Colorado River aqueduct. *See* SAN DIEGO PROJECT.
- MEXICALI 1030
- MEXICAN WATER TREATY  
 Background material on 415  
 Compact references to 443, 915, 921, 947, 415  
 Protocol  
   Statutory references to 1259  
   Text 771  
 Resolution of the Senate  
   Statutory references to 1259  
   Text 772  
 Statutory references to 420, 968, 1029, 1030, 1057, 1085, 1135, 1139, 1212, 1251, 1257, 1258, 1295, 1665, 1666, 1673, 1674, 1753, 1769, 1852  
 Text 750
- MEXICO  
 Expenditure of funds in, to protect property in United States from damage 161, 211  
 International Boundary and Water Commission, United States and Mexico. *See* INTERNATIONAL BOUNDARY AND WATER COMMISSION.  
 Payments for use of All-American Canal, application and appropriation of 896  
 Salinity problems, Colorado River. *See* WELLTON-MOHAWK DIVISION.  
 Treaties and conventions with. *See* MEXICAN WATER TREATY; TREATIES AND CONVENTIONS.
- MIGA CREEK DAM, Canada 1561, 1594
- MICHAUD DIVISION, Fort Hall Indian project 1206
- MICHAUD FLATS 311
- MICHAUD FLATS PROJECT, Idaho  
 Authorized 1205
- MICHIGAN, STATE OF  
 Executive Order No. 6964 and Taylor Grazing Act apply 516
- MIDDLE LOUP RIVER 1326
- MIDDLE RIO GRANDE CONSERVANCY DISTRICT 902, 1252, 1660, 1840
- MIDDLE RIO GRANDE PROJECT, New Mexico  
 Additional appropriations authorized 1002  
 Authorized 901  
 Extend authority to pay operation and maintenance charges by Middle Rio Grande Conservancy District against Pueblo Indians 1840  
 Operation of reservoirs 1544  
 Water from San Juan-Chama project to be made available for permanent recreation pool at Cochiti Reservoir 1744

- MIDDLE RIO GRANDE VALLEY 903
- MIDDLE RIO GRANDE WATER USERS ASSOCIATION 904
- MIDSTATE DIVISION, MRB, Nebraska  
Additional studies authorized 1886
- MIDVALE IRRIGATION DISTRICT 458, 1080
- MIGRATORY BIRD CONSERVATION ACT  
Compact references to 1375  
Miscellaneous references to 1039  
Statutory references to 1773
- MIGRATORY BIRD TREATY ACT  
Statutory references to 1773
- MILK RIVER 34, 131
- MILK RIVER BASIN, Montana 1892
- MILK RIVER PROJECT, Montana  
Allocation of costs to Saco Divide unit 708  
Amended contract approved 1080  
Boundary waters treaty allocation of waters of Milk River 132  
Exchange of lands for Nelson Reservoir site 245  
Miscellaneous references to 34, 971  
Reduction and suspension of construction charges 362, 478  
Relief to Henkel for seepage damage 1522  
Repayment of construction cost 303  
Repayment contract required 353  
Replacement of Paradise Valley Diversion Dam 1859  
Sale of lands to Great Northern Railway Company 637  
Secretary authorized to adjust or cancel certain charges 1198
- MILLER ACT  
Text 1976
- MILLERTON RANCHERIA 725
- MILLS, TOWN OF 1031, 1074
- MILNER DAM 399
- MILTON-FREEWATER DIVISION, Walla Walla project 1889
- MIMBRES PROJECT, New Mexico  
Feasibility study authorized 1893
- MIMBRES RIVER BASIN 1893
- MINERAL LEASING ACTS  
Extracts from 239, 249, 851  
Miscellaneous references to 33, 44, 138, 956  
Statutory references to 144, 515, 1396, 1452, 1519, 1659, 1782, 1867
- MINIDOKA IRRIGATION DISTRICT 352, 1111, 1655
- MINIDOKA PROJECT, Idaho-Wyoming  
*See also* JACKSON LAKE.

- MINIDOKA PROJECT, Idaho-Wyoming—Continued
- Acquisition of War Relocation Centers 831
  - Amended contract approved 1187, 1655
  - Amendment of contracts for winter power replacement 1797
  - American Falls power facilities authorized 1040
  - Application of power and other miscellaneous revenues 352
  - Contracts for storage in American Falls Reservoir 1041
  - Contracts relating to American Falls Reservoir 313
  - Disposal of certain Federal property authorized 1610
  - Fort Hall Indian Reservation lands, acquisition of 310
  - Funds appropriated for cleaning up Jackson Lake 484
  - Gravity Extension unit. *See* GRAVITY EXTENSION UNIT.
  - Miscellaneous references to 321, 323, 382, 648
  - North Side pumping division authorized 1040
  - Power revenues, application of 619
  - Power revenues available for operation and construction 405
  - Reduction and suspension of construction charges 364
  - Reduction in winter power replacement obligation 1797
  - Relocation of town of American Falls 290
  - Sale of lands to Oregon Short Line Railroad Company 657
  - Transfer of lands to City of Rupert 1111
- MINING ACT OF 1866
- Extracts from 9
- MINING CLAIMS RESTORATION ACT OF 1955
- Miscellaneous references to 44
- MINING LAWS
- Miscellaneous references to 9, 41, 44, 956
  - Statutory references to 93, 155, 515, 523, 1463, 1782, 1867
  - Vacation of reclamation withdrawals of lands containing minerals authorized 498
- MINNESOTA, STATE OF
- Compacts of. *See* RED RIVER OF THE NORTH COMPACT.
  - Construction of transmission lines in 808
  - Executive Order No. 6964 and Taylor Grazing Act apply 516
- MINNESOTA UNIT, Paonia project 1248
- MIRAGE FLATS EXTENSION UNIT, MRB, Nebraska
- Authorized 1186
- MIRAGE FLATS IRRIGATION DISTRICT 1359
- MIRAGE FLATS PROJECT, Nebraska
- Amended contract 1359
  - Completion of studies authorized 1888
  - Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- MISSISSIPPI RIVER 615, 804, 846, 974, 1922
- MISSISSIPPI, STATE OF
- Executive Order No. 6964 and Taylor Grazing Act apply 516
  - Southeastern Power Administration markets power from Army dams in 801
  - Studies in, authorized 396

- MISSOULA VALLEY PROJECT, Montana  
 Amended contract approved 1746  
 Authorization explained 1746  
 Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- MISSOURI RIVER  
 Projects on main stem or tributaries of. *See* individual projects by name.
- MISSOURI RIVER BASIN PROJECT  
 Appropriations authorized 807, 833, 1004, 1426, 1548, 1737, 1755, 1874  
 Authorized 806  
 Specific statutory authorization of new units required 1755  
 Units of. *See* individual units and divisions by name.
- MISSOURI-SOURIS UNIT, MRB 1841
- MISSOURI, STATE OF  
 Included in marketing area of Southwestern Power Administration 974
- MISSOURI VALLEY AUTHORITY 811
- MITCHELL ACT 602
- MITCHELL DIVISION, Owyhee project 1102
- MITCHELL SECTION, Oahe unit 1893
- MOAPA VALLEY PUMPING PROJECT, Nevada  
 Feasibility study authorized 1891
- MODOC COUNTY 257, 307, 1771
- MODOC UNIT, Klamath project 684, 788
- MOHAVE COUNTY, Arizona 1612, 1816
- MOHAWK MUNICIPAL WATER CONSERVATION DISTRICT 859
- MOJAVE RIVER BASIN 1893
- MOJAVE RIVER PROJECT, California  
 Feasibility study authorized 1893
- MOKELUMNE RIVER 1546
- MOLALLA DIVISION, Willamette River project 1889
- MOLALLA RIVER 1889
- MOLOKAI PROJECT, Hawaii  
 Investigation of, authorized 1188
- MONMOUTH-DALLAS DIVISION, Willamette River project 1887
- MONTANA, STATE OF  
 Approval of definite plan report for Moorhead Dam and Reservoir required 977  
 Compacts of. *See* COLUMBIA RIVER COMPACT; LITTLE MISSOURI RIVER COMPACT;  
 YELLOWSTONE RIVER COMPACT.  
 Contract required for support of Sun River project 334  
 Desert Land Act applies 13

- MONTANA, STATE OF—Continued  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31  
 School lands 92
- MONTECITO COUNTY WATER DISTRICT 585
- MONTEREY COUNTY 1454, 1530
- MONTICELLO DAM 1260, 1421, 1422
- MOORHEAD DAM AND RESERVOIR 976
- MORATORIUM ACTS. *See* CONSTRUCTION CHARGES; OPERATION AND MAINTENANCE CHARGES.
- MORGAN COUNTY 965
- MORONGO-YUCCA-UPPER COACHELLA VALLEY PROJECT, California  
 Feasibility study authorized 1893
- MORTGAGES 299, 981, 1120, 1239, 1609, 1741
- MOSES COULEE UNIT, Greater Wenatchee division 1415
- MOSES, MARY SAUNDERS 1617
- MOTT UNIT, MRB 1891
- MOUNTAIN HOME DIVISION, Southwest Idaho Water Development project 1887
- MOUNT EVANS DIVISION, MRB, Colorado  
 Upper South Platte unit  
 Feasibility study authorized 1892
- MOVABLE PROPERTY ACT  
 Amendments of 1325, 1818  
 Text 1162
- MOVING EXPENSES  
 Payment of, by Secretary of the Interior, to owners and tenants of lands acquired 1418
- MRB. *See* MISSOURI RIVER BASIN PROJECT.
- MUDDY CREEK, Colorado 1248
- MUDDY CREEK RESERVOIR 245
- MUDDY RIVER BASIN, Nevada 1891
- MULTIPLE-USE SUSTAINED-YIELD ACT  
 Statutory references to 1780
- MUNICIPAL WATER SUPPLY. *See* WATER SUPPLY.
- MURTAUGH IRRIGATION DISTRICT 313

MUSSEL SHELL DIVISION, MRB, Montana  
 Lower Musselshell unit  
 Feasibility study authorized 1891

MUSSEL SHELL RIVER 1891

## N

NAMBE PUEBLO 1661

NAMBE RESERVOIR 1661

NAMPA AND MERIDIAN IRRIGATION DISTRICT 450

NAPA COUNTY 1260

NARROWS DAM 801

NARROWS UNIT, MRB 1888

NASWORTHY DAM 1354

## NATIONAL FORESTS

*See also* individual forests by name.

Buildings materials, removal of. *See* BUILDING MATERIALS.

Buildings on, not covered by Public Buildings Act of 1959 1494

Lands added to and administered as

Bostwick Park and Fruitland Mesa projects 1775

Central Valley project, Shasta National Forest 865

Central Valley project, Shasta and Trinity National Forests 1868

Lands acquired for fish and wildlife purposes 844

Palisades project, Targhee and Caribou National Forests 1442

Weber Basin and Ogden River projects, Cache National Forest 1720

Rights of way and easements. *See* RIGHTS OF WAY AND EASEMENTS.

Wilderness system. *See* WILDERNESS ACT.

Withdrawals within 39, 46

## NATIONAL HOUSING ACT

Statutory references to 1383, 1384, 1475, 1482

## NATIONAL INDUSTRIAL RECOVERY ACT

Miscellaneous references to 58, 524, 539

Statutory references to 518, 855

NATIONAL MIGRATORY BIRD MANAGEMENT PROGRAM 845

## NATIONAL PARKS

*See also* individual parks by name.

Concessions 1945

Rights of way in, to others than United States

Congressional authority required 288

Generally 29, 173

Individual parks 204, 244

Termination of reclamation withdrawals in

Canyonlands National Park 1799

Use of, for reclamation projects

Glacier National Park 139

Grand Canyon National Park 244

Lassen Volcanic National Park 218

## NATIONAL PARKS—Continued

Use of, for reclamation projects—Continued

Rocky Mountain National Park 203

Yosemite National Park 39

Wilderness system. *See* WILDERNESS ACT.

## NATIONAL PARK SERVICE

*See also* individual units of the national park system by name.

Concessions 1945

Cooperation in conservation of fish and wildlife 509

Cooperative agreements to administer project areas for recreational use 838

Funds appropriated for Boulder Dam Recreational area 549

Funds appropriated for cleaning up Jackson Lake 484

## NATIONAL WILDERNESS PRESERVATION SYSTEM 1777

## NATRONA COUNTY 658

## NAVAJO DAM AND RESERVOIR 1248, 1663, 1697

## NAVAJO INDIAN IRRIGATION PROJECT, New Mexico

Authorized 1248, 1658

Costs of Colorado River Storage project allocated to serving Indian lands under, made nonreimbursable 1255

Expeditious completion of planning report directed 1250

## NAVAJO INDIANS

As a preference customer in the purchase of power 650

Exchange of lands in connection with construction of Glen Canyon unit 1462

Extension and conveyance of trust lands in connection with Navajo Indian irrigation project 1659

Navajo Indian irrigation project. *See* NAVAJO INDIAN IRRIGATION PROJECT.

Use of lands of Navajo Indian Reservation for Glen Canyon unit, CRSP 1249

## NAVAJO RIVER 1660, 1662

## NAVAJO UNIT, CRSP 1248, 1257, 1697

## NAVIDAD RIVER 1886

## NAVIGABLE WATERS

Defacing public works on 1971

Definition of 264

Policy of Congress toward 796

Private dam on Rio Grande enjoined 98

Structures on, permission required 27, 282

Water rights. *See* WATER RIGHTS.

## NAVIGATION

*See also* individual dams and projects by name.

As a reclamation project purpose

Generally 646

Regulation of reclamation projects for, by Army

Generally 804

Reimbursement and cost sharing

Reclamation projects, generally 646

Research. *See* RESEARCH.

## NAVIGATION—Continued

Studies. *See* STUDIES AND REPORTS.

Subject to use of waters west of 98th meridian for domestic, municipal, stock water, irrigation, mining, or industrial purposes 797

## Treaty rights

Boundary waters with Canada 129  
 Rio Grande, Colorado River, and Tijuana River 765, 775  
 St. Lawrence River 11  
 Yukon, Porcupine, and Stikine 11

## NAVY, DEPARTMENT OF THE

De Luz dam, participation in 1158  
 San Diego Aqueduct  
 Construction and lease of first barrel ratified 867  
 Construction of second barrel authorized 1057  
 Transfer to Secretary of the Interior authorized 1347

## NEBRASKA, STATE OF

Approval of definite plan report for Glendo unit required 976  
 Compacts of. *See* BIG BLUE RIVER COMPACT; GROUND WATER; NIOBRARA RIVER; PONCA CREEK; REPUBLICAN RIVER COMPACT; SOUTH PLATTE RIVER COMPACT.  
 Executive Order No. 6964 and Taylor Grazing Act apply 516  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31  
 Studies  
 Tricounty project 35

NEEDLES, CITY OF 791, 1612, 1693

NELLIS AIR FORCE BASE 1852

NELSON RESERVOIR 245

## NEVADA, STATE OF

Apportionment by Congress of Colorado River water among three lower basin States 420, 427  
 Colorado River Commission. *See* COLORADO RIVER COMMISSION OF NEVADA.  
 Compacts of. *See* ARIZONA-NEVADA BOUNDARY COMPACT; COLORADO RIVER COMPACT; COLUMBIA RIVER COMPACT; TRUCKEE, CARSON AND WALKER RIVERS AND LAKE TAHOE COMPACT.  
 Contract authorized for support of Spanish Springs division, Newlands project 336  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31

NEWELL, TOWNSITE OF 228

NEW EXCHEQUER DAM AND RESERVOIR 1546

NEW HOGAN RESERVOIR 810

## NEW JERSEY, STATE OF

Compacts of. *See* DELAWARE RIVER BASIN COMPACT.

## NEWLANDS PROJECT, Nevada

Amended contract with TCID approved 820  
 Cancellation of charges against Paiute Indian lands 394  
 Contract with Southern Pacific Company required 336

- NEWLANDS PROJECT, Nevada—Continued  
 Drainage system for Paiute Indian lands 304  
 Drainage works 314  
 Payment authorized to TCID for share of costs of repair of Truckee Canal attributable to Paiute Indian lands 474  
 Reduction and suspension of construction charges 365  
 Repayment contract required 314, 335, 354, 399  
 Statutory references to 1319  
 Test wells in Truckee Meadows 453
- NEW MELONES PROJECT 1701
- NEW MEXICO, STATE OF  
 Apportionment to, of excess revenues in Upper Colorado River Basin Fund 1253, 1258  
 Compacts of. *See* CANADIAN RIVER COMPACT; COLORADO RIVER COMPACT; COSTILLA CREEK COMPACT; PECOS RIVER COMPACT; RIO GRANDE COMPACT; UPPER COLORADO RIVER BASIN COMPACT.  
 Desert Land Act applies 13  
 Enabling Act  
   Extracts from 141  
   Irrigable lands reserved to United States 142  
   Power sites reserved to United States 142  
   School lands 143  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Purchase or donation of lands of, for Middle Rio Grande project 902  
 Reclamation Act applies 31  
 Studies 35
- NEW PRODUCTION REACTOR 1685
- NEWTON PROJECT, Utah  
 Amended contract approved 1745  
 Authorization explained 1745  
 Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- NEWTON WATER USERS' ASSOCIATION 1745
- NEW YORK, STATE OF  
 Compacts of. *See* DELAWARE RIVER BASIN COMPACT.
- NIAGARA RIVER 131
- NINNESCAH RIVER 1557
- NIORARA RIVER 1888
- NIORARA RIVER COMPACT  
 Consent to negotiate 1117
- NORFOLK DAM 801
- NORMAL AND PERCENTAGES PLAN 636
- NORMAL RETURNS  
 Term defined 635
- 
- Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

- NORMAN PROJECT, Oklahoma  
 Authorized 1535
- NORMAN RESERVOIR 1537
- NORTH CANADIAN RIVER 832, 901, 1075
- NORTH CANADIAN RIVER BASIN 567
- NORTH CAROLINA, STATE OF  
 Southeastern Power Administration markets power from Army dams in 801
- NORTH COAST PROJECT, California  
 Eel River division  
   Feasibility studies authorized of ultimate phase, English Ridge unit, and Knights  
   Valley unit 1890  
 Eureka division  
   Feasibility study authorized 1893  
 Lower Klamath River division  
   Feasibility studies authorized 1890  
 Lower Trinity River division  
   Feasibility studies authorized 1890
- NORTH DAKOTA PUMPING DIVISION, MRB, North Dakota  
 Feasibility study of Horsehead Flats and Winona units authorized 1893
- NORTH DAKOTA, STATE OF  
 Compacts of. *See* LITTLE MISSOURI RIVER COMPACT; RED RIVER OF THE NORTH COM-  
 PACT; YELLOWSTONE RIVER COMPACT.  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31
- NORTHERN PACIFIC RAILWAY COMPANY 898
- NORTH GILA VALLEY 858
- NORTH GILA VALLEY IRRIGATION DISTRICT 859
- NORTH LOUP DIVISION, MRB, Nebraska  
 Additional studies authorized 1886
- NORTH LOUP RIVER 1886
- NORTH PAVILLION AREA, Riverton project 1741
- NORTH PLATTE PROJECT, Nebraska-Wyoming  
 Amended contract; application of revenues 1352  
 Amended contracts approved 1106  
 Amended contract with Bridgeport Irrigation District authorized 550  
 Amended contract with Farmers' Irrigation District approved 850  
 Amended contract with Northport Irrigation District; application of revenues 871  
 Annual payment to Farmers' Irrigation District 1024  
 Cancellation of indebtedness of Bridgeport Irrigation District 726  
 Exchange of lands with Swan Land and Cattle Company and with Anton Hiersche  
 660  
 Miscellaneous references to 322, 998  
 No mineral reservation in patents where entry made prior to 1914 1131

- NORTH PLATTE PROJECT, Nebraska-Wyoming—Continued  
 Power revenues, application of 335, 405, 513, 871  
 Reduction and suspension of construction charges 365  
 Repayment contract required 353  
 Transmission lines authorized 488
- NORTH PLATTE RIVER 550, 1148, 1445
- NORTH PORTAL AREA, Riverton project 1741
- NORTHPORT DIVISION, North Platte project 366, 1131
- NORTHPORT IRRIGATION DISTRICT 366, 373, 513, 871, 1024, 1107, 1352
- NORTH SIDE PUMPING DIVISION, Minidoka project 1040
- NORTH UNIT IRRIGATION DISTRICT 1173
- NORTHWEST. *See* PACIFIC NORTHWEST.
- NORTON RESERVOIR 1706
- NOXON RAPIDS DAM 1579
- NUECES RIVER BASIN 1548, 1891
- NUECES RIVER PROJECT, Texas  
 Feasibility study authorized 1891

## O

- OAHE RESERVOIR 1888
- OAHE UNIT, MRB 1888, 1893
- OAKLEY FAN DIVISION, Upper Snake River project 1892
- OCEAN LAKE 681
- OCHOCO DAM PROJECT, Oregon  
 Appropriations for reconstruction of Ochoco Dam 976  
 Incorporated into Crooked River project 1340  
 Rehabilitation of Ochoco Dam authorized 894
- OCHOCO IRRIGATION DISTRICT 1341
- OFFICE OF EMERGENCY PLANNING 1045
- OFFICE OF WAR MOBILIZATION AND RECONVERSION 834
- OGDEN RIVER PROJECT, Utah  
 Amended contract approved 1014  
 Lands acquired for Pineview Reservoir added to Cache National Forest 1720
- OGDEN RIVER WATER USERS' ASSOCIATION 967, 1014
- OHIO CREEK PROJECT, Colorado  
 Expeditious completion of planning report directed 1249

- OHIO RIVER 804
- OIL POLLUTION ACT, 1924  
Statutory references to 1301
- OKANOGAN COUNTY 692, 1379, 1695, 1803
- OKANOGAN IRRIGATION DISTRICT 411, 926, 1129
- OKANOGAN PROJECT, Washington  
Amended contract approved; earlier act for transfer of project to irrigation district repealed 926  
Certain administrative costs nonreimbursable 1129  
Reduction and suspension of construction charges 366  
Relief from liability to Methow-Okanogan irrigation district 259  
Transfer to Okanogan Irrigation District authorized 411
- OKANOGAN RIVER 1151, 1889
- OKANOGAN-SIMILKAMEEN DIVISION, Chief Joseph Dam project 1695, 1803, 1889, 1893
- OKANOGAN UNIT, Chief Joseph Dam project 1889
- OKLAHOMA PAVING COMPANY 1086
- OKLAHOMA, STATE OF  
Authority of Secretary to promote welfare of Indians in 863  
Compacts of. *See* ARKANSAS RIVER COMPACTS; CANADIAN RIVER COMPACT; RED RIVER COMPACT.  
Executive Order No. 6964 and Taylor Grazing Act apply 516  
Included in marketing area of Southwestern Power Administration 974  
Jurisdiction over and rights in Red River above Denison Dam preserved 616  
Projects in. *See* individual dams and projects by name.  
Reclamation Act applies 31  
Studies of irrigation possibilities in Washita, North Canadian, and Cimarron River basins authorized 567
- OLLALLA CREEK 1887
- OLLALLA DIVISION, Umpqua River project 1887
- O'MAHONEY-MILLIKIN AMENDMENT 798
- OMNIBUS ADJUSTMENT ACT  
Amendments of  
Section 14 502  
Section 16 514  
Section 20 478  
Section 26 1352  
Section 43 456  
Section 46 1307  
Statutory references to  
Generally 412 *note*, 460, 492, 877, 878, 984, 1121  
Section 43 927  
Section 46 1318, 1351, 1456, 1550, 1687  
Text 357
- ONE HUNDREDTH MERIDIAN 17
- O'NEILL UNIT, MRB 1186, 1888

- ONTARIO-NYSSA IRRIGATION DISTRICT 610, 1080
- OOLOGAH RESERVOIR 1916
- OPERATION AND MAINTENANCE  
*See also* individual projects by name.
- Appropriations for  
 Advance payments to United States, appropriation of 236, 398, 1021  
 Change from line-item to lump-sum basis 1027  
 Current appropriation act language 790, 1021
- Authorized  
 Generally 69
- Charges. *See* OPERATION AND MAINTENANCE CHARGES.
- Costs of  
 Distinguished from construction costs. *See* CONSTRUCTION.  
 Repayment of. *See* OPERATION AND MAINTENANCE CHARGES; REIMBURSEMENT AND COST SHARING.
- Damage claims. *See* CLAIMS AGAINST UNITED STATES.
- Exchange of property  
 Generally 660
- Protection against sabotage and vandalism 718
- Rehabilitation and betterment. *See* REHABILITATION AND BETTERMENT.
- Relocation of property  
 Generally 660
- Reserved works 405
- Supplies and services. *See* SUPPLIES AND SERVICES.
- Transfer to water users  
 Generally 69, 191, 319, 325, 962, 1162  
 Salt River project 1202  
 Strawberry Valley project 137  
 Title and ownership 69, 209, 458, 655, 1162  
 Water supply works 1818  
 Yuma Auxiliary project 231
- Warren Act 169
- OPERATION AND MAINTENANCE CHARGES  
*See also* CONSTRUCTION CHARGES; REIMBURSEMENT AND COST SHARING; and individual projects by name.
- Advance payment of. *See* ADVANCE PAYMENTS.
- Apportionment 191, 197
- Authorized  
 Generally 59, 191  
 Warren Act 166
- Credits against, from other revenues  
 Miscellaneous revenues 236, 320, 451, 830
- Extension, deferment and other interim relief  
 Generally 305, 308, 324, 325, 375  
 Relief and moratorium acts 292, 294, 305, 308, 350, 375, 493  
 When project transferred to water users 319
- Payment of, by individual water users  
 Discount for timely payment 193  
 Generally 69, 191, 193  
 Lien for 178, 179, 298  
 To local organization as fiscal agent for United States 195

## OPERATION AND MAINTENANCE CHARGES—Continued

Penalties for delinquent payment	
Delivery of water withheld	193, 398, 405, 639, 1024
Forfeiture	193
Interest	193, 296, 320, 375, 639
Waiver or reduction of	
Generally	61

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR

Date	Subject	Author	File No.	Source <sup>1</sup>	Page
June 1896...	<i>Blue Water</i> rights of way.	Smith.....		23 L.D. 275...	16, 23
Mar. 1903...	Artesian wells.....	Hitchcock.....		32 L.D. 278...	37
June 1903...	Canal Act.....	do.....		32 L.D. 147...	18
Aug. 1903...	Homestead entries.....	do.....		32 L.D. 237...	49
Sept. 1903...	Water rights.....	Campbell.....		32 L.D. 254...	42, 78
Jan. 1904...	Withdrawals.....	Hitchcock.....		32 L.D. 387...	41, 43
Do.....	<i>Pike</i> withdrawal.....	do.....		32 L.D. 395...	41
Do.....	Leases.....	do.....		32 L.D. 416...	73, 89
Feb. 1904...	Exchange of lands.....	Campbell.....		32 L.D. 459...	76
Do.....	<i>Board of Control</i> withdrawal.	Hitchcock.....		32 L.D. 472...	42, 44
Mar. 1904...	<i>Page</i> withdrawal.....	do.....		32 L.D. 536...	43
Apr. 1904...	<i>Hopkins</i> withdrawal.....	do.....		32 L.D. 560...	44
May 1904...	Withdrawals.....	Campbell.....		32 L.D. 597...	43
Do.....	School lands.....	Hitchcock.....		32 L.D. 604...	73
Do.....	Entries.....	do.....		32 L.D. 633...	48
May 1904...	Residency.....	Ryan.....		32 L.D. 647...	67
June 1904...	<i>Santa Fe</i> withdrawal..	Hitchcock.....		33 L.D. 360...	45
July 1904...	Military reservation..	do.....		33 L.D. 130...	40
Sept. 1904...	<i>Fist</i> entry.....	Ryan.....		33 L.D. 257...	48
Dec. 1904...	<i>Collins</i> withdrawal...	Hitchcock.....		33 L.D. 350...	42
Do.....	Withdrawals.....	Campbell.....		33 L.D. 389...	39, 40
Feb. 1905...	<i>Calif. Dev. Co.</i> Colorado River.	do.....		33 L.D. 391...	34, 72, 73, 78
Do.....	Withdrawals.....	do.....		33 L.D. 415...	38
Apr. 1905...	<i>MacNamara</i> withdrawal.	Hitchcock.....		33 L.D. 520...	41, 44
Do.....	<i>Woodridge</i> withdrawal.	do.....		33 L.D. 525...	44
May 1905...	Rights of way.....	Campbell.....		33 L.D. 563...	23
June 1905...	Withdrawals.....	do.....		33 L.D. 607...	39
July 1905...	Desert lands.....	do.....		34 L.D. 29...	54
Aug. 1905...	Water charges.....	do.....		34 L.D. 78...	61
Oct. 1905...	Settlers.....	do.....		34 L.D. 155...	74
Do.....	Property.....	do.....		34 L.D. 186...	73
Dec. 1905...	<i>Yaple</i> withdrawal... ..	Hitchcock.....		34 L.D. 311...	41
Do.....	Withdrawals.....	Campbell.....		34 L.D. 347...	40
Jan. 1906...	Excess lands.....	do.....		34 L.D. 351...	65, 73
Do.....	Entry.....	do.....		34 L.D. 421...	41
Feb. 1906...	Withdrawals.....	do.....		34 L.D. 445...	48
Mar. 1906...	<i>Anderson</i> withdrawal.	Hitchcock.....		34 L.D. 478...	41
Do.....	Withdrawals.....	Campbell.....		34 L.D. 480...	45, 89
Do.....	Homestead entries.....	do.....		34 L.D. 532...	48
Do.....	Drilling wells.....	do.....		34 L.D. 533...	36
Apr. 1906...	<i>Guernsey</i> withdrawal..	Hitchcock.....		34 L.D. 560...	41
Do.....	Force account.....	Campbell.....		34 L.D. 567...	52

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
June 1906...	Sands withdrawal	Hitchcock	34	L.D. 653...	40, 44
July 1906...	Charges	Ryan	35	L.D. 29...	61
Aug. 1906...	Yakima Indians	Campbell	35	L.D. 110...	106, 121
Oct. 1906...	Withdrawals	Ryan	35	L.D. 216...	40, 44
Do.....	Carey Act	Campbell	35	L.D. 222...	41, 55
Do.....	Maney withdrawal	Hitchcock	35	L.D. 250...	41
Dec. 1906...	Canals			F. Recl. L....	53
Mar. 1907...	Pieper withdrawal	Garfield	35	L.D. 459...	41
June 1907...	Carlisle withdrawal	Woodruff	35	L.D. 649...	41
Oct. 1907...	Shively Indian lands	Wilson	36	L.D. 135...	120
Do.....	Crafts withdrawal	do	36	L.D. 138...	44
Mar. 1908...	DeLong entry	Pierce	36	L. D. 332...	50
May 1908...	Hanna entry	do	36	L.D. 449...	49
June 1908...	Canal Act	do	36	L.D. 482...	18
Do.....	Wright withdrawal	do	36	L.D. 499...	47
July 1908...	Property	Clements	37	L.D. 6...	76
Do.....	Withdrawals	Pierce	37	L.D. 27...	39
Dec. 1908...	Fairchild withdrawal	do	37	L.D. 362...	42
Jan. 1909...	Residency			F. Recl. L....	67
Feb. 1909...	Williston water charges.	Pierce	37	L.D. 428...	60
Do.....	Beneficial use			F. Recl. L....	85
Do.....	Overdue payments			F. Recl. L....	68
Do.....	National forests			F. Recl. L....	46
Apr. 1909...	Overdue payments			F. Recl. L....	86
May 1909...	State government			F. Recl. L....	54
Do.....	Higman farm units	Pierce	37	L.D. 718...	49, 121
Aug. 1909...	Pratt withdrawal	do	38	L.D. 146...	47
Sept. 1909...	Furnas desert land	do	38	L.D. 194...	125
Do.....	Idaho Farm water charges.			F. Recl. L....	61
Do.....	Hammond water charges.			F. Recl. L....	61
Do.....	Williamson entry	Pierce	38	L.D. 233...	50, 153
Nov. 1909...	Bridgman excess land			F. Recl. L....	66
Do.....	Newcastle withdrawal	Pierce	38	L.D. 314...	42
Dec. 1909...	Woodcock withdrawal	do	38	L.D. 349...	38, 43
Jan. 1910...	Residency of landowner.			F. Recl. L....	67
Do.....	Rewards			F. Recl. L....	34
Mar. 1910...	Warren Act	Ballinger		Letter.....	166
Do.....	Withdrawals			F. Recl. L....	38
Do.....	do	Ballinger	38	L.D. 513...	49, 125
May 1910...	do	Pierce	38	L.D. 605...	48
June 1910...	Williston water charges.	do	39	L.D. 2.....	60
July 1910...	Bosco Rio Grande	do	39	L.D. 104...	23, 100
Sept. 1910...	Existing rights	do	39	L.D. 202...	153, 160
Oct. 1910...	Long assignment	Ballinger	39	L.D. 297...	146, 147
Do.....	Prosser Falls charges.			F. Recl. L....	60
Nov. 1910...	Minor water charges	Pierce	39	L.D. 351...	57

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

Date	Subject	Author	File No. <del>27</del> <del>28</del> <del>29</del> <del>30</del> <del>31</del> <del>32</del> <del>33</del> <del>34</del> <del>35</del> <del>36</del> <del>37</del> <del>38</del> <del>39</del> <del>40</del> <del>41</del> <del>42</del> <del>43</del> <del>44</del> <del>45</del> <del>46</del> <del>47</del> <del>48</del> <del>49</del> <del>50</del> <del>51</del> <del>52</del> <del>53</del> <del>54</del> <del>55</del> <del>56</del> <del>57</del> <del>58</del> <del>59</del> <del>60</del> <del>61</del> <del>62</del> <del>63</del> <del>64</del> <del>65</del> <del>66</del> <del>67</del> <del>68</del> <del>69</del> <del>70</del> <del>71</del> <del>72</del> <del>73</del> <del>74</del> <del>75</del> <del>76</del> <del>77</del> <del>78</del> <del>79</del> <del>80</del> <del>81</del> <del>82</del> <del>83</del> <del>84</del> <del>85</del> <del>86</del> <del>87</del> <del>88</del> <del>89</del> <del>90</del> <del>91</del> <del>92</del> <del>93</del> <del>94</del> <del>95</del> 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<del>955</del> <del>956</del> <del>957</del> <del>958</del> <del>959</del> <del>960</del> <del>961</del> <del>962</del> <del>963</del> <del>964</del> <del>965</del> <del>966</del> <del>967</del> <del>968</del> <del>969</del> <del>970</del> <del>971</del> <del>972</del> <del>973</del> <del>974</del> <del>975</del> <del>976</del> <del>977</del> <del>978</del> <del>979</del> <del>980</del> <del>981</del> <del>982</del> <del>983</del> <del>984</del> <del>985</del> <del>986</del> <del>987</del> <del>988</del> <del>989</del> <del>990</del> <del>991</del> <del>992</del> <del>993</del> <del>994</del> <del>995</del> <del>996</del> <del>997</del> <del>998</del> <del>999</del> <del>1000</del>	Source <sup>1</sup>	Page
Dec. 1910...	Slater desert lands	Pierce	39 L.D. 380		49, 125
Do.....	Conrad entry	do	39 L.D. 432		153
Feb. 1911...	Shell entry	do	39 L.D. 502		49
Do.....	Assignment of entry.	Ballinger	39 L.D. 504		147
Do.....	Skinner desert lands.	Pierce	39 L.D. 519		125
Do.....	Leases	Ballinger	39 L.D. 525		89
Mar. 1911...	McLean water rights	Pierce	39 L.D. 580		85
Do.....	Townsite water	Fisher	39 L.D. 592		111
Apr. 1911...	Ironshields Canal	Pierce	40 L.D. 28		18
Apr. 1911...	Ironshields Canal Act	do	40 L.D. 28		18
May 1911...	Wright excess lands	do	40 L.D. 116		66
Aug. 1911...	Hanson entry	Adams	40 L.D. 234		49
Sept. 1911...	Water rights	do	40 L.D. 270		55
Oct. 1911...	Roberts entry	do	40 L.D. 306		153, 159
Do.....	Haynes entry	do	40 L.D. 291		160
Dec. 1911...	Jacobs assignment	Thompson	40 L.D. 322		146
Do.....	Parker entries	Adams	40 L.D. 406		154
Jan. 1912...	Water charges	do	F. Recl. L.		61
Do.....	Excess desert lands	do	40 L.D. 386		124
Do.....	Schroeder water charges.	do	40 L.D. 458		61
Mar. 1912...	Allen withdrawal	do	40 L.D. 586		48
Do.....	Nonirrigable lands	do	F. Recl. L.		68
Do.....	Uphogrove desert land assignment.	Adams	40 L.D. 622		125
Do.....	Enman water payments.	do	40 L.D. 600		60
Apr. 1912...	Beach contestant	Thompson	40 L.D. 607		47
Do.....	Farrington entries	do	40 L.D. 627		154
Do.....	Alhambra water rental.	Adams	40 L.D. 573		56
Do.....	Canal Act	do	42 L.D. 396		19
May 1912...	Hook entries	Thompson	41 L.D. 67		154
Do.....	Williams entries	do	41 L.D. 68		154
May 1912...	Rentals of water	do	F. Recl. L.		56
June 1912...	Linsea water charges.	Adams	41 L.D. 86		68
July 1912...	Land acquisition	do	F. Recl. L.		73
Aug. 1912...	Gladieux entry	Adams	41 L.D. 286		49, 50, 153
Do.....	Withdrawal	do	41 L.D. 171		42, 47
Do.....	Deposits to fund	do	F. Recl. L.		33
Sept. 1912...	Newton assignment	Adams	41 L.D. 421		47, 146, 147
Do.....	Nonirrigable land	do	F. Recl. L.		68
Oct. 1912...	Long entry	Pierce	41 L.D. 326		153
Do.....	Jones desert entry	Adams	41 L.D. 377		124
Do.....	Windecker entry	do	41 L.D. 389		61
Do.....	Snook assignment	do	41 L.D. 428		147
Nov. 1912...	Bell assignment	do	41 L.D. 394		146
Mar. 1913...	Ward assignment	Laylin	41 L.D. 634		146
Do.....	Catron entries	do	42 L.D. 7		154
Do.....	Wilson irrigability	do	42 L.D. 8		36, 53, 178
Do.....	Rental of waters	do	F. Recl. L.		56

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

Date	Subject	Author	File No.	Source <sup>1</sup>	Page
May 1913...	<i>Lytle</i> entries.....	Laylin.....	42	L.D. 157...	146
June 1913...	<i>Borah</i> certificates.....	Lane.....	42	L.D. 207...	177
July 1913...	Corporations.....	do.....	42	L.D. 250...	66, 182, 409
Do.....	<i>Pleasant Valley</i> corporations.	Jones.....	42	L.D. 253...	54, 66, 148, 182, 409
Do.....	Compensation.....	.....		F. Recl. L. ....	20
Aug. 1913...	<i>Johnson</i> excess lands..	Jones.....	42	L.D. 542...	66, 181
Do.....	<i>Taylor</i> entries.....	do.....	42	L.D. 318...	39, 48
Do.....	<i>Boughner</i> rights of way	do.....	42	L.D. 595...	23, 45
Sept. 1913...	<i>Roatcap</i> homestead.....	do.....	42	L.D. 422...	159
Oct. 1913...	<i>Keebaugh, Cook</i> excess lands.	do.....	42	L.D. 543...	181, 182
Do.....	<i>Kirkpatrick</i> water rights.	do.....	42	L.D. 547...	55, 59
Nov. 1913...	<i>McDonald</i> farm units.	do.....	42	L.D. 554...	50, 121
Do.....	<i>Jenson</i> homestead.....	do.....	42	L.D. 528...	159
Do.....	<i>Mills</i> cultivation.....	do.....	42	L.D. 534...	63
Mar. 1914...	<i>Mickelson</i> entry.....	do.....	43	L.D. 210...	50, 54, 58, 198
Do.....	<i>Slaton</i> entry.....	do.....	43	L.D. 212...	47
Apr. 1914...	Residence.....	do.....	43	L.D. 456...	147
May 1914...	<i>Steebner</i> entry.....	do.....	43	L.D. 263...	154
July 1914...	Excess lands.....	King.....	43	L.D. 339...	66, 181
Aug. 1914...	<i>Hawley</i> entry.....	Jones.....	43	L.D. 364...	147
Do.....	Entry.....	do.....	43	L.D. 374...	41
Oct. 1914...	<i>Voita</i> homestead.....	do.....	43	L.D. 436...	63
Do.....	Lands affected.....	.....		C.L. 745.....	187
Jan. 1915...	do.....	.....		C.L. 751.....	187, 188
Feb. 1915...	<i>Colton</i> water rights...	Jones.....	43	L.D. 518...	67, 147, 178
May 1915...	Extension Act.....	Davis.....		C.L. 497.....	188
June 1915...	Park in townsite.....	.....		F. Recl. L. ....	109
July 1915...	<i>Delano</i> assignment....	Jones.....	44	L.D. 199...	147
Do.....	Entry.....	do.....	44	L.D. 202...	148
Do.....	<i>Peabody</i> entry.....	do.....	44	L.D. 219...	146
Aug. 1915...	<i>Allen</i> entry.....	do.....	44	L.D. 331...	48, 146
Sept. 1915...	Construction charges	.....		C.L. 516.....	188
Sept. 1915...	do.....	.....		C.L. 595.....	188
Oct. 1915...	<i>Baart</i> desert lands...	Jones.....	44	L.D. 386...	176
Dec. 1915...	<i>Lieu</i> entry.....	King.....	44	L.D. 544...	213
Feb. 1916...	Entry.....	Sweeney.....	45	L.D. 22....	148
Do.....	<i>Kinney</i> withdrawal...	Jones.....	44	L.D. 580...	41
Do.....	Town site water.....	.....		F. Recl. L. ....	111
Apr. 1916...	O & M charges.....	.....		C.L. 555.....	192
Do.....	Residency of land- owner.	.....		F. Recl. L. ....	67
Do.....	Default in charges...	Jones.....	45	L.D. 23....	56, 68
May 1916...	Construction charges	.....		C.L. 603.....	188
Do.....	Excess lands.....	.....		45 L.D. 385...	66, 67, 147
June 1916...	Calendar year.....	.....		C.L. 564.....	194
July 1916...	Sand and gravel.....	.....		F. Recl. L. ....	46
Do.....	Public reservations.....	.....		F. Recl. L. ....	110

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

Date	Subject	Author	File No.	Source <sup>1</sup>	Page
Dec. 1916...	Corporations.....			F. Recl. L.....	54
Do.....	do.....			F. Recl. L.....	54
Do.....	Utility Co. contracts.....			F. Recl. L.....	112
Do.....	O & M charges.....			C.L. 622.....	192
Jan. 1917...	Sand and gravel.....			F. Recl. L.....	96
Mar. 1917...	<i>Naftzger</i> entry.....	Vogelsang		46 L.D. 61.....	63
Do.....	Extension Act.....			C.L. 640.....	196
Do.....	Leasing.....			F. Recl. L.....	45, 89
Do.....	Sale of town lots.....			F. Recl. L.....	110
Do.....	Patents.....			F. Recl. L.....	177
Do.....	Salt River.....			F. Recl. L.....	198
Apr. 1917...	State laws.....	Lanc.....		46 L.D. 89.....	77
May 1917...	<i>Chapman</i> withdrawals.....	Vogelsang		46 L.D. 113.....	48, 49
July 1917...	Payment of charges.....			F. Recl. L.....	67
Do.....	State government.....			F. Recl. L.....	54
Do.....	<i>Merritt</i> residency.....			F. Recl. L.....	67
Aug. 1917...	Payment of charges.....			C.L. 680.....	67
Do.....	do.....			F. Recl. L.....	68
Nov. 1917...	Entry.....	Vogelsang		46 L.D. 227.....	147, 182
Dec. 1917...	Servicemen.....			C.L. 720.....	54
Do.....	<i>Kilgore</i> payment.....			F. Recl. L.....	68, 189, 194
Feb. 1918...	Charges.....			F. Recl. L.....	58
Do.....	Lands affected.....			F. Recl. L.....	187
Apr. 1918...	<i>Humphrey</i> entry.....	Vogelsang		46 L.D. 370.....	148
Do.....	Lands affected.....			F. Recl. L.....	187
May 1918...	Water users associa- tion.....			F. Recl. L.....	54
Do.....	<i>Lewellen</i> farm unit.....	Vogelsang		46 L.D. 385.....	146, 213
May 1918...	<i>Newkirk</i> school lands.....	Hopkins.....		46 L.D. 400.....	196
June 1918...	Canal Act.....	King.....		Memorandum.....	18
Do.....	<i>Galusha</i> entry.....	Vogelsang		46 L.D. 417.....	199
July 1918...	Drainage ditches.....			R. Rcrd. 328..	18
Aug. 1918...	Ankeny Canal, Klamath.....			R. Rcrd. 328..	162
Apr. 1919...	<i>Smith</i> Canal Act.....	Hallowell.....		47 L.D. 158.....	20
May 1919...	Military service.....			47 L.D. 167.....	194
Do.....	Secretarial authority.....			C.L. 818.....	88
June 1919...	<i>California</i> ceded lands.....	Vogelsang		47 L.D. 207.....	97
Oct. 1919...	Advances.....	Davis.....		Memorandum.....	34, 53
Do.....	Extension Act.....	do.....		47 L.D. 285.....	187, 188, 192, 196
Do.....	Water charges.....			F. Recl. L.....	61
Do.....	Construction charges.....			C.L. 852.....	189
Nov. 1919...	<i>Wells</i> withdrawal.....	Vogelsang		47 L.D. 288.....	41
Dec. 1919...	Extension Act.....			C.L. 862.....	196
Jan. 1920...	Lease revenues.....	Davis.....		C.L. 866.....	139, 247
Do.....	Proceeds from lands.....			C.L. 866.....	204
Apr. 1920...	Power site with- drawal.....	Vogelsang		47 L.D. 361.....	156
June 1920...	Sale of water.....	Davis.....		47 L.D. 404.....	252
July 1920...	Excess lands.....			C.L. 911.....	66
Aug. 1920...	Publication of notice.....			R. Rcrd. 382..	163, 255
Jan. 1921...	<i>Pierson</i> entry.....	Vogelsang		47 L.D. 625.....	63, 148, 154
Feb. 1921...	O & P charges.....			R. Rcrd. 75.....	192
Apr. 1921...	<i>Scott</i> entry.....	Finney.....		48 L.D. 85.....	49, 50, 153

See footnote at end of table.

OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

Date	Subject	Author	File No.	Source <sup>1</sup>	Page
June 1921...	<i>Carlisle</i> entry.....			48 L.D. 153...	36, 39, 41, 53
Aug. 1921...	<i>Barker Belle Fourche</i> .....			F. Recl. L.....	287
Sept. 1921...	<i>State school lands</i> .....	Finney		48 L.D. 614...	42
Oct. 1921...	<i>Citizenship</i> .....	do.		48 L.D. 235...	230
Do.....	<i>Flathead</i> proceeds.....	Booth		48 L.D. 468...	247
Nov. 1921...	<i>Breitpohl</i> assignment.....	Finney		48 L.D. 295...	146
Do.....	<i>Flathead</i> laws.....	Booth		48 L.D. 475...	87
Do.....	<i>Watson</i> mortgage.....	Finney		48 L.D. 325...	50, 149
Feb. 1922...	<i>Warnke</i> withdrawal.....	do.		48 L.D. 557...	154
May 1922...	<i>Myers</i> damages.....	do.		49 L.D. 106...	209
June 1922...	<i>Mulligan</i> sale of water right.....	do.		49 L.D. 155...	183
Sept. 1922..	<i>Lower Yellowstone</i> relief act.....	do.		49 L.D. 301...	195, 294
Jan. 1923...	<i>Reclamation</i> fund.....			C.L. 1186.....	171, 297
Feb. 1923...	<i>Excess lands</i> .....	Wilbur		Letter.....	417
June 1923...	<i>Laurence</i> Arizona grant.....	Finney		49 L.D. 611...	143
Do.....	<i>Wolfe</i> minerals.....	do.		49 L.D. 625...	44
July 1923...	<i>Dilley</i> withdrawal.....	Goodwin		49 L.D. 644...	46
Aug. 1923...	<i>Benner</i> foreclosure.....	Finney		50 L.D. 4.....	147, 148, 149
Sept. 1923...	<i>Irrigation</i> districts.....	Edwards		50 L.D. 142...	191, 293, 297
Oct. 1923...	<i>Havens</i> desert lands.....	Finney	A-5580..	Memorandum.	14, 124, 422
Dec. 1923...	<i>Shoshone</i> public notice.....	Edwards		50 L.D. 223...	57, 58, 61, 68, 88, 164, 189, 199
Feb. 1924...	<i>Kenny</i> assignment.....	Finney		50 L.D. 268...	147, 149
Mar. 1924...	<i>Mell</i> proceeds.....	do.		50 L.D. 308...	33, 44, 103, 142, 162
Apr. 1924...	<i>Rouse</i> entry.....	do.		50 L.D. 379...	49
Do.....	<i>Power</i> entry.....	do.		50 L.D. 392...	50
Do.....	<i>Water</i> charges.....	Edwards	M-11120.	Memorandum.	193, 294, 298
Do.....	do.....	do.	M-12181.	do.....	193, 294, 298
May 1924...	<i>Entries</i> .....	Finney		55 L.D. 506...	50
Nov. 1924...	<i>National</i> parks.....		M-12896.	F. Recl. L.....	288
Jan. 1925...	<i>Fact Finders' Act</i> .....	Mead		51 L.D. 207...	168, 319, 321, 323, 324
Mar. 1925.....	do.....	do.		51 L.D. 215...	319, 320, 324
Do.....	do.....	do.		51 L.D. 218...	197, 320
July 1925...	<i>Baker</i> project.....	Wright		Memorandum.	52, 300, 317, 351
Jan. 1926...	<i>Hargis</i> refunds.....	Finney		51 L.D. 329...	331
Do.....	<i>Crehore</i> refunds.....	do.		51 L.D. 345...	332
May 1926...	<i>Smith</i> withdrawal.....	do.		51 L.D. 454...	42
June 1926...	<i>Baker</i> project.....			Memorandum.	52, 300, 317, 351
Aug. 1926...	<i>Adjustment Act</i> .....	Mead		51 L.D. 525...	372, 375
Oct. 1926...	<i>Zumfke</i> charges.....	Finney		51 L.D. 608...	178
Jan. 1927...	<i>American Falls</i> .....	Patterson	M-21227.	Memorandum.	168, 313
Feb. 1927...	<i>Exchanges</i> .....	do.	M-21655.	do.....	325
Mar. 1927...	<i>Excess lands</i> .....	Patterson	M-21709.	do.....	66, 170, 181, 399
Do.....	<i>Thackeray</i> exchanges..	Finney		52 L.D. 60....	325

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
June 1927...	American Falls.....	Patterson...	M-22401.	Memorandum.	378, 383, 399
Nov. 1927...	<i>Cady</i> entry.....	Finney.....		52 L.D. 222...	318, 325
Jan. 1928...	Yakima project.....			C.L. 1689....	189
Do.....	<i>Craig</i> , entryman.....		A-11100..	Memorandum.	318
Feb. 1928...	Leases.....	Finney.....		F. Recl. L....	45
Mar. 1928...	Powerplant.....		M-24229.	Memorandum.	319, 376
Apr. 1928...	Advancement.....			F. Recl. L....	169
Nov. 1928...	Irrigation districts.....			52 L.D. 511...	222, 409
Dec. 1928...	Newlands project.....		M-24897.		89
Feb. 1929...	<i>Hughes</i> entry.....			52 L.D. 560...	178
Do.....	<i>Robichaux</i> assign- ment.....		A-12228.	Memorandum.	147
Apr. 1929...	Boulder Canyon project.....		M-25151.....	do.....	46, 422
July 1929...	Belle Fourche project.....			F. Recl. L....	57
Aug. 1929...	Boulder Canyon project.....			Memorandum.	424
Jan. 1930...	Hoover power.....	Finney.....		53 I.D. 1.....	429, 430, 440
Do.....	<i>McLennon</i> desert lands.....	Edwards.....		53 I.D. 21....	124
Do.....	Taxation.....	do.....		53 I.D. 35....	409
Feb. 1930...	<i>Longuemare</i> , et al., damages.....	West.....		Memorandum.	207
Mar. 1930...	Subdivision of lands.....			F. Recl. L....	121
July 1930...	District bonds.....	Finney.....	M-26043.	Memorandum.	458
Do.....	Desert lands.....			53 I.D. 151....	125
Dec. 1930...	Sale of surplus power.....			F. Recl. L....	458
Jan. 1931...	Desert lands.....			C.L. 1928....	125
Feb. 1931...	Power revenues.....	Dixon.....		53 I.D. 257...	321, 335
Mar. 1931...	Huntley charges.....	Finney.....	M-26425.	53 I.D. 323...	374
Apr. 1931...	Withdrawal.....			F. Recl. L....	43
July 1931...	Statutory construc- tion.....	Dixon.....		53 I.D. 418...	222, 409
Do.....	Shoshone power revenues.....	Finney.....	M-26630.	53 I.D. 427..	322, 454
Feb. 1932...	<i>Great Western Cor- poration</i> .....	Edwards...	A-16335.	Memorandum.	54, 66, 148, 182, 409
Mar. 1932..	<i>Bockroth</i> Yuma aux- iliary.....	Dixon.....		53 I.D. 617...	230
Apr. 1932...	Moratorium.....			Memorandum.	495
Do.....	do.....	Douglas.....		Letter.....	493
May 1932...	<i>Kimmel</i> taxes.....	Edwards.....		53 I.D. 658...	182, 222, 299
June 1932...	Indian lands.....	Finney.....		53 I.D. 680...	158
Do.....	Lower Klamath Lake.....	do.....	M-27055.	53 I.D. 693...	97, 258
July 1932...	Moratorium.....	do.....		54 I.D. 13....	491
Aug. 1932...	Power revenues.....		M-25908.	Memorandum.	322, 335
Do.....	Moratorium.....		M-27184.....	do.....	494, 495
Oct. 1932...	do.....	Edwards.....		54 I.D. 86....	490
Nov. 1932...	Leavitt Act.....	Finney.....	M-27239.	54 I.D. 90....	504
Apr. 1933...	Power easements.....		A-17072..	Memorandum.	174, 269

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
July 1933...	Milk River project.....			F. Recl. L....	153
Do.....	<i>Briscoe</i> Smith Act.....	Chapman.....		54 I.D. 256....	222
Aug. 1933...	<i>Pioneer</i> warrants.....	Fahey.....		54 I.D. 264....	68, 168
Dec. 1933...	Contract with State.....			F. Recl. L....	339
Jan. 1934...	Leasing.....			F. Recl. L....	45
Mar. 1934...	Shoshone project.....			F. Recl. L....	213, 325
Apr. 1934...	Consultants.....	Margold.....		54 I.D. 411....	449
Do.....	Moratorium.....	Fahey.....		F. Recl. L....	494
Do.....	Municipal water.....	Margold.....	M-27679.	54 I.D. 414....	415, 424, 429
Do.....	Moratorium.....	Fahey.....		Memorandum.	511
July 1934...	Examining board.....			F. Recl. L....	318
Aug. 1934...	Moratorium.....	Margold.....	M-27717.	54 I.D. 550....	511
Do.....	Excess lands.....	do.....	M-27751.	54 I.D. 566....	67, 183
Do.....	Lower Colorado.....	do.....		54 I.D. 593....	422
Dec. 1934...	Withdrawn land.....			Memorandum.	516
Do.....	Leases.....	Margold.....	M-27790.	do.....	45
Feb. 1935...	Canal Act.....	do.....	M-27871.	do.....	20
Do.....	Withdrawn land.....	do.....		55 I.D. 205....	516
Mar. 1935...	<i>Balkwill</i> tax sales.....	do.....	M-27789.	55 I.D. 241....	66, 67, 147, 148, 182, 410
Do.....	Withdrawals.....	Johnson.....		55 I.D. 247....	43
May 1935...	Secretarial authority.....			F. Recl. L....	319
June 1935...	Withholding water.....			F. Recl. L....	194
July 1935...	Rocky Mountain Park.	Margold.....	M-28081.	Memorandum.	203, 289
Aug. 1935...	<i>Butler</i> , et al., damages.	Dixon.....		do.....	207
Jan. 1936...	<i>Black</i> Smith Act.....	Walters.....		55 I.D. 445....	223, 516
Apr. 1936...	State laws.....			F. Recl. L....	78
Do.....	Colorado River Compact.	Margold.....	M-28389.	Memorandum.	442
July 1936...	Withdrawals.....	Walters.....		F. Recl. L....	516
Aug. 1936...	Withdrawn land.....	Margold.....	M-28589.	Memorandum.	40, 696
Sept. 1936...	Surplus lands.....	do.....	M-28724.	do.....	163, 256
Oct. 1936...	Power lease.....	do.....	M-28725.	do.....	85, 112, 169, 171, 323
Do.....	Irrigation district.....	do.....	M-28771.	do.....	379, 635, 1332
Do.....	Boulder recreation.....	do.....	M-28693.	do.....	549
Do.....	Boulder leases.....	do.....	M-28694.	do.....	45, 88, 417, 549
Dec. 1936...	Land acquisition.....			F. Recl. L....	73
Apr. 1937...	Power proceeds All- American Canal.	Kirgis.....	M-29092.	56 I.D. 116....	433, 440
May 1937...	<i>Chapman</i> entry.....	Vogelsang.....		46 L.D. 113, 188.	49
July 1937...	Hoover power.....		M-29291.	Memorandum.	430
Do.....	Appraisal of land.....	Kirgis.....	M-29200.	do.....	681
Do.....	Railroad lands.....		A-20886.	do.....	19, 43
Aug. 1937...	Delinquent accounts.....			F. Recl. L....	320
Oct. 1937...	Leases.....		M-29452.	Memorandum.	323
Do.....	Proceeds of leases.....	Walters.....	M-29482.	do.....	33, 45, 323

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Jan. 1938...	Canal Act.....	Chapman...	A-21167..	Memorandum.	21
Mar. 1938...	White accretion.....	do.....	56 I.D. 300...		43
Aug. 1938...	F.P.C. licenses.....	Kirgis.....	56 I.D. 372...		269, 289
Dec. 1938.....	do.....	do.....	F. Recl. L.....		46
Feb. 1939...	Kesterson homestead..	Chapman...	A-21260..	Memorandum.	43
June 1939...	Tax liens.....	Margold...	M-30184.	57 I.D. 27.....	179
July 1939...	Rights of way.....	do.....	57 I.D. 31.....		431
Dec. 1939...	Indian lands.....	do.....	M-30318.	57 I.D. 87.....	40, 696
Feb. 1940...	Simpson damages....	Wirtz.....	M-30564.	Memorandum.	207
May 1940...	Rights of way.....	do.....	F. Recl. L.....		247
July 1940...	Land acquisition.....	do.....	F. Recl. L.....		73
Sept. 1940..	Nashua Booster Club damages.	Graham...	M-30446.	Memorandum.	208
Do.....	Power revenues.....	Ickes.....	do.....	do.....	595
Do.....	Veterans preference..	Kirgis.....	M-30795	57 I.D. 177...	436
Nov. 1940...	Rights of way.....	Graham...	M-30846.	Memorandum.	30, 174
Jan. 1941...	Elko County T&T Co. damages.	do.....	M-31026.....	do.....	208
Mar. 1941..	Rieckhoff assignment...	do.....	A-22739.....	do.....	147
Apr. 1941...	Preference rights....	Margold...	M-31153.	57 I.D. 288...	686
May 1941...	Authorization.....	do.....	Cong. Rec.....		646
Do.....	Relocation.....	Stinson.....	do.....	Memorandum.	661
Do.....	Soil conservation....	Margold...	M-31174.....	do.....	520
July 1941...	Pumping power.....	Ickes.....	do.....	F. Recl. L.....	648
Oct. 1941...	Soil conservation....	Flanery....	M-30997.	57 I.D. 382...	519
Dec. 1941...	Barlett damages....	Graham...	M-31208.	57 I.D. 415...	209
Do.....	Rights of way.....	do.....	do.....	F. Recl. L.....	46
Jan. 1942...	Munro damages.....	Graham...	M-31573.	Memorandum.	207
Feb. 1942...	Harney damages.....	do.....	M-31661.....	do.....	209
Apr. 1942...	Milk River.....	Page.....	do.....	do.....	633
June 1942...	Barnes.....	Graham...	M-31801.	57 I.D. 584...	207
July 1942...	Rights of way.....	Cohen.....	do.....	58 I.D. 29.....	9, 30
Aug. 1942...	Tooke damages.....	Graham...	M-31871.	Memorandum.	207
Nov. 1942...	Shevlin damages.....	do.....	M-31625.	58 I.D. 189...	209
Do.....	Columbia Basin.....	do.....	M-31669.	Memorandum.	206
Jan. 1943...	Rights of way.....	Gardner...	M-31156.	58 I.D. 319...	19
Do.....	Burbridge damages....	Graham...	M-32045.	Memorandum.	206
Feb. 1943...	Regulation of hunt- ing and fishing.	Gardner...	M-31480.	58 I.D. 331...	681
Apr. 1943...	Resident owner.....	do.....	M-32095.	58 I.D. 409...	460
May 1943...	Soil demonstration...	do.....	M-32081.	58 I.D. 449...	519
July 1943...	Resident.....	do.....	M-33218.	Memorandum.	460
Aug. 1943...	Rights of way.....	Cohen.....	M-33127.	58 I.D. 490...	18
Apr. 1944...	Power rates.....	Cheadle.....	do.....	Memorandum.	607
Aug. 1944...	Land reclassification.	Fix.....	do.....	do.....	361, 373, 643
Sept. 1944...	Power revenues.....	Harper....	M-33504.....	do.....	112, 321, 436, 599, 600, 601
Do.....	Interest component...	do.....	M-33473.....	do.....	600, 644, 645, 648, 650, 728

See footnote at end of table.

OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
May 1945...	Excess lands, Coachella;	Harper....	M-33902	Memorandum..	64, 87, 168, 170, 180, 197, 380, 381, 417, 438, 439
Aug. 1945...	CVP excess lands....	Graham.....		do.....	386, 387, 586
Do.....	W.C.U. excess lands..	Harper.....	M-34062.	do.....	64, 675
Do.....	Excess lands.....	do.....	M-34172.	do.....	66, 675
Sept. 1945...	Interest component.....	do.....	M-33473	do.....	600, 646, 650
			(Supp.)		
Nov. 1945...	Steam plants.....	Gardner.....		Letter.....	803
Dec. 1945...	Indian rights.....	do.....	M-34326.	59 I.D. 147...	689
May 1946...	Flood control.....	Fix.....		Memorandum..	100, 647, 804
July 1946...	Arizona school lands;	Davidson ..	M-33540.	59 I.D. 280...	39, 42, 143
Sept. 1946...	Preparatory work....	White.....	M-34695.	59 I.D. 299....	36, 519
Jan. 1947...	Rights of way.....	do.....	M-34842.	Memorandum.	19
Feb. 1947...	S.W.P.A.....	do.....	M-34873.	59 I.D. 449....	802
Mar. 1947....	do.....	do.....	M-34893.	59 I.D. 453....	721, 802
Do.....	Rights of way.....	do.....	M-31156	59 I.D. 461...	19
			(Supp.)		
Do.....	Water supply.....	Fix.....		Memorandum.	640, 651
Do.....	Crow lands.....	White.....	M-34393.	do.....	93, 461
Do.....	Archeological.....	do.....	M-34840.	59 I.D. 465....	716
Do.....	Flood costs.....	do.....	M-34900.	Memorandum.	416, 548, 647
Do.....	Fish and wildlife.....	do.....	M-34808.	59 I.D. 470....	843
May 1947...	Boulder wage rates...	Burlew.....		Letter.....	705
Sept. 1947...	Wage rates.....	White.....	M-34994.	60 I.D. 47....	705
Oct. 1947...	Hoover Dam.....	Fix.....		Memorandum.	424, 540, 645, 697
Do.....	Excess lands.....	Cohen.....	M-34999.	do.....	88, 387, 663
Do.....	do.....	do.....	M-35004.	do.....	181, 382
Dec. 1947...	Leases, revenues....	Fix.....		do.....	246
Do.....	Excess lands payout.	Cohen.....		Administrative letter 303.	382
Mar. 1948...	Repayment.....	White.....	M-35031.	60 I.D. 150....	639, 655
Apr. 1948...	Power subsidy.....	Markwell.....		Letter.....	112, 646
Do.....	Construction cost....	Fix.....		Memorandum.	378, 379, 380, 646, 650, 654, 656, 749
May 1948...	Excess lands.....	do.....		do.....	36, 64, 66, 170, 180, 181
Do.....	Repayment.....	White.....	M-35047.	60 I.D. 180....	656
July 1948...	Rapp homestead.....	do.....	A-25284.	60 I.D. 217....	42
Sept. 1948...	Antispeculation.....	Fix.....		Memorandum.	387
Oct. 1948...	Purchase power.....	do.....		do.....	803
Dec. 1948...	Investigations.....	do.....		do.....	326
Do.....	Excess lands.....	Straus.....		Letter.....	67, 183, 386
Jan. 1949....	do.....	Krug.....		do.....	383
Feb. 1949....	do.....	do.....		Statement....	383

See footnote at end of table.

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Mar. 1949...	East Mesa.....	White.....	M-35090.	Memorandum.	435, 436
Do.....	Rights of way.....	do.....	M-35093.	do.....	157, 862
May 1949...	Excess lands.....	Aandahl.....		Letter.....	386
Do.....	CVP steam plant.....	Fix.....		Memorandum.	586
July 1949...	Caylor farm unit.....	White.....	A-25416.	60 I.D. 333....	13, 42, 199
Do.....	Power purchase.....	do.....	M-36009.	Memorandum.	803
Do.....	Koeltzow damages.....	do.....	TA-18	do.....	208
(Ir.)					
Aug. 1949...	Ochoco Dam.....	Devries.....		do.....	647, 895
Sept. 1949...	Grants pass pipe-line.	Fix.....		do.....	645, 976
Do.....	Willoughby desert entry, Smith Act.	White.....	A-25292..	60 I.D. 363....	222, 224, 225
Do.....	Tulare excess lands.....	do.....	M-36011.	Memorandum.	383, 384, 386, 1525
Oct. 1949...	Rights of way.....	Flanery....	M-36015.	do.....	862
Do.....	Interest.....	Krug.....		do.....	383
Nov. 1949...	Selstad homestead....	White.....	A-25745.	60 I.D. 382....	48
Do.....	Dondero homestead....	do.....	A-25582..	Memorandum.	43
Dec. 1949...	CRSP investigation....	Fix.....		do.....	700
Jan. 1950...	Fish study funds.....	White.....	M-36021.	do.....	843
Do.....	MRB power revenues.	do.....	M-36022.	do.....	804, 808
Feb. 1950...	Single purpose.....	Fix.....		do.....	645
June 1950...	Boulder City.....	White.....	M-36019.	do.....	870
Aug. 1950...	Excess lands.....	do.....		do.....	383
Do.....	Soil programs.....	do.....	M-36047.	60 I.D. 436....	519
Sept. 1950...	Water for town.....	Lineweaver.....		Memorandum.	111, 251, 651
Dec. 1950...	Oil revenues.....	White.....	M-36051.	do.....	138, 323
Do.....	Damages.....	do.....	M-36064.	60 I.D. 451....	208
May 1951...	power study.....	do.....	M-36080.	Memorandum.	234, 802
June 1951...	Withdrawals.....	Doty.....	A-26195.	do.....	44
July 1951...	Betterment work.....	White.....	M-36085.	do.....	970
Aug. 1951...	Railroad Act.....	do.....	A-26143.	do.....	46, 658
Sept. 1951...	SWPA liability.....	do.....	M-36099.	do.....	975
Nov. 1951...	Oil leases.....	do.....	M-36051.	do.....	138
(Supp.)					
Do.....	Gila water limit.....	Rose.....		Letter.....	859
Do.....	Relocation.....	Markwell.....		Memorandum.	661
Dec. 1951...	Shaw homestead.....	White.....	A-26247.	do.....	49
Feb. 1952...	Interest.....	Lineweaver.....		Letter.....	58, 655
Mar. 1952...	Simkins homestead....	White.....	A-26274..	Memorandum.	48, 49
Apr. 1952...	Depreciation.....	Fisher.....		do.....	646, 650, 655
Do.....	Shasta Dam navigation.	do.....		do.....	647
Sept. 1952...	Indian lands.....	Flanery....		do.....	863
Do.....	Power subsidy.....	Fisher.....		do.....	113, 599, 645, 654, 655
Do.....	Reclamation studies.....	do.....		do.....	321, 830
Do.....	Navigation.....	Pace (Sec. of Army).		Letter.....	587, 804
Oct. 1952...	Olsen homestead.....	White.....	A-26432..	Memorandum.	64
Do.....	All-American costs....	Fisher.....		do.....	416
Do.....	Power plant.....	do.....		do.....	1040
Do.....	Minerals.....	White.....	M-36142.	do.....	41

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Nov. 1952...	Coachella costs.....	White.....	M-36150.	Memorandum.	379, 1056
Dec. 1952...	Klamath homestead.....	do.....	M-36157.	do.....	97, 789
Jan. 1953...	Truscott damages.....	do.....	T-453	61 I.D. 88....	209
			(Ir.).		
Do.....	Wiles damages.....	do.....	TA-462	61 I.D. 109...	208
			(Ir.).		
Apr. 1953...	All-American costs.....	Fisher.....		Memorandum.	416
May 1953...	Coachella costs.....	Davis.....		do.....	379, 1056
Do.....	Unproductive lands.....	do.....	M-36171.	61 I.D. 154...	366, 374, 379, 872
June 1953...	Richards homestead.....	do.....	A-26718..	Memorandum.	64
July 1953...	Emergency fund.....	Fisher.....		do.....	891
Do.....	Bobo minerals.....	Davis.....	A-26613.	do.....	44, 499, 860
Aug. 1953...	Strahan homestead.....	Burke.....	A-26716.	do.....	64
Sept. 1953...	All-American costs.....	Aandahl.....		Letter.....	762
Do.....	Arizona school lands..	Davis.....	A-26767..	Memorandum.	143
Oct. 1953...	Fish screens.....	do.....	M-36160.	do.....	843, 1093
Nov. 1953...	Baird homestead.....	do.....	A-26773.	do.....	46, 147, 410
Do.....	All-American costs.....	Fisher.....		do.....	254, 326, 416
Dec. 1953...	Schultz mining.....	Davis.....	A-26917..	61 I.D. 259...	44
Do.....	Bridge damages.....	Burke.....	T-512	61 I.D. 264...	210
			(Ir.).		
Feb. 1954...	Indian lands.....	Davis.....	M-36148	Memorandum.	73, 808
			(Supp.).		
Do.....	Emergency fund.....	Burke.....	M-36210.	do.....	891
Mar. 1954...	Excess lands.....	Graham.....		Letter.....	384
Do.....	Wildlife habitat.....	Burke.....	M-36212.	61 I.D. 305....	843
Apr. 1954...	Excess lands.....	Aandahl.....		Letter.....	384
May 1954...	No. Pac. damages.....	Burke.....	T-560	Memorandum.	206, 207
			(Ir.).		
Do.....	Development farm.....	do.....	M-36219.	do.....	73, 74
June 1954...	Lewis exchanges.....	Tudor.....	A-26748.	do.....	45, 516
July 1954...	Eklutna project.....	Crosthwait.....		do.....	891, 1011
Oct. 1954...	All-American costs.....	Dexheimer.....		do.....	762
Do.....	Fulfs Smith Act.....	Armstrong..	A-26927	61 I.D. 437....	42, 222
Nov. 1954...	CVP.....	do.....		Memorandum.	587, 843, 1191
Jan. 1955...	Relocation.....	Fritz.....		do.....	661
Do.....	Streit damages.....	Armstrong..	T-476	62 I.D. 12....	207, 208
			(Ir.).		
			(Supp.).		
Mar. 1955...	Surplus property.....	Fritz.....		Memorandum.	327, 962
Apr. 1955...	Power lease.....	Armstrong..		do.....	649
May 1955...	Legal services.....	do.....	M-36233.	62 I.D. 181....	326
Sept. 1955...	Gila housing.....	Fisher.....		Memorandum.	860
Jan. 1956...	Small tracts.....	Nielson.....		do.....	998
Do.....	Damages.....	Fritz.....	T-710...	63 I.D. 12....	209
Mar. 1956...	Arnold project.....	Fisher.....		Memorandum.	856, 970
Aug. 1956...	Hospital.....	do.....		do.....	860
Oct. 1956...	Colorado sediment.....	do.....		do.....	252, 415, 432
Do.....	Withdrawals.....	Soller.....	M-36382.	do.....	39
Do.....	Cooling water.....	Fisher.....		do.....	651, 658

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date.</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Nov. 1956...	Fort Peck project...	Beasley.....		Letter.....	609, 808
Jan. 1957...	Mineral entry.....	McPhil- lamey.	M-36404.	Memorandum.	499
Do.....	Small projects.....	Fisher.....		do.....	1332
Mar. 1957..	Rights of way.....	Fritz.....	M-36395.	64 I.D. 70....	862, 863, 1249
Apr. 1957... Withdrawals.....		Fisher.....	M-36433.	Memorandum.	39, 153, 499, 998
Do.....	Army irrigation revenues.	Beasley.....		Letter.....	806
Do.....	Excess lands.....	Fisher.....		Memorandum.	600, 998
May 1957... MRB power revenues.		Weinberg.....		Testimony....	650, 804, 807, 808
July 1957... Kings excess lands...		Bennett....	M-36457.	64 I.D. 273....	181, 381, 382, 383, 387, 805
Sept. 1957.. Small projects.....		Fisher.....		Memorandum.	1332
Do.....	CRSP repayment....	Weinberg.....		do.....	651, 1254
Do.....	R & PP Act lease.....	Soller.....		do.....	45
Nov. 1957... Army projects.....		Bennett....	M-36475.	65 I.D. 525....	806
Feb. 1958... W.C.U. excess lands.		Fisher.....		Memorandum.	675, 1338
Mar. 1958.. Flood studies.....		Bennett....	M-36505.	65 I.D. 129....	646, 798
Do.....	CRSP repayment....	Fisher.....		Memorandum.	651, 1254
Apr. 1958... W.C.U. excess lands.		do.....		do.....	675
Do.....	Kimball mining.....	Fritz.....	A-27526.	65 I.D. 166....	44
Aug. 1958... Service facilities.....		Fisher.....		Memorandum.	658
Oct. 1958... Resident owner.....		Fritz.....		do.....	998
Nov. 1958... Road relocation.....		Golze.....		do.....	661
Dec. 1958... Right of way.....		Dexheimer.....		Letter.....	20
Jan. 1959... Trinity taxes.....		do.....		do.....	1237
Feb. 1959... Strouf damages.....		Fritz.....	TA-180	Memorandum.. (Ir.)	208
Do.....	Betterment costs.....	Abbott.....		do.....	971
Mar. 1959.. Boulder City.....		Fisher.....		do.....	1476
Apr. 1959... Jones damages.....		Fritz.....	TA-185	do..... (Ir.)	208
Do.....	Excess lands.....	Fisher.....		do.....	182, 384
May 1959... do.....		Aandahl.....		Letter.....	386
June 1959... Keating amendment.		Fisher.....	M-36569.	66 I.D. 226....	1054
Do.....	CRSP investigation..	Beasley.....		Letter.....	700, 1257
July 1959... Exchanges.....		Fisher.....		Memorandum.	327, 585, 662-962, 1516
Sept. 1959... Treasure search.....		Weinberg.....		do.....	658
Oct. 1959... Well sites.....		Fisher.....		Teletype.....	18
Nov. 1959... Power preference....		Coulter.....		Memorandum.	572
Do.....	Small projects.....	Fisher.....		do.....	1332
Jan. 1960... do.....		do.....		do.....	1338
Feb. 1960... Columbia basin.....		Aandahl.....		do.....	1024
Mar. 1960... Small projects.....		Abbott.....		Letter.....	1338
Apr. 1960... Coker withdrawals....		Fritz.....	A-28188.	67 I.D. 132....	43
May 1960... Gallatine damages.....		do.....	T-980	67 I.D. 191.... (Ir.)	207
Do.....	Power sales.....	Fisher.....		Memorandum.	649

See footnote at end of table.

OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

Date	Subject	Author	File No.	Source <sup>1</sup>	Page
May 1960	Hulse homesteads	Fritz	A-28288	67 I.D. 212	48
Do.	P&G Mining withdrawals.	Ernst	A-27829	67 I.D. 217	44, 156
Nov. 1960	Small projects	Golze		Letter	1336
Apr. 1961	Power preference	Weinberg		Memorandum	650, 1256
Do.	Trespassers	Udall		Letter	658
Do.	Soil and moisture	Davis		do.	1022
May 1961	Well sites	Fisher		Memorandum	18
June 1961	Water use, power	Barry		Letter	798
July 1961	Repayment	do.	M-36620	68 I.D. 305	379, 634, 641, 644, 645, 654, 655, 729
Do.	Excess lands	Fisher	M-36613	68 I.D. 433	182
Aug. 1961	Criminal sanctions	do.	M-36614	68 I.D. 273	838
Sept. 1961	Excess lands	Weinberg		Memorandum	182, 843
Do.	Rehabilitation	Barry	M-36621	68 I.D. 263	970
Do.	Excess lands, State	Weinberg		Memorandum	384
Dec. 1961	San Luis, CVP excess lands.	Barry	M-36635	68 I.D. 412	167, 170, 381, 1525
Do.	Kings excess lands	do.	M-36634	68 I.D. 372	48, 64, 180, 181, 182, 198, 381, 382, 384, 386, 811
Mar. 1962	Fontanelle power	do.		Memorandum	1249
Do.	Excess lands	Dominy-Barry		do.	384
Apr. 1962	do.	Udall		Letter	382, 642, 986, 987, 1080, 1082, 1108, 1138, 1141, 1173, 1187, 1190, 1324
Do.	MRB-SW intertie	Weinberg		Memorandum	808
Do.	Excess lands	do.		do.	1550
July 1962	Reversible turbines	do.		do.	1529
Do.	Bonneville power	do.		do.	574
Do.	Excess lands	Barry		Letter	383
Do.	Glen Canyon	Weinberg		Memorandum	424, 697, 1255
Do.	MRB-SW intertie	do.		do.	651, 662, 808
Aug. 1962	Excess lands	Udall		Letter	382
Oct. 1962	MacDonald, Smith Act.	Fisher	A-27711	69 I.D. 181	42, 222
Nov. 1962	Cassady damages	do.	TA-235 (Ir.)	69 I.D. 193	207
Do.	Arizona lands	Holum		Letter	142
Do.	Water rights	Weinberg		Memorandum	586
Dec. 1962	Road relocation	do.		do.	645, 661, 1706
Do.	Fish and wildlife	Barry	M-36643	69 I.D. 224	845

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Mar. 1963..	Rainbow Bridge.....	Barry.....	M-36653.	70 I.D. 200...	1249, 1250, 1552,
June 1963...	Pacific intertie.....	do.....	M-36656.	70 I.D. 237...	540, 571, 651, 803
July 1963...	Rampart Dam.....	Hogan.....		Memorandum.	11
Aug. 1963...	Brock damages.....	Barry.....	TA-249	70 I.D. 397...	208
			(Ir.)		
Do.....	Excess lands.....	do.....		Letter.....	385
Sept. 1963...	Forest revenues.....	Hogan.....		Memorandum.	246
Dec. 1963...	Excess lands.....	Barry.....		Letter.....	385
Do.....	Bird refuge.....	do.....	M-36664.	70 I.D. 527...	1039
Do.....	Nevada water use....	Holum.....		Letter.....	428
Jan. 1964...	Recreation lease....	Hogan.....		Memorandum.	658
Do.....	Big Bend power.....	do.....		do.....	1425
Feb. 1964...	Streit, et al., damages.	Weinberg...	T-1100	do.....	207
			(Ir.)		
Do.....	Hanover damages.....	do.....	TA-256	do.....	208
			(Ir.)		
Mar. 1964...	Brewer damages.....	do.....	TA-253	71 I.D. 84...	209
			(Ir.)		
Apr. 1964...	San Luis drain.....	Barry.....		Memorandum.	291, 1530
Do.....	Emergency funds.....	Weinberg.....		do.....	33, 891, 1026
Do.....	Small projects.....	Kane.....		do.....	1338
Do.....	Anderson mill site....	Hom.....	A-29881.	71 I.D. 140...	499
May 1964...	Crop damages.....	Hogan.....		Memorandum.	20
June 1964...	Powers damages.....	Weinberg...	TA-271	71 I.D. 237...	206, 889
			(Ir.)		
Do.....	Weather modifica- tion.	Barry.....		Letter.....	34, 326, 1023
Do.....	Leavitt Act, MRB...	Hogan.....		Memorandum.	504, 808
Do.....	Power accounting....	Holum.....		Testimony....	575, 599, 600, 648, 650, 803
July 1964...	Canadian exchange..	Barry.....	M-36669.	71 I.D. 315...	570, 573, 574, 662
Do.....	Excess lands.....	do.....		Letter.....	1526
Do.....	Leavitt Act, San Juan-Chama.	Lanning.....		Memorandum.	505, 1252, 1255, 1659, 1662
Aug. 1964...	Keating amendment.	Barry.....		do.....	1054, 1758
Do.....	Bird refuge.....	Weinberg...	M-36664	71 I.D. 311...	1039
			(Supp.)		
Do.....	Small projects.....	Hogan.....		Memorandum.	379, 636, 1332
Sept. 1964...	Flood damage.....	do.....		do.....	1045
Do.....	do.....	do.....		do.....	1526
Do.....	Small projects.....	Weinberg.....		do.....	1338
Oct. 1964...	Withdrawals.....	Hogan.....		do.....	38
Do.....	California Aqueduct.	Weinberg.....		do.....	386, 1530, 1531
Nov. 1964...	Edison wheeling.....	do.....	A-30325..	71 I.D. 405...	174
Do.....	Public service wheeling.	do.....		71 I.D. 427...	174
Do.....	Myll desert lands.....	do.....	A-29920..	71 I.D. 458...	14, 422

See footnote at end of table.

## OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR—Continued

<i>Date</i>	<i>Subject</i>	<i>Author</i>	<i>File No.</i>	<i>Source</i> <sup>1</sup>	<i>Page</i>
Dec. 1964...	<i>Myll</i> desert lands....	Weinberg...	A-29920 (Supp. I)	71 I.D. 486...	14, 124, 422
Do.....	Boulder City storage.	Hogan.....		Memorandum.	1481
Do.....	Small projects.....	do.....		do.....	1332
Do.....	Imperial Irr. Dist. excess lands.	Barry.....	M-36675.	71 I.D. 496...	13, 54, 64, 65 168, 170, 180, 378, 379, 380, 381, 382, 417, 424, 439
Jan. 1965...	Excess lands.....	do.....		Letter.....	383
Feb. 1965...	Canal Act.....	Weinberg.....		do.....	1767
Do.....	Canadian exchange.	Barry.....			1764
Do.....	Soil conservation.....	do.....	M-36677.	72 I.D. 92....	519
Do.....	<i>Harris</i> entry exchange.	Weinberg...	A-29243.	72 I.D. 87....	1122, 1740
Do.....	<i>Ritter</i> desert lands....	Carver.....	A-30415.	72 I.D. 111...	14, 422, 516
Do.....	Power preference....	Coulter.....		Memorandum.	650, 1256
Mar. 1965...	<i>Clarkson</i> desert.....	Carver.....	A-30438.	72 I.D. 138...	14, 422, 516
Do.....	Future capacity.....	Hogan.....		Memorandum.	1428
Apr. 1965...	Small projects.....	do.....		do.....	1332
Do.....	Eden project.....	do.....		do.....	675, 955
Do.....	Excess lands.....	do.....		do.....	385
May 1965...	Eden project.....	do.....		do.....	955
Do.....	CRSP power rates...	Udall.....		Letter.....	575, 649, 801, 1256
June 1965...	Excess lands.....	Weinberg...	M-36666.	72 I.D. 245...	182, 384, 386, 387
July 1965...	McNary costs.....	Barry.....		Memorandum.	575
Aug. 1965...	Columbia Treaty....	Weinberg.....		do.....	1825
Sept. 1965...	Recreation costs.....	Hogan.....		do.....	1825
Oct. 1965...	Palo Verde claims...	Barry.....	M-36684.	72 I.D. 409...	43
Do.....	Excess lands.....	Weinberg.....		Memorandum.	386
Do.....	do.....	Barry.....		do.....	385
Nov. 1965...	do.....	Weinberg.....		do.....	385
Do.....	do.....	do.....		do.....	385
Do.....	do.....	Barry.....		Letter.....	385
Dec. 1965...	Desert lands, California.	Udall.....		Notice.....	422
Do.....	Excess lands.....	Weinberg.....		Memorandum.	182, 384, 385
Do.....	<i>Myll</i> desert lands.....	do.....	A-29920 (Supp. II).	72 I.D. 536...	14, 124, 422
July 1966...	Weather research....	Hogan.....		Memorandum.	34, 36, 326, 806, 1023
Do.....	CRSP emergencies...	Bennett.....		do.....	1254
Aug. 1966...	Clay removed.....	Coulter.....		do.....	23, 94, 657
Do.....	Gila exchange.....	Barry.....	M-36694.	73 I.D. 252...	662
Sept. 1966...	Recreation repay- ment.	Weinberg.....		Memorandum.	1821
Do.....	Recreation Act.....	Meyer.....		do.....	1821, 1823, 1825
Oct. 1966...	Indian projects.....	Hogan.....		do.....	635, 659, 1252, 1658

<sup>1</sup> The citation "F. Recl. L." indicates that the source is a note in Volume I of *Federal Reclamation Laws, Annotated* (U.S. Department of the Interior 1958).

- OPTIMA RESERVOIR 1002
- ORANGE COVE IRRIGATION DISTRICT 383
- OREGON & CALIFORNIA RAILROAD COMPANY 33
- OREGON SHORT LINE RAILROAD COMPANY 657
- OREGON, STATE OF  
 Compacts of. *See* COLUMBIA RIVER COMPACT; KLAMATH RIVER BASIN COMPACT.  
 Contract required for support of Vale project 337  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Lands ceded by, for Klamath project subject to reclamation laws 788  
 Legislation of, ceding lands exposed by lowering of Lower Klamath, Tule and Goose  
 Lakes 95  
 Projects in. *See* individual dams and projects by name.  
 Quitclaim to, of lands of Goose Lake 723  
 Reclamation Act applies 31  
 Transfer by GSA of certain property in Klamath County to 1203
- OREGON TRAIL DIVISION, MRB, Wyoming  
 Glendo inundated water rights irrigation unit  
 Feasibility study authorized 1893  
 La Prele unit  
 Feasibility study authorized 1892
- ORGANIZATION  
*See also* IRRIGATION DISTRICTS.  
 Term defined 635, 1331
- ORLAND PROJECT, California  
 Adjustment of water rights and construction charges 552
- ORLAND UNIT WATER USERS' ASSOCIATION 553
- OROVILLE-TONASKET UNIT, Chief Joseph Dam project 1695, 1893
- O'SULLIVAN DAM 892
- OTTER TAIL RIVER 592
- OWL CREEK IRRIGATION DISTRICT 381
- OWL CREEK UNIT, MRB, Wyoming  
 Conveyance of Wind River Reservation land to United States 1328  
 Excess land laws waived 1197  
 Miscellaneous references to 381
- OWYHEE IRRIGATION DISTRICT 1080
- OWYHEE PROJECT, IDAHO-OREGON  
 Amended contract approved 1080  
 Delayed payment of 1932-1935 construction charges 610  
 Investigation of claims arising from break in North Canal 722  
 Miscellaneous references to 491  
 Payment to George B. Henly Construction Company 1102  
 Repayment contract required 350
- OSBOW DAM 1579

OZARK LOCK AND DAM 801

## P

PACHECO TUNNEL 1454, 1530

PACIFIC GAS & ELECTRIC COMPANY 112

PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE 1054, 1739, 1757, 1763

PACIFIC NORTHWEST POWER MARKETING ACT

Enactment of, made precondition to construction of Pacific Northwest-Pacific South-  
west intertie 1739, 1758

Statutory references to 1871

Text 1760

PACIFIC POWER AND LIGHT COMPANY 1340

PACTOLA DAM AND RESERVOIR 661, 1115

PACTOLA METHODIST ASSEMBLY PARK ASSOCIATION 1312

PACTOLA SCHOOL DISTRICT NUMBERED 5 1312

PAGE, ARIZONA, ACCOMMODATION SCHOOL 1859

PAIUTE INDIANS

Cancellation of charges against lands irrigated from Newlands project 394

Drainage of lands within Newlands project 304, 394

Payment authorized to TCID for share of costs of repair of Truckee Canal attributable  
to Paiute Indian lands 474

PAJARITO CREEK 1048

PAJARO RIVER BASIN 1887

PALISADES DAM AND RESERVOIR 1039, 1041, 1206, 1889

PALISADES PROJECT, Idaho-Wyoming

Contract authority in excess of appropriations 659

Lands acquired for, incorporated into Targhee and Caribou National Forests 1442

Power revenues applied to repayment of part of irrigation allocation of Michaud

Flats project 1205, 1206

Purchase of certain improvements on public lands authorized 1157

Reauthorized 1039

PALMER LAKE 1695

PALMETTO BEND PROJECT, Texas

Additional studies authorized 1886

PALOMAS VALLEY 367

PALO VERDE DIVERSION DAM 1210, 1876

PALO VERDE DIVERSION PROJECT, Arizona-California

Authorized 1210

PALO VERDE IRRIGATION DISTRICT 428, 785, 1210

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

- PALO VERDE VALLEY 35, 43, 503
- PALO VERDE WEIR 1093
- PAONIA PROJECT, Colorado  
 Authorized 853, 1248  
 Statutory references to 1251, 1253
- PARADISE VALLEY DIVERSION DAM 1859
- PARADISE VALLEY IRRIGATION DISTRICT 1859
- PARIA RIVER 442, 910
- PARISH BROTHERS 1013
- PARK COUNTY 349
- PARKER DAM. *See* PARKER-DAVIS PROJECT.
- PARKER-DAVIS PROJECT, Arizona-California-Nevada  
 Consolidation of Davis Dam and Parker Dam power projects as Parker-Davis project 1135  
 Davis Dam project  
 Appropriations for construction of Bullshead Dam project 716  
 Archeological excavations 716  
 Bullshead Dam renamed Davis Dam 716  
 Compact references to 1602  
 Deliveries to Mexico conditional on completion of 759, 762  
 Miscellaneous references to 528  
 Reservoir behind Davis Dam named Lake Mohave 1006  
 Statutory references to 1602  
 Treaty obligation to construct and operate 760  
 Parker Dam project  
 Acquisition of Indian lands for 695, 727  
 Appropriations for Parker Dam power project 618  
 Authorization of 538  
 Compact references to 1876  
 Not authorized under Act of April 21, 1904 91  
 Power revenues, application of 724  
 Statutory references to 791, 828  
 Transfer of Basic Magnesium project power facilities to 897
- PARKER-GILA VALLEY PROJECT 436
- PARK MOABI 658
- PARKS AND COMMUNITY CENTERS  
 Twenty-acre tracts and water supply for 201
- PARSHALL PROJECT, Colorado  
 Exeditious completion of planning report directed 1249
- PASKENTA-NEWVILLE RESERVOIR 1890
- PATENTS  
 Inventions. *See* INVENTIONS.  
 Land patents. *See* CONSTRUCTION CHARGES; HOMESTEAD LAWS; RECLAMATION ENTRIES; RIGHTS OF WAY AND EASEMENTS; WATER RIGHTS.

- PATHFINDER IRRIGATION DISTRICT 1106, 1352
- PATTERSON, EDWARD ARTHUR, LAKE 1490
- PAYETTE DIVISION, Boise project 715
- PAYETTE NATIONAL FOREST 1485
- PAYETTE-OREGON SLOPE IRRIGATION DISTRICT 1080
- PAYETTE RIVER 1189, 1889
- PEGOS RIVER 392, 667, 753, 963, 1004, 1391, 1891
- PEGOS RIVER BASIN 942, 1216, 1391, 1800
- PEGOS RIVER COMMISSION  
     Established 944  
     Statutory references to 1392
- PEGOS RIVER COMPACT  
     Statutory references to 1391, 1393, 1801  
     Text 942
- PELTON DAM CASE 268
- PENNSYLVANIA, COMMONWEALTH OF  
     Compacts of. *See* DELAWARE RIVER BASIN COMPACT.
- PERHAM FRUIT CORPORATION 1134
- PERIPHERAL CANAL, CVP 1887
- PERMANENT ENGINEERING BOARD 1570, 1601, 1828
- PERMITS. *See* BUILDING MATERIALS; LEASES AND PERMITS; RIGHTS OF WAY AND EASEMENTS.
- PERSHING COUNTY WATER CONSERVATION DISTRICT 712
- PHILIPPINES 687
- PHILLIPS COUNTY 1080
- PHIPPS ACT 309
- PHOENIX, CITY OF 112, 1420
- PHREATOPHYTE CONTROL  
     McMillan Delta project 1391  
     Middle Rio Grande project 902  
     Pecos River basin 1800
- PICKETT ACT  
     Extracts from 155
- PILOT BUTTE DIVISION, Riverton project 458
- PILOT KNOB 415, 762

PILOT KNOB WASTEWAY	760
PIMA COUNTY	1680
PIMA INDIANS	
Irrigation from Salt River project	126
PINAL COUNTY	1202
PINE FLAT DAM AND RESERVOIR	805, 806, 810
PINE RIDGE UNIT, MRB	1888
PINE RIVER, Colorado	1390
PINE RIVER EXTENSION PROJECT.	<i>See</i> PINE RIVER PROJECT.
PINE RIVER INDIAN PROJECT, Colorado	1150
PINE RIVER INDIANS	
One-sixth of construction costs of Pine River project chargeable to lands of Pine River Indian project	1150
PINE RIVER IRRIGATION DISTRICT	1150
PINE RIVER PROJECT, Colorado	
Amended contract approved	1150
Extension	
Authorized	1248
Miscellaneous references to	379
Nonreimbursable appropriation	620
Relief of Martin Wunderlich Company	1390
PINEVIEW DAM AND RESERVOIR	967, 1720
PINTO CREEK	753
PIONEER CANAL	328, 743
PIONEER IRRIGATION COMPANY	743
PIT RIVER	1890
PIT RIVER DIVISION, CVP	1890
PIUTE INDIANS.	<i>See</i> PAIUTE INDIANS.
PIXLEY DAM	1398
PLACER COUNTY	979
PLANS AND PLANNING.	<i>See</i> STUDIES AND REPORTS.
PLATORO RESERVOIR	1083
PLATORO UNIT, San Luis Valley project	1083
PLATTE RIVER	35, 1886
PLEASANT VALLEY CANAL	1524

- PLEASANT VALLEY DEVELOPMENT STUDY 646, 798
- POJOAQUE TRIBUTARY IRRIGATION UNIT 1660
- POLECAT BENCH 1891
- POLLOCK-HERREID UNIT, MRB 1892
- POLLUTION CONTROL. *See* FEDERAL WATER POLLUTION CONTROL ACT; RESEARCH;  
STUDIES AND REPORTS; WATER QUALITY CONTROL.
- POMPEYS PILLAR, TOWNSITE OF 1497
- PONCA CREEK COMPACT  
Consent to negotiate 1117
- POND CREEK 1242
- PORCUPINE RIVER 11
- PORTALES PROJECT, New Mexico  
Feasibility study authorized 1891
- PORT CHICAGO 1858
- PORT MANSFIELD, Texas 1493
- PORTRNEUF RIVER 1207
- POTHOLES DAM 892
- POTTER COUNTY, Texas 1846
- POWDER RIVER 1063, 1891
- POWDER RIVER DIVISION, MRB, Wyoming  
Kaycee Unit  
Feasibility study authorized 1891
- POWELL, TOWN OF 1718
- POWELL, TOWN SITE OF 248, 349, 793, 880, 1133, 1610
- POWER  
*See also* individual dams and projects by name.  
Accounting practices of Federal agencies 532, 576, 607  
Cost allocation. *See* COST ALLOCATION.  
Federal Power Act. *See* FEDERAL POWER ACT.  
Generation facilities  
Army projects, generally 234, 800  
Pumped storage 1529  
Reclamation projects, generally 111, 644  
Single-purpose power projects 646  
Small reclamation projects 1336  
Steam plants 586  
W.C.U. projects, generally 677

## POWER—Continued

## International aspects

Canada. *See* CANADIAN ENTITLEMENT EXCHANGE AGREEMENTS; CANADIAN ENTITLEMENT PURCHASE AGREEMENT; COLUMBIA RIVER TREATY; COLUMBIA STORAGE POWER EXCHANGE; TREATIES AND CONVENTIONS.

Mexico. *See* AMISTAD DAM; FALCON DAM; INTERNATIONAL BOUNDARY AND WATER COMMISSION; MEXICAN WATER TREATY; TREATIES AND CONVENTIONS.

Transmission of power to foreign countries 530

## Marketing

Contracts 112, 429, 430, 570, 647, 803

Geographical preference 426, 786, 1155, 1237, 1425, 1702, 1739, 1760, 1763

Power exchanges 573, 660

Power purchases 802, 975

Preference clause 111, 426, 571, 573, 606, 647, 678, 800, 1011, 1040, 1139, 1337, 1425, 1704

Power administrations. *See* BONNEVILLE POWER ADMINISTRATION; SOUTHEASTERN POWER ADMINISTRATION; SOUTHWESTERN POWER ADMINISTRATION.

Power privileges. *See* LEASES AND PERMITS.

Power sites. *See* POWER SITES.

## Rates and reimbursement

Discounts 291, 586, 649

FPC approval of 572, 606, 800, 1011, 1139

Generally 574, 575, 598, 644, 647, 800

Interest 490, 647, 678, 801, 881

Irrigation pumping power 607, 648, 1151

Irrigation subsidy 111, 320, 598, 645, 654, 1084, 1185, 1205

*See also* CONSTRUCTION CHARGES.

Research. *See* RESEARCH.

Revenues credited against other charges. *See* CONSTRUCTION CHARGES.

## Rights of way for power facilities

In Federal lands. *See* INDIAN LANDS; NATIONAL PARKS; RIGHTS OF WAY AND EASEMENTS.

In non-Federal lands. *See* ACQUISITION OF PROPERTY.

## Special provisions relating to individual projects

Boise project 312

Bonneville project 568

Boulder Canyon project 425, 431, 433, 697, 702

Collbran project 1084

Colorado River Storage project 1255

Columbia River power system. *See* BONNEVILLE POWER ADMINISTRATION; COLUMBIA RIVER POWER SYSTEM.

Fort Peck project 604

Grand Valley project. *See* GRAND VALLEY PROJECT.

Kennewick division, Yakima project 881

Prosser Dam powerplant 458

Salt River project 302

Uncompahgre project 613

Yuma project 312

Studies. *See* STUDIES AND REPORTS.

## Transmission facilities

Colorado River Storage project 1652

Construction of, generally 291, 569, 650, 800, 808

Disposal of 2041

Lease or purchase of 569, 586, 800, 803, 975

Nonavailability of wheeling service as condition to construction, generally 1054, 1092

Pacific Northwest-Pacific Southwest intertie. *See* PACIFIC NORTHWEST-PACIFIC SOUTHWEST INTERTIE.

## POWER—Continued

TVA. *See* TENNESSEE VALLEY AUTHORITY.

## Use of water for

As an element of power site value. *See* POWER SITES.

As an "industrial" purpose 798

Priorities of use. *See* WATER RIGHTS.

## POWER SITES

## Reservation of

*See also* RIGHTS OF WAY AND EASEMENTS.

Generally 155

In Arizona and New Mexico 142

Under Federal Power Act 282

Value of 2, 7, 74, 808

PRAIRIE DIVISION, Rathdrum Prairie project 1887

PRAIRIE DOG CREEK 741

PRAIRIE DOG TOWN FORK 1489

PRATT, T. M. 1199

PREFERENCE CLAUSE. *See* POWER.PREPARATORY WORK. *See* SETTLER ASSISTANCE.

PRESBYTERIAN RETIREMENT FACILITIES CORPORATION 1718

PRESENT PERFECTED RIGHTS. *See* BOULDER CANYON PROJECT ACT.

## PRESIDENT

Executive orders. *See* EXECUTIVE ORDERS.

Executive power 3

Letter to Secretary of State regarding international flood control works and credits to Imperial Irrigation District 1019

## Signing statements

Belle Fourche River Compact 783

Flood Control Act of 1944 811

Fort Sumner project 963

Interior Department Appropriation Act, 1949 899

Kings River and Tulare Lake project 823

Republican River Compact 746

River and Harbor and Flood Control Acts of 1946 833

Small Reclamation Projects Act of 1956 1334

Southern Nevada water project 1853

Water Resources Research Act of 1964 1750

Weber Basin project 966

## Veto messages

Crow Tribe lands, Yellowtail Dam and Reservoir 1430

San Luis Valley project, excess land laws waiver 1083

Withdrawal of lands by 155

PRESIDENT'S SCIENCE ADVISORY COMMITTEE 1807

PRESTON BENCH PROJECT, Idaho

Authorized 883

- PRICE RIVER PROJECT, Utah  
Feasibility study authorized 1893
- PRIEST RAPIDS DAM 1154, 1566, 1579
- PRINEVILLE DAM 1340
- PROCUREMENT. *See* ACQUISITION OF PROPERTY; CONSTRUCTION; SUPPLIES AND SERVICES.
- PROJECT  
Term defined 634
- PROJECT CONTRACT UNIT  
Term defined 635
- PROJECTS  
*See also* individual projects by name.  
Army projects. *See* ARMY, DEPARTMENT OF THE; FLOOD CONTROL ACTS; RIVER AND HARBOR ACTS.  
Buildings on, not covered by Public Buildings Act of 1959. *See* PUBLIC BUILDINGS ACT OF 1959.  
Cordon amendment projects. *See* CORDON AMENDMENT PROJECTS.  
Indian irrigation projects. *See* INDIAN IRRIGATION PROJECTS.  
Reclamation projects. *See* individual topics throughout this index.  
Small reclamation projects. *See* SMALL RECLAMATION PROJECTS ACT.  
Small watershed projects. *See* AGRICULTURE, DEPARTMENT OF; WATERSHED PROTECTION AND FLOOD PREVENTION ACT.  
Water conservation and utilization projects. *See* GREAT PLAINS; WATER CONSERVATION AND UTILIZATION ACT.
- PROPERTY CLAUSE 3
- PROSSER-CHANDLER POWER CANAL 457, 881
- PROSSER DAM 457
- PROSSER IRRIGATION DISTRICT 987, 1129
- PROVO RIVER PROJECT, Utah  
Authorization explained 866  
Disposition of property donated by Metropolitan Water District of Salt Lake City 962  
Facilitate construction of Deer Creek and Aqueduct divisions 866  
Reconveyance of land to Metropolitan Water District of Salt Lake City 1515
- PROVO RIVER WATER USERS ASSOCIATION 866
- PRYOR DIVISION, Huntley project 359
- PUBLIC BUILDINGS ACT OF 1959  
Extracts from 1494
- PUBLIC INFORMATION ACT  
Disclosure of confidential information 1949  
Text 1930
- PUBLIC IRRIGATION DISTRICT 379
- PUBLIC LAND LAW REVIEW COMMISSION 1808

**PUBLIC LANDS.** *See* ARIZONA, STATE OF; BUILDING MATERIALS; CANAL ACT; CAREY ACT; COLORADO RIVER COMMISSION OF NEVADA; DESERT LAND ACT; HOMESTEAD LAWS; INDIAN LANDS; IRRIGATION DISTRICTS; MINERAL LEASING ACTS; MINING LAWS; NATIONAL FORESTS; NATIONAL PARKS; POWER SITES; PUBLIC LAND LAW REVIEW COMMISSION; RAILROAD LANDS; RECLAMATION ENTRIES; RECLAMATION WITHDRAWALS; RIGHTS OF WAY AND EASEMENTS; SOIL AND MOISTURE CONSERVATION; SURPLUS PROPERTY; TAYLOR GRAZING ACT; WATER RIGHTS; WITHDRAWALS. *See also* individual projects by name.

**PUBLIC NOTICE**

Of water availability and terms. *See* CONSTRUCTION CHARGES; RECLAMATION ENTRIES.

**PUBLIC SERVICE COMPANY OF COLORADO** 486, 651, 1543

**PUBLIC USE FACILITIES.** *See* RECREATION.

**PUBLIC UTILITY ACT OF 1935**

Extracts from 527

**PUBLIC UTILITY DISTRICT NUMBER 2 OF GRANT COUNTY** 1154

**PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

Miscellaneous references to 527

**PUBLIC WORKS ADMINISTRATION** 393, 433, 481, 524, 539, 590

**PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965**

Miscellaneous references to 1168

Reorganization plan references to 1304

**PUDDING RIVER** 1889

**PUEBLO INDIANS**

Extend authority to pay operation and maintenance charges by Middle Rio Grande Conservancy District 1840

Miscellaneous references to 1662

Rights of way in lands of, authorized 862

Texas Panhandle Pueblo culture site 1846

**PURDY, W. E. and ZEMMA** 1310

**PURGATOIRE RIVER** 932, 1424

**PUTAH CREEK** 1890

**PUTAH CREEK BASIN** 1887

**PYRAMID LAKE** 1320

**PYRAMID LAKE INDIANS**

Reclamation of irrigable lands of 91

**Q**

**QUINCY-COLUMBIA BASIN IRRIGATION DISTRICT** 1614, 1690

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

267-975-72—vol. III—46

## R

- RABBIT EAR PROJECT, Colorado  
Expeditious completion of planning report directed 1249
- RAILROAD LANDS  
*See also* individual railway companies by name.  
Canal Act 19  
Withdrawals of  
Generally 42, 46
- RAILROAD RIGHT OF WAY ACT OF 1875  
Miscellaneous references to 46
- RAINBOW BRIDGE NATIONAL MONUMENT 1248, 1250, 1465, 1551
- RAKER ACT. *See* SAN FRANCISCO, CITY AND COUNTY OF.
- RAMPART DAM 11
- RAPID CITY 1330
- RAPID VALLEY PROJECT, South Dakota  
Amendment of water supply contract to Rapid City 1330  
Deferment of construction charges. *See* WATER CONSERVATION AND UTILIZATION ACT.
- RAPID VALLEY UNIT, MRB, South Dakota  
Amendment of water supply contract to Rapid City 1330  
Cost of Pactola Dam allocated to serving Ellsworth Air Force Base made nonreimbursable 1115  
Payment for improvements on public lands 1312
- RATES AND CHARGES. *See* CONSTRUCTION CHARGES; FEES AND CHARGES; INTEREST; LEASES AND PERMITS; OPERATION AND MAINTENANCE CHARGES; POWER; RECLAMATION ENTRIES; RECREATION; RIGHTS OF WAY AND EASEMENTS; WATER SUPPLY.
- RATHDRUM PRAIRIE PROJECT, Idaho  
East Greenacres unit, Prairie division  
Completion of studies authorized 1887  
Hayden Lake unit  
Additional work authorized 1615  
Authorization explained 1615  
Funds appropriated for rehabilitation 1273, 1551  
Reclamation laws, application of. *See* CORDON AMENDMENT PROJECTS.
- RAYBURN, SAM, DAM 801
- RECLAMATION ACT  
Constitutionality 1, 4, 5, 87  
Purpose 32, 64, 86  
States covered 31, 33, 34, 806, 808  
Text 31
- RECLAMATION ENTRIES  
*See also* individual projects by name.  
Assignment of 145, 198, 214  
Authorized  
Coal lands 144  
Generally 37, 165

## RECLAMATION ENTRIES—Continued

- Farm units. *See* FARM UNITS.
- Homestead laws
  - Generally 37, 63
- Leave of absence to homesteaders
  - Authorized, generally 159, 175
- Patents
  - Generally 50, 177, 184
  - Payment of charges as precondition to receipt of 62, 177, 298
- Preferences
  - Needy families 685
  - Servicemen. *See* SERVICEMEN.
- Public notice of water availability and terms
  - Generally 51, 196, 197, 213
  - Required before entry 152
  - Withdrawal of lands before giving 37
  - Withdrawal of notice 164
- Qualifications of entrymen 317, 666, 686
- Reclamation of, by entryman
  - Required, generally 62, 195
- Taxation of. *See* TAXATION.
- Water rights. *See* EXCESS LANDS; WATER RIGHTS.

## RECLAMATION EXTENSION ACT

- Acceptance of 199, 217
- Amendments of 217
- Statutory references to
  - Generally 357, 359, 365, 368, 369, 492
  - Section 2 303, 553
  - Section 4 303, 312, 983
  - Section 5 683
  - Section 9 983
- Text 186

## RECLAMATION FUND

- Advances to, from Treasury funds
  - Authorized 150, 487
  - Reimbursement 150, 236, 482, 487, 495, 598
- Allocation of, among States and Territories 86, 154
- Established 31
- Expenditures from
  - Appropriation by Congress as precondition 199
  - Appropriations for reclamation program, explanatory note 31
  - Appropriations for reclamation program limited to reclamation fund 210
  - Current appropriation act language 1021, 1022, 1023
  - Generally 31, 51, 71, 236, 325, 388
  - Operation and maintenance 59, 69
  - Town sites. *See* TOWN SITES.
- Receipts to
  - Generally 31, 58, 59, 62, 69, 171, 388, 598
  - Leases and permits 33, 45, 56, 103, 246, 249, 278, 320
  - Power revenues 111, 320, 598
  - Refunds and other miscellaneous revenues 33, 102, 236, 274, 463
  - Sales of land and other property 31, 102, 109, 122, 139, 163, 201, 204, 228, 239, 246, 249, 256, 257, 320, 451, 461, 598, 999
  - Service to Indian lands 90, 91, 106, 126, 185, 215
  - Water supply revenues 251

## RECLAMATION PROJECT ACT OF 1939

## Amendments of

- Administration of subsections 9 (e) and (d) 1275
- Deferment of construction charges 1503
- Extend time for entering into amendatory repayment contracts 1073, 1209, 1358
- Irrigation blocks; development period; semiannual installments 1681
- Revisions of normal and percentages plan agreements 817
- Section 9(a) 797
- Section 10 1017
- Variable repayment plan 1432

## Statutory references to

- Generally 683, 728
  - Section 2 951, 969, 1218, 1242, 1251, 1319, 1535, 1676, 1899
  - Section 7 926, 976, 984, 1014, 1015, 1080, 1106, 1113, 1115, 1138, 1141, 1150, 1173, 1187, 1189, 1322, 1389, 1471, 1613, 1655
  - Section 8 877, 927, 1081, 1656, 1713
  - Section 9, generally 716, 842, 898, 1104, 1528
  - Section 9(b) 717
  - Section 9(c) 965, 1337, 1427, 1714
  - Section 9(c), last sentence 1251, 1536, 1558, 1677, 1852, 1899
  - Section 9(d) 965, 1084, 1151, 1158, 1184, 1218, 1243, 1318, 1326, 1341, 1343, 1346, 1354, 1432, 1492, 1521, 1554, 1657, 1668, 1671, 1681, 1687, 1695, 1708, 1740, 1796
  - Section 10 1867
  - Section 12 1140, 1496
  - Section 14 1140
- Text 634

RECLAMATION SERVICE 86

## RECLAMATION WITHDRAWALS

## Authorized

- Coal lands 144
- Generally 37, 246
- Parks and community centers 201
- Town sites 109
- In Arizona and New Mexico 141, 143
- Lands in irrigation district covered by Smith Act 222
- Public notice of water availability and terms. *See* RECLAMATION ENTRIES.
- Sale of small tracts. *See* SMALL TRACTS ACT.
- Sale of surplus withdrawn land. *See* SURPLUS PROPERTY.
- Vacation of withdrawals of lands containing minerals authorized 498

RECONSTRUCTION FINANCE CORPORATION 898, 899, 1037, 1153, 1194

RECORDABLE CONTRACTS 351, 354, 377, 386, 556, 586, 596, 731, 1034, 1038, 1550

## RECREATION

*See also* individual projects by name.Administration of project areas by Forest Service. *See* NATIONAL FORESTS.

Administration of project areas by National Park Service

Areas in national park system. *See* individual areas by name.

Criminal sanctions 838

Generally 838

*See also* NATIONAL PARK SERVICE.

Administration of project areas by State or local bodies

Existing reclamation projects, generally 1825

## RECREATION—Continued

## Administration of project areas by State or local bodies—Continued

Federal water projects, generally 1820, 1823

Reclamation projects, generally 1825

Allocation of costs. *See* COST ALLOCATION.

## As a project purpose

Army projects, generally 799

Federal water projects, generally 1820

Policy against projects with more than half of costs allocated to recreation and fish and wildlife enhancement 1826

Reclamation projects, generally 1825

Small reclamation projects. *See* SMALL RECLAMATION PROJECTS ACT.Watershed projects. *See* AGRICULTURE, DEPARTMENT OF; WATERSHED PROTECTION AND FLOOD PREVENTION ACT.

Coordination of recreation programs 1711, 1823

Parks and community centers, reservation of 20-acre tracts for 201

## Reimbursement and cost sharing

Fees and charges 1785, 1821, 1824, 1827

Generally 1793, 1820

Small reclamation projects 1336

Research. *See* RESEARCH.Studies. *See* STUDIES AND REPORTS.

## RECREATION AND PUBLIC PURPOSES ACT

Miscellaneous references to 43, 45

Statutory references to 1716

RED BLUFF DAM, Texas 943

RED BLUFF DIVERSION DAM, California 1032

RED BLUFF PROJECT, Texas

Authorized 392

RED BLUFF WATER POWER CONTROL DISTRICT 393, 1392

RED CROSS 1043

RED PRAIRIE DIVISION, Willamette River project 1887

RED RIVER 615, 1489, 1888, 1922

RED RIVER BASIN 615, 806, 1003, 1737, 1922

RED RIVER COMPACT

Consent to negotiate 1231

RED RIVER OF THE NORTH 1922

RED RIVER OF THE NORTH COMPACT

Text 590

RED ROCK VALLEY 1366

RED WILLOW CREEK 741

RED WILLOW DAM AND RESERVOIR 1261, 1453

- REEVES COUNTY WATER IMPROVEMENT DISTRICT 675, 1338
- REFUNDS 33, 102, 236, 259, 316, 331, 372, 391, 406, 513, 559, 1025  
*See also* CONSTRUCTION CHARGES.
- REFUSE ACT  
 Statutory references to 1301
- REHABILITATION AND BETTERMENT  
*See also* individual projects by name.  
 Loans or advances to repayment organizations  
   Authorized, generally 969  
   Bitter Root project 475, 526  
   Included within term "construction" for purposes of small reclamation project loans 1331  
 Reclamation projects, generally  
   Express statutory authorization 969  
 Rehabilitation of private irrigation works by Bureau of Reclamation. *See* BITTER ROOT PROJECT; CORDON AMENDMENT PROJECTS; FORT SUMNER PROJECT; LA FERIA DIVISION; MERCEDES DIVISION; ROGUE RIVER BASIN PROJECT.
- REHABILITATION AND BETTERMENT ACT  
 Amendments of  
   Congressional committee approval of contracts 988  
 Statutory references to 1184, 1316, 1505  
 Text 969
- REIMBURSEMENT AND COST SHARING. *See* APPROPRIATIONS; AQUATIC PLANT CONTROL; CONSTRUCTION CHARGES; DEPRESSED AREAS; DISASTER RELIEF ACTS; DRAINAGE AND MINOR CONSTRUCTION ACT; FEDERAL AGENCIES; FISH AND WILDLIFE; FLOOD CONTROL; INDIAN LANDS; NAVAJO INDIAN IRRIGATION PROJECT; NAVIGATION; OPERATION AND MAINTENANCE CHARGES; POWER; RECREATION; REHABILITATION AND BETTERMENT; REPAYMENT CONTRACTS; RESEARCH; ROADS; SETTLER ASSISTANCE; SMALL RECLAMATION PROJECTS ACT; STUDIES AND REPORTS; TREATIES AND CONVENTIONS; WATER QUALITY CONTROL; WATER SERVICE; WATER SUPPLY.  
*See also* individual irrigation districts and projects by name.
- RELOCATION. *See* ACQUISITION OF PROPERTY; ARMY, DEPARTMENT OF; CONSTRUCTION; MOVING EXPENSES; OPERATION AND MAINTENANCE; ROADS.
- RENO, CITY OF 453
- REORGANIZATION PLAN NO. IV OF 1940  
 Extracts from 520
- REORGANIZATION PLAN NO. 3 OF 1950  
 Miscellaneous references to 1760  
 Reorganization plan references to 1305  
 Text 1005
- REORGANIZATION PLAN NO. 4 OF 1965  
 Miscellaneous references to 570
- REORGANIZATION PLAN NO. 2 OF 1966  
 Text 1303

## REPAYMENT CONTRACTS

*See also* individual projects and irrigation districts by name.

## Amendment of, generally

Conversion of "9(e)" water service contracts to "9(d)" repayment contracts 1275

Extension of repayment period to 40 years 636

Interim relief. *See* CONSTRUCTION CHARGES.

Normal and percentages plan 636, 817

To incorporate provisions temporarily suspending excess land laws where lands acquired involuntarily 1307

To provide equitable treatment of repayment problems 640, 663

When congressional approval required 663, 817

Annual installment payable in two parts 1681

Charges covered by. *See* CONSTRUCTION CHARGES; OPERATION AND MAINTENANCE CHARGES.

Defined 634

Miscellaneous provisions of 639

Optional contract with districts or associations 296, 375

Required as a prerequisite to:

Acquisition of property 75, 378

Construction of project 334, 337, 338, 350, 378, 392, 398, 399, 422, 496, 1460

Delivery of water 335, 354, 376, 640, 651

Operation and maintenance 353

Warren Act 166

W.C.U. projects 672

REPORTS. *See* STUDIES AND REPORTS.

REPUBLICAN RIVER 930

REPUBLICAN RIVER COMPACT

Text 740

## RESEARCH

Bonneville Power Administration 570

Desalting 1087, 1467

Farms for agricultural research

Arizona, University of 598, 819

Authority to develop 73

Farson Pilot Farm 1653, 1911

Washington State University 1484, 1692

Water charges 61

Fish and wildlife 509, 602, 839, 1860

Pollution control 509, 845, 1281, 1283, 1862

Reclamation program, generally

Authorized 34, 35, 325, 806

Current appropriation act language 1023

Recreation 1711

Reimbursement of costs of

Generally 325, 1023

Scientific and technical research, generally 1907, 2007

Soil and moisture conservation 517, 520

Water resources, generally 1747

Weather modification 34, 326, 570, 806, 1023

RESERVED WORKS. *See* ADVANCE PAYMENTS; OPERATION AND MAINTENANCE.

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

RESERVOIRS. *See* ACQUISITION OF PROPERTY; INDIAN LANDS; NATIONAL PARKS; RIGHTS OF WAY AND EASEMENTS; SMALL RESERVOIRS. *See also* individual dams, reservoirs and projects by name.

## RESIDENCE

As a requirement to receive water 50, 62, 147, 177, 188  
 Eligibility for purchase of small tracts 998  
 Farm Unit Exchange Act 1118  
 Homestead laws 48, 159, 2023  
 Leave of absence 159, 175, 2031  
 Suspension of residence requirements for servicemen. *See* SERVICEMEN.  
 Waived for purchasers of land on Yuma Auxiliary project 230

RESIDENTIAL WATER SUPPLY. *See* WATER SUPPLY.

REVILLAGIGEDO ISLAND 1892

## REVISED STATUTES

Section 161, departmental regulations  
 Text 1927  
 Section 236, settlement of accounts  
 Text 1959  
 Section 355, acquisition of property  
 Text 1972  
 Sections 2289-309, homestead laws  
 Extracts from 2023  
 Section 2339, recognition of vested water rights  
 Text 9  
 Section 2340, patents subject to vested water rights  
 Text 10  
 Section 3469, compromise of claims  
 Text 1960  
 Section 3617, deposit of receipts in Treasury  
 Text 1961  
 Section 3618, proceeds of sales of material  
 Text 1961  
 Section 3648, prohibition against advance payments  
 Statutory references to 1281, 1711, 1751  
 Text 1962  
 Section 3678, application of moneys appropriated  
 Text 1963  
 Section 3679, antideficiency law  
 Miscellaneous references to 570  
 Text 1963  
 Section 3709, advertisement for bids  
 Statutory references to 1281  
 Text 1987  
 Section 3710, bid openings  
 Text 1987  
 Section 3732, no contract without authorization or appropriation  
 Miscellaneous references to 570  
 Text 1989  
 Section 3733, no contract to exceed appropriation  
 Text 1989  
 Section 3735, contracts limited to 1 year  
 Text 1989  
 Section 3736, restriction on purchases of land  
 Text 1989

## REVISED STATUTES—Continued

Section 3743, deposit of contracts

Text 1990

REWARDS 34

REXBURG BENCH 1797

REYNOLDS, MARY K. 508, 1196

REYNOLDS METAL COMPANY 802

RHETT LAKE. *See* TULE LAKE.

RIDENBAUGH IRRIGATION DISTRICT 450

RIDGEVIEW IRRIGATION DISTRICT 1080

## RIGHTS OF WAY AND EASEMENTS

*See also* individual projects by name.Acquisition of. *See* ACQUISITION OF PROPERTY.

Granted to United States for canals and ditches under State laws 78, 1766, 1902

Indian lands. *See* INDIAN LANDS.National parks. *See* NATIONAL PARKS.

Patented lands

Recognition of vested rights of others 10

Rights of way for canals and ditches reserved to United States 17, 1766, 1902

Rights of way for reclamation projects 326

Public lands and national forests, generally

Canals, ditches, reservoirs, etc. 9, 15, 22, 29

Distribution systems 1219

Federal Power Act 264, 267, 272, 282

Homesteaded lands 50

Power and communication facilities 29, 173

Public buildings and other public works 1214

Reclamation purposes 326

Real property of United States other than public lands 1699

Reclamation project lands, generally

Express statutory authority 498, 657, 660, 1017

Relationship of other laws 23, 45

RIO BRAVO. *See* RIO GRANDE.

## RIO GRANDE

*See also* LOWER RIO GRANDE.Compacts relating to. *See* COSTILLA CREEK COMPACT; RIO GRANDE COMPACT.

Construction of private dam on, enjoined 98

Framework study by Army authorized 1857

Projects on main stem or tributaries of. *See* INTERNATIONAL BOUNDARY AND WATER COMMISSION and individual dams and projects by name.

Secretary authorized to compensate named property owners for flood damages near Hatch, New Mexico 404

Specific provisions of Mexican Water Treaty related to 753, 770

Treaties and conventions relating to. *See* MEXICAN WATER TREATY; TREATIES AND CONVENTIONS.

RIO GRANDE BASIN 466, 622, 901, 1002, 1544, 1660, 1888

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

- RIO GRANDE CANALIZATION PROJECT**  
 American Diversion Dam, relation of, explained 537  
 Authorized 543  
 Public Resolution No. 4, 74th Congress, explained 536  
 Watershed control works authorized to facilitate 1805
- RIO GRANDE COMPACT**  
 Permanent compact  
     Statutory references to 685, 902, 1250, 1257, 1258, 1545, 1661  
     Text 622  
 Temporary compact  
     Text 466
- RIO GRANDE COMPACT COMMISSION** 629, 902, 1545, 1661
- RIO GRANDE PROJECT, New Mexico-Texas**  
 Acquisition of pipeline from, and water supply for, railway 216  
 Amended contract approved 1881  
 Authorized 98  
 Compact references to 623  
 Contract with irrigation district required; drainage works 235, 240  
 Extension of time for construction payments 412  
 Fifty-year power lease authorized 111, 172  
 Power revenues, application of 684  
 Recreation facilities at Elephant Butte and Caballo Reservoirs authorized 1667  
 Reduction of construction charges 367  
 Suit for flood damages allegedly resulting in 1929 from construction of Elephant Butte Dam 1308  
 Termination of rights of districts in Elephant Butte powerplant and application of power revenues 564
- RIO GRANDE RECTIFICATION PROJECT**  
 Establishment of, explained 524, 775
- RIO GRANDE VALLEY** 1661
- RIO GRANDE WATER SALVAGE PROJECT**  
 Feasibility study authorized 1891
- RIRIE DAM AND RESERVOIR** 1703
- RIVER AND HARBOR ACT OF 1899**  
 Extracts from 27, 1971  
 Statutory references to 1301
- RIVER AND HARBOR ACT OF 1925**  
 Extract from 340
- RIVER AND HARBOR ACT OF 1927**  
 Extracts from 401
- RIVER AND HARBOR ACT OF 1935**  
 Extracts from 538  
 Statutory references to 791
- RIVER AND HARBOR ACT OF 1937**  
 Extracts from 583
- RIVER AND HARBOR ACT OF 1940**  
 Extract from 711

- RIVER AND HARBOR ACT OF 1945  
 Extracts from 813  
 Miscellaneous references to 797
- RIVER AND HARBOR ACT OF 1958  
 Extracts from 1423
- RIVER AND HARBOR ACT OF 1966  
 Extracts from 1914
- RIVER BASIN COMMISSIONS  
 Compact commissions. *See* individual compacts by name.  
 Federal-State planning commissions. *See* Title II of WATER RESOURCES PLANNING ACT.  
 International commissions. *See* INTERNATIONAL BOUNDARY AND WATER COMMISSION; INTERNATIONAL JOINT COMMISSION.
- RIVER MOUNTAINS DAM AND RESERVOIR 1851
- RIVER REGULATION  
 Boulder Canyon Project Act 414, 415, 431  
 Central Valley project 584
- RIVERSIDE CANAL, Idaho 1316
- RIVERSIDE COUNTY 422, 500, 867, 1457, 1893
- RIVERSIDE IRRIGATION DISTRICT 1316
- RIVERTON PROJECT, Wyoming  
 Amended contract approved 1080  
 Authorization explained 1657  
 Compensation to Shoshone and Arapahoe Indians for lands on Wind River Indian Reservation 1125, 1451  
 Easement on Indian lands for Bull Lake Dam and Reservoir 680  
 Miscellaneous references to 317  
 Payments for homestead entries 291  
 Power revenues available for operation and maintenance 406  
 Proceeds from sale of reclamation townsites 291  
 Purchase of lands, adjustment of costs and delivery of water, Third division 1740  
 Reclamation of ceded portion of Wind River or Shoshone Reservation 260  
 Repayment contract, sugar factory, and branch railroad required 458  
 Temporary delivery of water to Third division 1521, 1657, 1708, 1740
- ROADS  
*See also* individual projects by name.  
 Bridges. *See* BRIDGES.  
 Payment to city of Malta for street improvements 1757  
 Relocation, use, or reconstruction of existing roads  
 Army projects, generally 1423, 1705  
 Reclamation projects, generally 660, 1705  
 Widening of streets, conveyance of Federal property for 1986
- ROANOKE RAPIDS 802
- ROARING FORK RIVER 1670
- ROBBINS, TERRENCE L. 1132

- ROBERTS, DARYL, L., ET AL. 1132
- ROBINSON FLAT 367
- ROBLES DIVERSION DAM 1245
- ROCK CREEK 741
- ROCK CREEK, Oklahoma 1676
- ROCK ISLAND DAM 1579
- ROCKY MOUNTAIN NATIONAL PARK  
Utilization of, for reclamation purposes, authorized 203
- ROCKY REACH DAM 1579
- ROGUE RIVER 1703, 1886, 1887, 1889
- ROGUE RIVER BASIN 1703
- ROGUE RIVER BASIN PROJECT, Oregon  
Applegate Valley division  
Feasibility study authorized 1889  
Illinois Valley division  
Completion of studies authorized 1887  
Medford division  
Feasibility study authorized 1889  
Merlin division  
Additional studies authorized 1886  
Rehabilitation of works of Medford and Rogue River Basin Irrigation Districts authorized 1184  
Talent division  
Additional features authorized 1689  
Authorized 1184
- ROGUE RIVER VALLEY IRRIGATION DISTRICT 1184
- ROOSEVELT, FRANKLIN D., LAKE 1222
- ROOSEVELT, THEODORE, DAM, RESERVOIR, AND POWERPLANT 112, 1202, 1499
- ROSS FORK CREEK 1207
- ROZA IRRIGATION DISTRICT 1141
- RUEDI RESERVOIR 1670
- RULES AND REGULATIONS  
Authority to issue  
Generally 86, 199, 663
- RUPERT, CITY OF 1111
- RUPERT, TOWNSHIP OF 122, 1610
- RURAL ELECTRIFICATION ACT OF 1936  
Statutory references to 648, 678
- RURAL ELECTRIFICATION ADMINISTRATION 433

RUSSIAN RIVER BASIN 1002, 1890

## S

SABINE LAKE 1175

SABINE RIVER 1891

SABINE RIVER COMPACT  
Consent to negotiate 1071  
Text 1174

SABOTAGE 718

SAGO DIVIDE UNIT, Milk River project 708

SACRAMENTO COUNTY 979, 1847

SACRAMENTO RIVER 583, 585, 711, 809, 1032, 1144, 1235, 1890

SACRAMENTO RIVER BASIN 1856, 1890, 1922

SACRAMENTO RIVER DIVERTERS 585

SACRAMENTO RIVER DIVISION, CVP 1887

SACRAMENTO RIVER VALLEY 1887

SACRAMENTO-SAN JOAQUIN DELTA 1529, 1887

SACRAMENTO-SAN JOAQUIN RIVER BASIN 809

SACRAMENTO VALLEY 1529

SACRAMENTO VALLEY CANALS 1032

SAFFORD VALLEY 1425

SAINT JOHNS. *See* BLACK RIVER—SPRINGVILLE—SAINT JOHN'S PROJECT.

SAINT LAWRENCE RIVER 11, 1856, 1922

SAINT MARY CANAL 1522

SAINT MARY EAST CANAL 363

SAINT MARY RIVER 34, 131, 363, 478

SALADO RIVER 753

SALINE RIVER, Kansas 1545

SALINE WATER RESEARCH AND DEMONSTRATION

*See also* WATER QUALITY CONTROL.

Demonstration plants

Five plants authorized 1467

Research

Authorized 1087

- SALINITY CONTROL. *See* DRAINAGE WORK; SALINE WATER RESEARCH AND DEMONSTRATION;  
SEEPAGE; WATER QUALITY CONTROL
- SALMON 602
- SALMON FALLS DIVISION, Upper Snake River project 1889
- SALMON LAKE RESERVOIR 367
- SALT CEDAR. *See* PHREATOPHYTE CONTROL.
- SALT FORK OF THE RED RIVER 1489
- SALT FORK RIVER, Kansas 1916
- SALT LAKE. *See* GREAT SALT LAKE.
- SALT LAKE AQUEDUCT 866
- SALT LAKE BASIN PROJECT, Utah  
Repayment contract required 338, 496, 457
- SALT LAKE COUNTY 1515
- SALT RIVER, Arizona 1201, 1425
- SALT RIVER, Idaho-Wyoming 992, 1887
- SALT RIVER INDIANS  
Service to, from Salt River project, authorized 215
- SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT 1420
- SALT RIVER PROJECT, Arizona  
Credit for value of property conveyed to United States for Federal building in  
Phoenix 1420  
Miscellaneous references to 53, 54, 65, 71, 112, 147  
Name of Roosevelt Dam, Reservoir, and Power Plant changed to Theodore Roosevelt  
Dam, Lake, and Power Plant 1499  
Power development authorized 302  
Quitclaim of United States' interest in certain lands 1201  
Service to Indians, authorized 126, 215
- SALT RIVER VALLEY CANAL 1201
- SALT RIVER VALLEY WATER USERS' ASSOCIATION 65, 302, 491, 1201, 1420
- SAN ANGELO PROJECT, Texas  
Authorized 1354
- SAN ANTONIO RIVER 623
- SAN ANTONIO RIVER BASIN 974, 1548, 1891
- SAN BENITO COUNTY 979, 1454, 1530
- SAN BERNARDINO COUNTY 500, 1612, 1693
- SAN CARLOS RESERVOIR 35, 1425
- SAND AND GRAVEL. *See* BUILDING MATERIALS.
- SAN DIEGO AQUEDUCT. *See* SAN DIEGO PROJECT.
- SAN DIEGO, CITY OF 424, 867

- SAN DIEGO COUNTY 867, 1057, 1158
- SAN DIEGO COUNTY WATER AUTHORITY 1057
- SAN DIEGO PROJECT, California  
 Construction of first aqueduct ratified 867  
 Construction of second aqueduct authorized 1057  
 Transfer of aqueduct to Secretary of the Interior authorized 1347
- SAN DIEGO RIVER 753
- SAN FELIPE CREEK 753
- SAN FELIPE DIVISION, CVP 979, 1454, 1530, 1887
- SANFORD DAM AND RESERVOIR 1759, 1845, 1846
- SAN FRANCISCO BAY 1857, 1858, 1890
- SAN FRANCISCO, CITY AND COUNTY OF  
 Act of December 19, 1913 (rights of way for Hetch Hetchy water and power system)  
 Statutory references to 285
- SAN JACINTO TUNNEL 867, 1057
- SAN JOAQUIN COUNTY 979, 1847
- SAN JOAQUIN RIVER 583, 585, 711, 809, 1032, 1701
- SAN JOAQUIN RIVER BASIN 1701
- SAN JOAQUIN VALLEY 809, 1191, 1524, 1887, 1890
- SAN JUAN BASIN 920
- SAN JUAN-CHAMA PROJECT, Colorado-New Mexico  
 Expeditious completion of planning report directed and conditions stated 1249  
 Initial stage  
 Authorized 1658, 1660  
 Water from, to be made available to maintain a permanent recreation pool at Cochiti  
 Reservoir 1744
- SAN JUAN COUNTY 1463
- SAN JUAN RIVER 628, 920  
*See also* SAN JUAN-CHAMA PROJECT.
- SAN JUAN RIVER, Mexico 753, 770
- SAN LUIS CANAL 1524
- SAN LUIS DAM 1524
- SAN LUIS INTERCEPTOR DRAIN 1524, 1529, 1858
- SAN LUIS LAKES 622
- SAN LUIS POWER AND WATER COMPANY 1727
- SAN LUIS UNIT, CVP 1524, 1858
- SAN LUIS VALLEY 367, 466, 1725

- SAN LUIS VALLEY PROJECT, Colorado  
 Amended contract approved 1514  
 Authorization explained 1083  
 Closed Basin division  
 Completion of studies authorized 1888  
 Excess land laws modified 1083  
 Funds appropriated to commence construction 685
- SAN MIGUEL PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- SAN PABLO BAY 1857
- SAN PEDRO RIVER 1425
- SAN PEDRO RIVER BASIN, Arizona 1891
- SAN PEDRO-SANTA CRUZ PROJECT, Arizona  
 Feasibility study authorized 1891
- SAN RODRIGO RIVER 753
- SANTA BARBARA, CITY OF 585
- SANTA BARBARA COUNTY WATER AGENCY 585, 975
- SANTA BARBARA PROJECT, California  
 Construction of Cachuma unit conditional on participation of member districts 975  
 Contract authority in excess of appropriations 659
- SANTA CLARA-ALAMEDA-SAN BENITO WATER AUTHORITY 1454
- SANTA CLARA COUNTY 979, 1454, 1530
- SANTA CLARA RIVER, California 1887
- SANTA CLARA RIVER, Utah 1768
- SANTA CLARA RIVER BASIN, California 1887
- SANTA CRUZ COUNTY 1454, 1530
- SANTA CRUZ RIVER BASIN, Arizona 1891
- SANTA MARGARITA PROJECT, California  
 Construction of De Luz Dam authorized 1158  
 Feasibility study authorized 1893
- SANTA MARGARITA RIVER 1158, 1893
- SANTA MARIA PROJECT, California  
 Authorized 1215
- SANTA MARIA RIVER 1215
- SANTA TERESA, TOWN OF 404
- SANTA YNEZ RIVER 1890
- SAN VICENTE RESERVOIR 867, 1057
- SAPPA CREEK 741

- SAVAGE IRRIGATION DISTRICT 655
- SAVAGE, JOHN L. 687
- SAVAGE RAPIDS DAM 1093, 1273
- SAVERY CREEK 917
- SAVERY-POT HOOK PROJECT, Colorado-Wyoming  
Authorized 1248, 1774
- SCANDIA UNIT, MRB 1893
- SCHOOL CONSTRUCTION ACT OF 1950  
Miscellaneous references to 893
- SCHOOLS  
Support of, in connection with project construction and operation  
Authorized, generally 893  
Boulder Canyon project 418, 497, 619, 715, 868, 895  
Colorado River Storage project 1859  
Columbia Basin project 1053  
Fort Peck project 876  
Grand Coulee Dam project 716  
Townsite land for 248
- SCOTTS CREEK, California 1856
- SCROGGIN CREEK 1899
- SEATTLE ASSOCIATION OF CREDIT MEN 1134
- SECRETARY OF THE INTERIOR  
Powers of all Interior agencies and offices vested in 1005
- SEEDSKADEE PROJECT, Wyoming  
Acquisition of lands; size of farm units 1455  
Authorized 1248  
Construction of powerplant 1249  
Emergency repairs on Fontenelle Dam 1254  
Provisions of authorizing act made applicable to Savery-Pot Hook, Bostwick Park,  
and Fruitland Mesa projects 1774
- SEEPAGE  
Damage claims involving  
Generally 207, 889  
Relief to Henkel, Milk River project 1522  
Drainage works. *See* DRAINAGE AND MINOR CONSTRUCTION ACT; DRAINAGE WORKS.  
Salinity and water-logging caused by  
Exchange of seeped lands on Klamath project 507, 508  
Reduction or suspension of construction charges 357  
Special authorizations for individual projects. *See* DRAINAGE WORKS; WATER  
QUALITY CONTROL.  
Water rights in. *See* WATER RIGHTS.
- SEMINOE DAM AND RESERVOIR 1389

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

267-975-72-vol. III-47

- SEQUOIA NATIONAL PARK  
Rights of way 29
- SERVICE CONTRACT ACT OF 1965  
Text 2003
- SERVICEMEN  
*See also* HOMESTEAD LAWS.  
Acquisition of War Relocation Centers to assist 830  
Miscellaneous references to 54, 324, 374, 435  
Patents to disabled soldier entrymen 286, 295  
Qualifications, Secretary may establish 317  
Refunds of construction charges 331  
Suspension of residence requirements  
World War I 238  
World War II 710  
Transfer of surplus property at Yuma Army Air Base to Bureau of Reclamation to assist veterans 857  
Veterans preference  
Boulder Canyon project 821  
Farm Unit Exchange Act 1120  
Homestead laws. *See* HOMESTEAD LAWS.  
Klamath project 258  
Middle Rio Grande project 903
- SERVICES. *See* SUPPLIES AND SERVICES.
- SESPE CREEK PROJECT, California  
Completion of studies authorized 1887
- SETTLER ASSISTANCE  
Information and advice, generally 484, 790  
Land preparation  
All-American Canal 748  
Generally 36, 519  
Gila project 748  
W.C.U. projects 675, 955  
Loans by Federal agencies  
Farm Security Administration 666  
Federal Farm Loan Act 299  
Secretary of Agriculture 981, 1120
- SEVERANCE PAY 1942
- SEWERAGE SYSTEMS 658, 1031, 1074, 1226
- SHADOW MOUNTAIN NATIONAL RECREATION AREA 838
- SHASTA COUNTY 658
- SHASTA DAM AND RESERVOIR 584, 585, 587, 647, 804, 925, 1144, 1863
- SHASTA NATIONAL FOREST 865, 1868
- SHASTA VIEW IRRIGATION DISTRICT 926
- SHEEP CREEK 918
- SHEEPY LAKE 97

- SHERBURNE LAKE DAM 971
- SHERMAN COUNTY 1326
- SHERMAN RESERVOIR 1326
- SHIPSTEAD-NOLAN ACT  
Statutory references to 1780
- SHOSHONE DAM 454, 595
- SHOSHONE EXTENSION UNIT, MRB 1891
- SHOSHONE INDIANS  
Acquisition of lands of, for Boysen unit, MRB 1109  
Compensation for lands on Wind River Indian Reservation used for Riverton project  
1125  
Conveyance of Wind River Reservation land to United States 1328  
Easement on lands of, for Bull Lake Dam and Reservoir 680  
Minerals in lands covered by Act of August 15, 1953, held in trust for Shoshone and  
Arapahoe tribes 1451  
Payment by reclamation entrymen 291  
Proceeds from sales of reclamation townsites 291  
Reclamation of ceded portion of reservation 260
- SHOSHONE IRRIGATION DISTRICT 65, 376, 454, 1145, 1247
- SHOSHONE PROJECT, Montana-Wyoming  
Acquisition of War Relocation Centers 831  
Amended contract approved 927, 985, 1145, 1471  
Certain administrative costs nonreimbursable 1129  
Continued delivery of water authorized 1346  
Conveyance of land to Park County for fairground 349  
Conveyance of land in Powell town site to V.F.W. Post 880  
Conveyance of Powell town site lands to University of Wyoming 793, 1133  
Disposal of certain Federal property authorized 1610  
Lands conveyed for school purposes 248  
Limitation on funds for operation of Frannie division 355  
Miscellaneous references to 319, 322, 376, 491  
Payment of certain claims for damage attributable to water seepage from Heart  
Mountain division 1247  
Power revenues, application of 406, 454, 595, 985, 1145  
Reduction and suspension of construction charges 368  
Sale of surplus power facilities authorized 458  
Transfer of Defense Plant Corporation building 899
- SILAS MASON COMPANY 907
- SILT  
Canton Reservoir 832, 901  
Damage claims  
Dry silt blown over adjacent lands 209  
Flooding attributable to silt deposited in river 6, 7  
Enlargement of Arrowrock Dam to offset deposit of 683  
San Juan-Chama and Navaho Indian projects 1658

- SILT PROJECT, Colorado  
 Authorized 1248  
 Reservation of 5,000 acre-feet annually of stored water in Green Mountain Reservoir  
 for 1249
- SIPHON DROP POWERPLANT 1271, 1738
- SISKIYOU COUNTY 257, 307, 788, 1110, 1322, 1771
- SLIDE IRRIGATION DISTRICT 1080
- SLY PARK CREEK 978
- SMALL RECLAMATION PROJECTS ACT OF 1956  
 Amendments of 1348, 1882  
 Statutory references to 1496, 1824  
 Text 1331
- SMALL RESERVOIRS  
 Construction of, authorized 582
- SMALL TRACTS ACT  
 Text 998
- SMALL WATERSHED PROJECTS. *See* AGRICULTURE, DEPARTMENT OF; WATERSHED PRO-  
 TECTION AND FLOOD PREVENTION ACT.
- SMITH ACT  
 Statutory references to 299  
 Text 220
- SMITH FORK PROJECT, Colorado  
 Authorized 1248
- SMITHS FORK, Wyoming 1399
- SMITH, WALTER M. 1052
- SMITH, WILLIAM ROBERT, MEMORIAL ASSOCIATION OF EL PASO, TEXAS 489
- SMITHSONIAN INSTITUTION 1534
- SMOKY HILL DIVISION, MRB, Kansas  
 Ellis unit  
 Completion of studies authorized 1888  
 Kanopolis unit  
 Feasibility study authorized 1894
- SMOKY HILL RIVER 741, 1894
- SMOKY MOUNTAINS NATIONAL PARK 1787
- SNAKE PLAINS DIVISION, Upper Snake River project 1889
- SNAKE RIVER 684, 813, 1039, 1207, 1889
- SNAKE RIVER BASIN 1655, 1796, 1887
- SNAKE RIVER COMPACT  
 Consent to negotiate 875  
 Text 990

- SNAKE RIVER PLAINS 1889
- SNELLING DAM AND RESERVOIR 1546
- SNETTISHAM PROJECT, Alaska  
Crater-Long Lakes division 1704
- SOAP LAKE 1273
- SOIL AND MOISTURE CONSERVATION  
Appropriation act language 1021  
Authorized  
    Generally 517, 520  
Reimbursement policy 1022  
Studies and reports. *See* STUDIES AND REPORTS.
- SOIL CONSERVATION SERVICE  
Established 518
- SOLANO PROJECT, California  
Appropriation for safety and public-use facilities 1460  
Authorization explained 1421  
Lake above diversion dam and below Monticello Dam named Lake Solano 1421  
Main dam named Monticello Dam 1422  
Reservoir formed by Monticello Dam named Lake Berryessa 1260
- SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940  
Extract from 710
- SOLICITOR'S OPINIONS. *See* OPINIONS AND DECISIONS OF THE DEPARTMENT OF THE INTERIOR.
- SOLOMON DIVISION, MRB, Kansas  
Glen Elder irrigation unit  
    Feasibility study authorized 1894
- SOLOMON RIVER 1894
- SONORA-KEYSTONE UNIT, CVP 1890
- SOURIS RIVER 1922
- SOUTH CACHE WATER USERS' ASSOCIATION 1015
- SOUTH CAROLINA, STATE OF  
Southeastern Power Administration markets power from Army dams in 801
- SOUTH COLUMBIA BASIN IRRIGATION DISTRICT 1614, 1690
- SOUTH COULEE DAM 1099
- SOUTH DAKOTA PUMPING DIVISION, MRB, South Dakota  
Completion of studies of Tower, Greenwood, Yankton, and Wagner units authorized 1888  
Feasibility study of Grass Rope and Fort Thompson units authorized 1893  
Pollock-Herreid unit  
    Feasibility study authorized 1892

- SOUTH DAKOTA, STATE OF  
 Compacts of. *See* BELLE FOURCHE RIVER COMPACT; GROUND WATER; LITTLE MISSOURI RIVER COMPACT; NIOBRARA RIVER; PONCA CREEK; RED RIVER OF THE NORTH COMPACT.  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31
- SOUTHEASTERN POWER ADMINISTRATION  
 Appropriation act language, geographical area 974  
 Condition on construction of transmission lines 1092  
 Continuing fund established 1053  
 Disposition of Clark Hill-Greenwood transmission facility 1114  
 Establishment of, explained 801
- SOUTHERN CALIFORNIA EDISON COMPANY 423, 432, 528
- SOUTHERN LASSEN PROJECT, California  
 Study authorized 315
- SOUTHERN NEVADA WATER PROJECT, Nevada  
 Amendment of section 6 1873  
 Authorized 1851  
 Reservation for, of lands conveyed to City of Henderson 1716
- SOUTHERN PACIFIC BASIN 1215
- SOUTHERN PACIFIC COMPANY 161, 336
- SOUTHERN PACIFIC RAILWAY COMPANY 1270
- SOUTHERN SAN JOAQUIN MUNICIPAL UTILITY DISTRICT 1360
- SOUTHERN UTE INDIANS  
 Exchange of lands in connection with Navajo Dam and Reservoir 1697  
 One-sixth of construction costs of Pine River project chargeable to lands of Pine River Indian project 1150
- SOUTH GILA VALLEY 858
- SOUTH PLATTE DIVISION, MRB, Colorado  
 Narrows unit  
 Completion of studies authorized 1888
- SOUTH PLATTE RIVER 1889, 1892
- SOUTH PLATTE RIVER COMPACT  
 Text 342
- SOUTH SIDE PUMPING DIVISION, Minidoka project 364
- SOUTH SUTTER WATER DISTRICT 1338
- SOUTHWEST CONTRA COUNTY WATER DISTRICT SYSTEM 1092
- SOUTHWESTERN POWER ADMINISTRATION  
 Appropriation act language, geographical area 974  
 Continuing fund established 974  
 Delegations. *See* DELEGATION OF AUTHORITY.

- SOUTHWESTERN POWER ADMINISTRATION—Continued  
 Establishment of, explained 801  
 Miscellaneous references to 662, 802  
 Relief to Dolton 1523  
 Restriction on transfer of funds 1460
- SOUTHWEST IDAHO WATER DEVELOPMENT PROJECT, Idaho  
 Bruneau division  
   Feasibility study authorized 1893  
 Garden Valley division  
   Feasibility study authorized 1889  
 Mountain Home division  
   Completion of studies authorized 1887  
 Weiser River division  
   Feasibility study authorized 1889
- SOUTH YAMHILL RIVER 1887
- SPANISH SPRINGS DIVISION, Newlands project 335, 354
- SPAVINAW CREEK 1916
- SPECULATION. *See* EXCESS LANDS.
- SPOKANE INDIANS  
 Lands used for Columbia Basin project; hunting, fishing, and boating rights 688,  
 794
- SPOKANE RIVER 1501
- SPOKANE VALLEY PROJECT, Washington-Idaho  
 Authorized 1501  
 Reduction of acreage; water supply; cost allocations 1683
- SPRINGERVILLE. *See* BLACK RIVER—SPRINGERVILLE—SAINT JOHNS PROJECT.
- STAMEY CONSTRUCTION COMPANY 1086
- STAMPEDE RESERVOIR 1319
- STANDING TO SUE. *See* SUITS.
- STANFIELD IRRIGATION DISTRICT 986
- STANISLAUS RIVER 1701, 1890
- STANISLAUS RIVER DIVISION, CVP 1890
- STATE AND LOCAL AGENCIES  
 Comprehensive water resource planning  
   Grants for 1836  
 Consultation with Chief of Engineers on forestry and other conservation measures  
   at Army reservoirs 1553  
 Contributed funds. *See* ADVANCE PAYMENTS.  
 Outdoor recreation planning and assistance. *See* LAND AND WATER CONSERVATION  
   FUND ACT OF 1965.  
 Protection, reconstruction or relocation of structures or facilities of, by Secretary of  
   the Army. *See* ARMY, DEPARTMENT OF THE.

- STATE AND LOCAL AGENCIES—Continued  
 Research farms. *See* RESEARCH.  
 Review of Federal feasibility reports. *See* STUDIES AND REPORTS.  
 Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND  
 FLOOD PREVENTION ACT.  
 Support of reclamation efforts 25, 334, 336, 337, 339, 350, 354, 377  
 Water service to 61
- STATE COLLEGE OF WASHINGTON 1484
- STATE, DEPARTMENT OF  
 Participation in program of IBWC. *See* INTERNATIONAL BOUNDARY AND WATER  
 COMMISSION.
- STATE LAWS  
 Applicable to public lands within irrigation districts, generally 220, 299  
 Prohibiting exportation of water from State 2  
 Relationship to reclamation projects  
     Excess lands 381  
     Miscellaneous opinions 76, 77, 378, 416  
     Water rights. *See* WATER RIGHTS.
- STATE LINE RESERVOIR 467
- STEBBINS CONSTRUCTION COMPANY 1008, 1130
- STEVENS COUNTY, Washington 665, 1199
- STEWART DAM 1398
- STIKINE RIVER 11
- STILLWATER COUNTY 898
- STIPEK UNIT, MRB 1892
- STOCKTON DAM 801
- STONE. *See* BUILDING MATERIALS.
- STONY CREEK, California 1890
- STONY GORGE RESERVOIR 552
- STRAUS, MICHAEL W. 894
- STRAWBERRY VALLEY PROJECT, Utah  
     Payment for Uintah Indian lands withdrawn for project 137  
     Settlement of delinquent payment for overhead charges 706
- STRAWBERRY VALLEY WATER USERS' ASSOCIATION 706
- STREETS. *See* ROADS.
- STRUNK, HARRY, LAKE 1095
- STUDIES AND REPORTS  
     *See also* individual rivers and projects by name.  
     Advance planning of public works 1969

## STUDIES AND REPORTS—Continued

## Annual reports required

Boulder Canyon project, distribution of costs	1480
Colorado River Storage project	1254, 1255
Colorado River water quality (biennial)	1665, 1674
Columbia River Power System	1870
Grants for scientific research	2007
Reclamation program, <i>repealed</i>	837
Requirements repealed	1539
Saline water research	1089
Water resources research	1752
Wilderness system	1784

Appropriations for investigations, current appropriation act language. *See*

## APPROPRIATIONS.

Archeology. *See* ARCHEOLOGY.

Comprehensive, coordinated river basin plans 1828

Contributed funds for. *See* ADVANCE PAYMENTS.

## Desalting

Generally 1087

Employee requirements, reports to Congress on 1941

## Feasibility studies and reports

Army projects 545, 796

Congressional authorization required after July 1, 1966 1826

Cordon Amendment projects 976

Definition of "feasibility report" 1826

Fish and wildlife, views of Secretary on 840, 1823

Individual studies authorized after July 1, 1966 1886

Outdoor recreation, views of Secretary on 1823

Principles, standards and procedures 1829

Recreation, views of Secretary on 1823

Required for reclamation projects, generally 37, 51, 150, 300, 316, 317, 643

Required for small reclamation projects 1332

Review of by State and Federal agencies, generally 150, 796, 797, 1333

W.C.U. projects 669, 797

## Fish and wildlife

Columbia River fisheries. *See* COLUMBIA RIVER.

Generally 509, 839, 1860

## Flood control

Generally 234, 545, 614, 646, 796, 798, 1426, 1547, 1684

Framework studies by Department of the Army 1856, 1922

Individual studies, explanatory note 35

Irrigation possibilities and reservoir sites in arid region 15

## Navigation

Generally 234, 545, 796, 797

## Power

Federal Power Commission 266

Generally 234, 802

Single-purpose power projects 646

## Reclamation program, generally

Authorized 35, 323, 325

Contributed funds. *See* ADVANCE PAYMENTS.

Current appropriation act language 1020, 1023

Investigation of repayment problems 640

Land classification 642

Outside 17 western States 806, 1020

Study commissions 327, 357, 541, 580

Swamp and cut-over timber lands 242, 327, 396

## STUDIES AND REPORTS—Continued

## Recreation

Generally 1820

## Reimbursement of costs of

Emergency relief program 58

Expenditures from Colorado River Development Fund 700

Funds contributed for study of All-American Canal 254

Generally 60, 325, 816, 1023

Research. *See* RESEARCH.

## Soil and moisture conservation

Generally 517, 520, 545, 614, 798

## Trans-basin diversions 1829

## Water quality control

Colorado River 1258, 1665, 1674, 1807

Desalting. *See* SALINE WATER RESEARCH AND DEMONSTRATION.

Generally 509, 845, 1087, 1278, 1862

San Francisco Bay 1857, 1858

## Watershed protection

Generally 545, 614, 798, 1165, 1169, 1171, 1684

## SUBLETTE PROJECT, Wyoming

Expedition completion of planning report directed 1249

## SUCCESS RESERVOIR 809

## SUGAR FACTORY 458

## SUGAR PINE DAM AND RESERVOIR 1847

## SUISUN BAY 1857

## SUITS

## Costs of

Payable from reclamation fund 34

Standing to sue 269, 382, 802, 975

## Statutory provisions relating to jurisdiction or joinder

Act of August 9, 1912, district courts 183

Colorado River Storage project, Supreme Court 1258

Compensation for canal rights-of-way, district courts 1766, 1902

Fryingpan-Arkansas, Supreme Court 1674

Navajo, San Juan-Chama, Supreme Court 1665

Tort claims against United States 884

Tucker Act. *See* TUCKER ACT.

Water rights in a river system 1097

United States an indispensable party 69, 70, 83, 100, 167, 302, 416, 631, 805, 967

United States not an indispensable party 70, 82, 805

## SUMMERLAND COUNTY WATER DISTRICT 585

## SUNBEAM UNIT, MRB 1892

## SUNNYSIDE DIVISION, Yakima project 371, 715, 1611

## SUN RIVER, Montana 1892

## SUN RIVER PROJECT, Montana

Adjustment of reimbursable construction costs of Greenfields main canal 1112

Authorization explained 1112, 1656

Control by water users required 453

- SUN RIVER PROJECT, Montana—Continued
- Exchange of lands for Muddy Creek Reservoir site 245
  - Fort Shaw division 118
  - Lands conveyed for school purposes 248
  - Reduction and suspension of construction charges 368
  - Refund of construction charges on permanently unproductive farm unit 513
  - Refund of construction charges to Great Northern Railway 559
  - Repayment contract required 334, 350, 353
  - Revised land reclassification and repayment contract approved 1656
- SUN-TETON DIVISION, MRB, Montana
- Sun-Teton unit
    - Feasibility study authorized 1892
- SUN-TETON UNIT, MRB 1892
- SUPERIOR NATIONAL FOREST 1780
- SUPPLIES AND SERVICES
- Construction contracts. *See* CONSTRUCTION.
  - Consulting engineers, economists, etc. *See* CONSULTANTS.
  - Contracts for
    - Buy American Act 1987
    - Contracts contingent upon appropriations 659
    - Contracts under \$300 659
    - Editor's note, annotations 52
    - Public contracts, generally 1987
  - Miscellaneous services
    - State highway engineer 661
  - Property, acquisition of. *See* ACQUISITION OF PROPERTY.
- SUPREMACY CLAUSE 5
- SURPLUS FARM COMMODITIES. *See* AGRICULTURE ACT OF 1949; AGRICULTURAL ADJUSTMENT ACT OF 1938.
- SURPLUS PROPERTY
- General laws relating to. *See* FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949; LAND AND WATER CONSERVATION FUND ACT OF 1965; SURPLUS PROPERTY ACT OF 1944.
  - Housing. *See* HOUSING.
  - Proceeds from sale of
    - Federal agencies, generally 1961
    - See also* LAND AND WATER CONSERVATION FUND ACT OF 1965.
    - Reclamation projects. *See* RECLAMATION FUND.
  - Reconveyance of donated property 327, 962, 1515
  - Sale of, authorized
    - Acquired lands 162, 658
    - Improved withdrawn lands 255, 658, 956
    - Power facilities at Shoshone project 458
    - Unproductive vacant public lands 460
    - Withdrawn lands too small to be classed as a farm unit 998
  - Townsites. *See* TOWNSITES.
  - Transfer of movable property to operating organization 1162
- SURPLUS PROPERTY ACT OF 1944
- Extracts from 2041
  - Statutory references to 961

SUSITNA RIVER	1132
SWAMP AND CUT-OVER TIMBER LANDS. <i>See</i> STUDIES AND REPORTS.	
SWANDA, FRANK	1132
SWAN LAKE VALLEY	1366
SWAN LAND AND CATTLE COMPANY	660
SWANSON, CARL H.	930
SWANSON LAKE	930
SWEETWATER COUNTY	1653, 1911
SYLMAR SUBSTATION	1758
SYNOD OF THE PRESBYTERIAN CHURCH OF SOUTH DAKOTA	1312

## T

TABLE MOUNTAIN DAM	809
TABLE ROCK DAM	801
TAKATZ CREEK, Alaska	1892
TAKATZ CREEK PROJECT, Alaska Feasibility study authorized	1892
TALENT DIVISION, Rogue River Basin project	1184, 1689
TALLAHATCHIE RIVER	396
TAOS TRIBUTARY IRRIGATION UNIT	1660
TARGHEE NATIONAL FOREST	1442
TAXATION	
Arizona and New Mexico Enabling Act	141
Certificates of indebtedness sold to finance advances to reclamation fund	151
Federal income tax	
Construction charges	58
Lands of entrymen or other water users	
Miscellaneous references	149, 178, 179
Sale of, for State or local taxes	179, 221, 408
Taxation of reclamation entries, desert-land entries served by reclamation projects, and entries on ceded lands within Indian irrigation projects by States and political subdivisions authorized	408, 464
Of Boulder Canyon project facilities as basis for reducing payment to Arizona and Nevada	698
Payments in lieu of taxes	
Columbia Basin project	735
Klamath project wildlife refuge lands	1772
Reconstruction Finance Corporation	898
Trinity River division, CVP	1237
Power of, not necessary for eligible organization	1332
TAYLOR GRAZING ACT	
Extract from	515
Miscellaneous references to	13, 33, 45, 323, 422

- TEHACHAPI MOUNTAINS 1887, 1890
- TEHAMA-COLUSA CONDUIT 1032
- TEHAMA COUNTY 1032
- TENKILLER FERRY DAM 801
- TENNESSEE, STATE OF  
Southeastern Power Administration markets power from Army dams in 801
- TENNESSEE VALLEY AUTHORITY 801, 804, 846, 1785, 1824, 1943, 1951, 1973
- TERLINGUA CREEK 753
- TERMINUS RESERVOIR 809
- TERTELING, J. A., & SONS, INC. 1263
- TETON BASIN PROJECT, Idaho  
Lower Teton division  
Authorized 1796
- TETON RIVER 1892
- TEXAS BASINS PROJECT, Texas  
Feasibility study authorized 1891
- TEXAS, STATE OF  
Compacts of. *See* CANADIAN RIVER COMPACT; PECOS RIVER COMPACT; RED RIVER COMPACT; RIO GRANDE COMPACT; SABINE RIVER COMPACT.  
Framework plan by Army authorized for coastal basins 1922  
Included in marketing area of Southwestern Power Administration 974  
Jurisdiction over and rights in Red River above Denison Dam preserved 616  
Projects in. *See* individual dams and projects by name.  
Reclamation Act applies 31, 98, 119  
Review by, of planning report of San Juan-Chama project directed 1249  
Statute of, disclaiming right to use of water in Pecos River or its tributaries at or above Avalon Dam 393
- THE DALLES, Oregon 1562, 1575, 1580
- THE DALLES DAM 1341, 1554, 1579, 1758
- THE DALLES IRRIGATION DISTRICT 1045
- THE DALLES PROJECT, Oregon  
Western division  
Authorized 1554
- THEODORE ROOSEVELT DAM, LAKE AND POWERPLANT 1499
- THIRD DIVISION, Riverton project 1521, 1657, 1708, 1740
- THIRD POWERHOUSE, Grand Coulee Dam 1870, 1886
- THOMES CREEK, California 1890
- THOMPSON FALLS DAM 1579

- THREE-FORKS DIVISION, MRB, Montana  
 Completion of studies of Jefferson, Whitehall, and West Bench units authorized  
 1888
- THYE-BLATNIK ACT  
 Statutory references to 1780
- TIA JUANA RIVER. *See* TIJUANA RIVER.
- TIETON DIVISION, Yakima project 371
- TIJUANA RIVER 522, 750, 765, 1903
- TIMBER. *See* BUILDING MATERIALS.
- TINKER AIR FORCE BASE 1535
- TITLE TO LANDS. *See* ACQUISITION OF PROPERTY; OPERATION AND MAINTENANCE.
- TOM GREEN COUNTY 1354
- TOMICHI CREEK PROJECT, Colorado  
 Expeditious completion of planning report directed 1249
- TONGUE RIVER 1063
- TORRES-MARTINEZ INDIAN RESERVATION 1457
- TOSTON IRRIGATION DISTRICT 1233
- TOWER UNIT, MRB 1888
- TOWNSITES  
 Under reclamation laws  
   Authorized 109, 123  
   Disposal of 122, 248, 451  
   Reappraisal and sale of unsold lots 140  
   Statutes relating to individual townsites 122, 228, 248, 349, 356, 391, 880,  
     1497, 1710, 1718  
 Under other laws  
   Statutory references to 93, 122
- TRACY PUMPING PLANT 1529
- TRANSMISSION LINES. *See* POWER.
- TRANSPORTATION, DEPARTMENT OF  
 Establishment of, explained 1450
- TREASURES 658
- TREATIES AND CONVENTIONS  
 1848, Mexico, Treaty of Guadalupe Hidalgo  
   Miscellaneous references to 774, 750  
 1853, Mexico, Gadsden Treaty  
   Miscellaneous references to 775  
 1871, Great Britain, Treaty of Washington  
   Extracts from, re St. Lawrence and Yukon, etc., Rivers 741  
 1884, Mexico, Rio Grande and Rio Colorado boundaries  
   Miscellaneous references to 775

- TREATIES AND CONVENTIONS—Continued
- 1889, Mexico, International Boundary Commission established
    - Miscellaneous references to 752, 769, 775
  - 1900, Mexico, International Boundary Commission made permanent
    - Miscellaneous references to 775
  - 1905, Mexico, boundary rule for "bancos"
    - Miscellaneous references to 775
  - 1906, Mexico, distribution of waters of Upper Rio Grande
    - Miscellaneous references to 467, 537
    - Nonreimbursability of Rio Grande project costs to meet obligations under 127
    - Statutory references to 536, 543
    - Text 114
  - 1909, Great Britain, Boundary Waters Treaty
    - Miscellaneous references to 34
    - Statutory references to 1295
    - Text 129
    - Treaty references to 1561 *et seq.*
  - 1933, Mexico, Rio Grande rectification project
    - Miscellaneous references to 524, 767, 775
  - 1944, Mexico, Rio Grande, Colorado River, Tijuana River. *See* MEXICAN WATER TREATY.
  - 1960, Mexico, Amistad Dam
    - Miscellaneous references to 1542
  - 1961, Canada, Columbia River. *See* COLUMBIA RIVER TREATY.
  - 1963, Mexico, solution of El Chamizal problem
    - Miscellaneous references to 99, 775
- TRENTON DAM 930
- TRESPASSERS 658
- TRI-COUNTY PROJECT, Nebraska 35
- TRINCHERA CREEK 932
- TRINIDAD DAM 1424, 1817
- TRINITY NATIONAL FOREST 1868
- TRINITY RIVER 1235
- TRINITY RIVER BASIN 1890
- TRINITY RIVER DIVISION, CVP 1235, 1273, 1529, 1817
- TRI-STATE WATERS COMMISSION 590
- TROUBLESOME PROJECT, Colorado
  - Expeditious completion of planning report directed 1249
- TRUCKEE CANAL 399, 474
- TRUCKEE, CARSON AND WALKER RIVERS AND LAKE TAHOE COMPACT
  - Consent to negotiate 1232
  - Statutory references to 1319
- TRUCKEE-CARSON IRRIGATION DISTRICT 314, 354, 394, 399, 474, 820

- TRUCKEE-CARSON PROJECT, Nevada. *See* NEWLANDS PROJECT.
- TRUCKEE RIVER 365, 453, 1232, 1319
- TRUCKEE STORAGE PROJECT, California-Nevada  
 Completion of Boca Dam 713  
 Statutory references to 1319  
 Waiver of excess land laws 712
- TUALATIN PROJECT, Oregon  
 Additional studies authorized 1886  
 Authorized 1899  
 Second phase  
 Feasibility study authorized 1892
- TUALATIN RIVER 1886
- TUALATIN RIVER BASIN 1892
- TUALATIN RIVER VALLEY 1899
- TUCKER ACT  
 Extracts from 1950  
 Miscellaneous references to 6
- TUCUMCARI PROJECT, New Mexico  
 Amended contract approved 1113, 1444  
 Authorized 562, 596  
 Relief of Lym Engineering Company 1447  
 Repeal of incremental value provisions 1224
- TULARE FORMULA 383, 1525
- TULARE IRRIGATION DISTRICT 383
- TULARE LAKE 823
- TULARE LAKE BASIN 809
- TULE LAKE 95, 257, 307, 406
- TULELAKE, CITY OF 1110
- TULE LAKE DIVISION, Klamath project 361, 507, 508, 788, 831, 1322, 1738
- TULE LAKE IRRIGATION DISTRICT 1322, 1738, 1772
- TULE LAKE NATIONAL WILDLIFE REFUGE 1771
- TULE LAKE WILD LIFE REFUGE 97
- TULE RIVER 809
- TUOLUMNE COUNTY 1702
- TWIN BUTTES DAM AND RESERVOIR 1354
- TWIN FALLS CANAL COMPANY 210, 399
- TWIN FALLS LAND AND WATER COMPANY 399

TWIN SPRINGS DAM 684

TWITCHELL DAM AND RESERVOIR 1215

## U

### UINTAH INDIANS

Miscellaneous references to 33, 40

Payment for lands withdrawn for Strawberry Valley project 137

UINTAH UNIT, Central Utah project 1891

UINTA RIVER 1891

### UMATILLA BASIN PROJECT, Oregon

Feasibility study authorized 1889

UMATILLA DAM 813

### UMATILLA PROJECT, Oregon

Amended contracts approved 1138

Amended contracts approved; operation costs for McKay Dam and Reservoir 986

Miscellaneous references to 65, 491

Reduction and suspension of construction charges 369

UMATILLA RIVER BASIN 1889

UMPQUA RIVER 1892

### UMPQUA RIVER PROJECT, Oregon

Azalea division

Feasibility study authorized 1892

Ollalla division

Completion of studies authorized 1887

### UNCOMPAHGRE PROJECT, Colorado

Amended contract approved, land reclassification, and sale 927

Amended contract authorized with Uncompahgre Valley Water Users' Association  
479, 491, 506, 511, 521

Contract for sale or development of surplus power

Authorized 613

Reduction and suspension of construction charges 370

Temporary delivery of water authorized 455

UNCOMPAHGRE VALLEY WATER USERS' ASSOCIATION 370, 479, 511, 521, 613, 927

UNIT B IRRIGATION AND DRAINAGE DISTRICT 1241

UNITED STATES. *See* CLAIMS AGAINST UNITED STATES; CLAIMS OF UNITED STATES; SUITS;  
WATER RIGHTS.

### UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT

Miscellaneous references to 687

UNIVERSITY OF ARIZONA 819

UNIVERSITY OF WYOMING 793, 1133

Vol. I: pages 1-727. Vol. II: pages 728-1483. Vol. III: pages 1484-2041.

267-975-72-vol. III-48

- UPPER CHEHALIS RIVER BASIN 1892
- UPPER COLORADO RIVER BASIN 442, 538, 910, 1248, 1831
- UPPER COLORADO RIVER BASIN COMPACT  
 Statutory references to 1085, 1248, 1250, 1251, 1255, 1257, 1258, 1661, 1664,  
 1665, 1673, 1674  
 Text 909
- UPPER COLORADO RIVER BASIN FUND  
 Established 1252  
 Miscellaneous references to 1758  
 Statutory references to 1651, 1859
- UPPER COLORADO RIVER COMMISSION  
 Established 913  
 Statutory references to 1661
- UPPER DIVISION, Baker project 1687
- UPPER ELKHORN RIVER 1894
- UPPER GILA RIVER PROJECT, Arizona-New Mexico  
 Feasibility study authorized 1891
- UPPER KLAMATH LAKE 97, 257
- UPPER KLAMATH NATIONAL WILDLIFE REFUGE 171
- UPPER KLAMATH RIVER BASIN 1366
- UPPER NIobrARA RIVER 1888
- UPPER OWYHEE PROJECT, Oregon-Idaho  
 Jordan Valley division  
 Feasibility study authorized 1892
- UPPER OWYHEE RIVER BASIN 1892
- UPPER SNAKE RIVER PROJECT, Idaho-Wyoming  
 American Falls Dam replacement  
 Feasibility study authorized 1889  
 Big Wood and Oakley Fan divisions  
 Feasibility studies authorized 1892  
 Lynn Crandall division  
 Feasibility study authorized 1889  
 Salmon Falls division  
 Feasibility study authorized 1889  
 Snake Plains recharge division  
 Feasibility study authorized 1889  
 Upper Star Valley division  
 Completion of studies authorized 1887
- UPPER SNAKE RIVER VALLEY 1041
- UPPER SOUTH PLATTE UNIT, MRB 1892
- UPPER STAR VALLEY DIVISION, Upper Snake River project 1887
- UTAH CONSTRUCTION COMPANY 1263

- UTAH LAKE 338
- UTAH POWER AND LIGHT COMPANY 528, 1405, 1578, 1767
- UTAH, STATE OF  
 Apportionment to, of excess revenues in Upper Colorado River Basin Fund 1253, 1258  
 Compacts of. *See* BEAR RIVER COMPACT; COLORADO RIVER COMPACT; COLUMBIA RIVER COMPACT; UPPER COLORADO RIVER BASIN COMPACT.  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Indemnity selection lands 1465  
 Phosphate reserve 43  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31
- UTE CREEK 1048
- UTE INDIANS  
*See also* SOUTHERN UTE INDIANS.  
 Miscellaneous references to 18, 41, 47

## V

- VALDEZ RESERVOIR 1661
- VALE-OREGON IRRIGATION DISTRICT 986, 989, 1492
- VALE PROJECT, Oregon  
 Amended contract approved 986  
 Authorization explained 1493  
 Bully Creek extension  
 Authorized 1492  
 Repayment contract required 337, 351
- VALLECITO DAM 1390
- VALLEY COUNTY, Idaho 1485
- VALLEY COUNTY, Montana 1080
- VALLEY COUNTY, Nebraska 1326
- VALLEY DIVISION, Yuma project 1270
- VALLEY GRAVITY CANAL AND STORAGE PROJECT, Texas  
 Appropriations for construction of 716
- VAN DUZEN RIVER 1890, 1893
- VAQUERO DAM AND RESERVOIR 1215
- VEGA DAM AND RESERVOIR 1896
- VENTURA RIVER BASIN 1890

- VENTURA RIVER PROJECT, California  
 Authorized 1245  
 Extension  
 Feasibility study authorized 1890
- VERDE PROJECT, Arizona  
 Relief of holders of unpaid notes and warrants of Verde River Irrigation and Power District 611
- VERDE RIVER IRRIGATION AND POWER DISTRICT 611
- VERDIGRIS RIVER 1916
- VERMEJO CONSERVANCY DISTRICT 1037, 1153
- VERMEJO PROJECT, New Mexico  
 Amendment relating to Maxwell Irrigation Company 1153  
 Authorized 1036, 1072
- VERNAL UNIT 1254
- VETERANS. *See* SERVICEMEN.
- VINCENT SUBSTATION 1758
- VIRGIN CITY DAM AND RESERVOIR 1768
- VIRGINIA, STATE OF  
 Southeastern Power Administration markets power from Army dams in 801
- VIRGIN RIVER, Utah 1768
- W**
- WABASH RIVER 1507
- WABASH VALLEY COMPACT  
 Text 1507
- WAGNER, JOHN W. 1016
- WAGNER UNIT, MRB 1888
- WAHLUKE SLOPE 1274
- WAIMANALO PROJECT, Hawaii  
 Investigation of, authorized 1188
- WAIMEA PROJECT, Hawaii  
 Investigation of, authorized 1188
- WALKER RIVER 1232, 1887
- WALKER RIVER PROJECT, California-Nevada  
 Completion of studies authorized 1887
- WALLA WALLA PROJECT, Oregon-Washington  
 Marcus Whitman division  
 Feasibility study authorized 1889  
 Milton-Freewater division  
 Feasibility study authorized 1889

- WALSH CONSTRUCTION COMPANY 907
- WALSH-HEALY ACT  
Text 1991
- WANAPUM DAM 1579
- WAPATO DIVISION, Yakima project 589
- WAPATO INDIAN IRRIGATION PROJECT 589, 693, 1491
- WAPATO INDIANS  
Wapato Indian irrigation project  
Appropriation to defray cost of providing additional water to 693  
Determination of costs of Yakima project attributable to 1491  
Rate fixed for payment of construction costs on 589
- WAPINITIA PROJECT, Oregon  
Juniper division authorized 1268
- WAR ASSETS ADMINISTRATION 831, 897, 898, 961
- WAR, DEPARTMENT OF. *See* ARMY, DEPARTMENT OF THE.
- WARM SPRINGS RESERVOIR 337
- WAR RELOCATION AUTHORITY 831
- WAR RELOCATION CENTERS 830, 857, 899
- WARREN ACT  
Appropriations for operation of reserved works 405  
Miscellaneous references to 112, 297  
Statutory references to 323, 492, 1529  
Text 166
- WASATCH MOUNTAINS, Utah 1893
- WASCO COUNTY 1268, 1554
- WASHINGTON COUNTY, Colorado 342
- WASHINGTON COUNTY, Utah 1768
- WASHINGTON PUBLIC POWER SUPPLY SYSTEM 1686
- WASHINGTON STATE COLLEGE 1484
- WASHINGTON, STATE OF  
Compact of. *See* COLUMBIA RIVER COMPACT.  
Consent to provisions of Columbia Basin Project Act required 737  
Contract required for support of Yakima project 339  
Desert Land Act applies 13  
Executive Order No. 6964 and Taylor Grazing Act apply 516  
Projects in. *See* individual dams and projects by name.  
Reclamation Act applies 31  
School lands 738, 1038
- WASHINGTON STATE UNIVERSITY 1692

- WASHINGTON, TREATY OF. *See* TREATIES AND CONVENTIONS.
- WASHITA BASIN PROJECT, Oklahoma  
 Authorized 1242  
 Costs of Foss Dam and Reservoir attributable to furnishing water supply to Clinton-Sherman Air Force Base made nonreimbursable 1460
- WASHITA RIVER 1242
- WASHITA RIVER BASIN 567
- WASHOE COUNTY 453
- WASHOE COUNTY WATER CONSERVATION DISTRICT 712, 713
- WASHOE PROJECT, Nevada-California  
 Authorized 1319  
 Hope Valley division  
   Feasibility study authorized 1890  
 Increased appropriations authorized 1446  
 Newlands extension division  
   Feasibility study authorized 1890
- WATASHEAMU RESERVOIR 1319
- WATER CONSERVATION AND UTILIZATION ACT  
 Deferral of construction charges 1503  
 Earlier Great Plains program  
   Authorized 620  
   Projects under. *See* BUFFALO RAPIDS PROJECT; BUFORD-TRENTON PROJECT; EDEN PROJECT; MISSOULA VALLEY PROJECT; NEWTON PROJECT; RAPID VALLEY PROJECT; SAGO DIVIDE UNIT.  
 Projects under. *See* ANGOSTURA UNIT, MRB; BALMORHEA PROJECT; EDEN PROJECT; MANGOS PROJECT; MIRAGE FLATS PROJECT; MISSOULA VALLEY PROJECT; NEWTON PROJECT.  
 Statutory references to 721, 797, 855, 972, 973, 1223, 1269, 1350, 1432  
 Text 668
- WATER FACILITIES ACT  
 Enactment and termination explained 621  
 Miscellaneous references to 520  
 Statutory references to 981, 1607
- WATER QUALITY ACT OF 1965  
 Miscellaneous references to 1278  
 Reorganization plan references to 1303  
 Text. *See* FEDERAL WATER POLLUTION CONTROL ACT.
- WATER QUALITY CONTROL  
 As a project purpose  
   Generally 1279  
   Prevention of water pollution from Federal lands and installations 1299  
 Reimbursement and cost sharing 1279  
 Research. *See* RESEARCH; SALINE WATER RESEARCH AND DEMONSTRATION.  
 Special authorizations for individual projects or rivers  
   *See also* DRAINAGE WORKS.  
   Arkansas and Red River Basins 1922  
   Central Valley 1857, 1858  
   Colorado River 1258, 1757, 1807, 1858

## WATER QUALITY CONTROL—Continued

## Special authorizations for individual projects or rivers—Continued

- Dixie project 1768
- Lower Rio Grande 1897
- Pecos River 1392
- Pecos River Basin 1392
- Virgin River 1768

Studies. *See* SALINE WATER RESEARCH AND DEMONSTRATION; STUDIES AND REPORTS.

## WATER RESOURCES COUNCIL

- Established 1829
- Statutory references to 1282

## WATER RESOURCES PLANNING ACT

- Text 1828

## WATER RESOURCES RESEARCH ACT OF 1964

- Text 1747

## WATER RIGHTS

*See also* individual projects and rivers by name.

## Areas of origin, preference to

- Recognition of State laws dealing with 1850

## Army projects 804, 805, 1426, 1722

## Compacts, generally 631, 783

*See also* provisions in individual compacts.

## Indians, rights of

- Statutes relating to individual projects or tribes 105, 106, 185, 215, 688, 904, 1208, 1377

*Winters* doctrine 4, 427

## Interstate streams, generally 76, 566, 616, 1097

*See also* individual rivers by name.

## Priority of uses of water

*See also* individual compacts by name.

## Amistad Dam 1541

## Boulder Canyon project 431

## Central Valley project 584

## Colorado River Storage project 1255

## Falcon Dam 1140

## Irrigation use superior to use of reclamation projects for water supply, power or other purposes 111, 251, 648

## Navigation use subject to use of waters west of 98th meridian for domestic, municipal, stock water, irrigation, mining, or industrial purposes 797

## W.C.U. projects 678

## Seepage 83, 99, 167, 337, 383

## State laws, recognition of

## Reclamation laws, generally 76, 169, 586, 1276, 1427

## Statutes relating to individual projects 440, 616, 704, 858, 903, 979, 1158, 1159, 1160, 1192, 1207, 1215, 1255, 1319, 1344, 1674, 1850

## Under other laws 9, 12, 22, 271, 284, 616, 671, 783, 796, 1278, 1377

## Suits

## Statutory consent to joinder of United States 1097

## United States, rights of

## Exchanges 585, 660

## Navigable waters 2, 7, 14, 28, 74, 77, 268, 282, 427, 585, 1424

## Public lands 4, 14, 268, 427, 1160

## Reclamation projects, generally 6, 79, 80, 99, 167, 378, 379, 585

## WATER RIGHTS—Continued

- Vested rights, recognition of
  - Reclamation laws, generally 6, 65, 76, 110, 124, 251, 585, 805
  - Statutes relating to individual projects 336, 393, 420, 431, 566, 704, 726, 1672, 1692, 1853
  - Under other laws 9, 10, 284, 673, 1070, 1079, 1182
- Water users, rights of
  - Army reservoirs 1722
  - Certificates 177, 184, 220, 298
  - Contracts with or charges to individuals, including water right applications, generally 54, 62, 164, 175, 186, 195, 221, 296, 332, 357, 371, 372, 373, 374, 375, 388
  - Contracts with organizations, generally. *See* REPAYMENT CONTRACTS; WATER SERVICE; WATER SUPPLY.
  - Excess lands 5, 62, 170, 179, 336, 337, 339, 351, 354, 377, 382, 386, 409
  - Generally 76, 80, 99, 112, 166, 168, 189, 193, 371, 372, 378, 655, 656, 1714
  - Under "9(e)" water service contracts 655, 1275

## WATER RIGHTS ACT OF 1866

Text 9

WATER RIGHTS CERTIFICATES. *See* WATER RIGHTS.

## WATER SERVICE

- Contracts for
  - Conversion of "9(e)" water service contracts to "9(d)" repayment contracts 1275
  - Generally 655
- Excess lands. *See* EXCESS LANDS.
- Indian lands. *See* INDIAN LANDS.
- Priorities of use. *See* WATER RIGHTS.
- Temporary service
  - During development period 652
  - Generally 53, 56, 197, 371, 491, 640
- Users eligible to receive
  - Generally 54, 195
- Users, rights of. *See* WATER RIGHTS.
- Utilization of Army projects for irrigation
  - Generally 805
- Water supply. *See* WATER SUPPLY.

WATERSHED MANAGEMENT. *See* AGRICULTURE, DEPARTMENT OF; FLOOD CONTROL; PHREATOPHYTE CONTROL; SOIL AND MOISTURE CONSERVATION; STUDES AND REPORTS; WATERSHED PROTECTION AND FLOOD PREVENTION ACT. *See also* individual compacts, projects, river basins and rivers by name.

## WATERSHED PROTECTION AND FLOOD PREVENTION ACT

Statutory references to 1684, 1805, 1824  
Text 1164

## WATER SUPPLY (for municipal, industrial and domestic purposes)

- Army projects
  - Authorized, generally 804, 1426
  - Interest of local agencies in reservoirs 1722
- Contracts
  - Generally 647
  - Renewal of 1714
- Parks and community centers, 20-acre tracts 201

- WATER SUPPLY (for municipal, industrial and domestic purposes)—Continued
- Priorities of use. *See* WATER RIGHTS.
  - Rates and reimbursement
    - Different rates for irrigation and municipal uses permitted 585
    - Generally 644, 647, 1427
    - Interest 647, 651, 678, 1427
    - Irrigation subsidy 655, 1084, 1245
  - Reclamation projects
    - Authorized, generally 251, 644, 647, 1426
    - Transfer of operation of water supply works 1818
  - Small reclamation projects. *See* SMALL RECLAMATION PROJECTS ACT.
  - Small watershed projects (Public Law 566). *See* WATERSHED PROTECTION AND FLOOD PREVENTION ACT.
  - Townsites
    - Authorized 110
  - W.C.U. projects, generally 677
- WATER SUPPLY ACT OF 1958
- Interest rate formula. *See* INTEREST.
  - Statutory references to 1535, 1676, 1851
  - Text 1426
- WAUNETA LIGHT AND POWER COMPANY 1364
- WAUNETA, VILLAGE OF 1364
- WAURIKA DAM AND RESERVOIR 1737
- W. C. AUSTIN PROJECT, Oklahoma
- Miscellaneous references to 2
  - Name of Lugert-Altus project changed to 849
  - Payment to L. M. Abernathy for cave-in of well 1007
- W.C.U. *See* WATER CONSERVATION AND UTILIZATION ACT.
- WEATHER MODIFICATION
- Authority for 36, 570
  - Horizontal budget for meteorology 1953
  - Research. *See* RESEARCH.
- WEBBER FALLS LOCK AND DAM 801
- WEBER BASIN PROJECT, Utah
- Authorized 965
  - Conveyance of certain public lands to occupants 1213
  - Funds for improvement of access roads 1757
  - Lands acquired for Pineview Reservoir added to Cache National Forest 1720
  - Miscellaneous references to 1767
- WEBER BASIN WATER CONSERVANCY 967
- WEBER COUNTY 965
- WEBER-PROVO CANAL 338
- WEEDS. *See* AQUATIC PLANT CONTROL; HALOGETON GLOMERATUS CONTROL ACT.

- WEEKS ACT  
Statutory references to 844, 1442, 1486
- WEISER RIVER BASIN 1889
- WEISER RIVER DIVISION, Southwest Idaho water development project 1889
- WELLS  
*See also DRAINAGE WORKS; GROUND WATER.*  
Artesian wells 35  
Canal Act 18  
Damage claims 209  
Drilling of, as part of investigation 36
- WELLS DAM 1579
- WELLTON-MOHAWK DIVISION, Gila project 858, 1757, 1858
- WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT 859
- WEST BENCH UNIT, MRB 1888
- WEST DIVIDE PROJECT, Colorado  
Expeditious completion of planning report directed 1249
- WEST DIVISION, Umatilla project 369, 370
- WEST END EXTENSION, Grand Valley project 359
- WESTERN DIVISION, The Dalles project 1554
- WEST EXTENSION IRRIGATION DISTRICT 1138
- WESTLAND IRRIGATION DISTRICT, Oregon 491, 986
- WESTLANDS WATER DISTRICT, California 383, 1525
- WEST SACRAMENTO CANAL UNIT, CVP 1887
- WEST VIRGINIA, STATE OF  
Southeastern Power Administration markets power from Army dams in 801
- WHEATLAND UNIT, MRB 1892
- WHEELER-CASE ACT  
Text 668
- WHEELER-HOWARD ACT  
Statutory references to 862
- WHEELING. *See POWER.*
- WHISKEYTOWN RESERVOIR 1765, 1863
- WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA  
Authorized 1863
- WHITE DIVISION, MRB, South Dakota  
Pine Ridge unit  
Completion of studies authorized 1888

- WHITEHALL UNIT, MRB 1888
- WHITE LAKE 1771
- WHITE RIVER, Arkansas-Missouri 806, 1922
- WHITE RIVER, South Dakota 1888
- WHITE RIVER BASIN, Arkansas-Missouri 1003
- WHITEROCK RIVER 1891
- WHITESTONE COULEE UNIT, Chief Joseph Dam project 1803
- WHITNEY DAM 801
- WICHITA, CITY OF 1557
- WICHITA PROJECT, Kansas  
Cheney division  
Authorized 1557
- WILDERNESS ACT  
Text 1777
- WILDLIFE. *See* FISH AND WILDLIFE.
- WILHELM, FRANK L. 1540
- WILLAMETTE RIVER BASIN 617
- WILLAMETTE RIVER PROJECT, Oregon  
Carlton division  
Feasibility study authorized 1889  
Molalla division  
Feasibility study authorized 1889  
Monmouth-Dallas division  
Completion of studies authorized 1887  
Red Prairie division  
Completion of studies authorized 1887
- WILLARD CANAL 1767
- WILLISTON PROJECT, North Dakota  
Cancellation of charges and sale of property 389
- WILLOW CREEK, Idaho 1703
- WILLOW CREEK, Oregon 1856
- WILLOW CREEK, South Dakota 357
- WILLWOOD IRRIGATION DISTRICT 927, 1129
- WILSON DAM AND RESERVOIR 1261, 1545
- WIND RIVER 680

- WIND RIVER INDIAN RESERVATION  
 Compensation to Shoshone and Arapahoe Indians for lands on reservation used for  
 Riverton project 1125  
 Conveyance of land of, to United States 1109, 1328  
 Easement on lands of, for Bull Lake Dam and Reservoir 680  
 Minerals in lands covered by Act of August 15, 1953, held in trust for Shoshone  
 and Arapahoe tribes 1451  
 Payment by reclamation entrymen 291  
 Proceeds from sales of reclamation townsites 291  
 Reclamation of ceded portion of reservation 260
- WINONA UNIT, MRB 1893
- WINSTON BROS. COMPANY 1263
- WISCONSIN, STATE OF  
 Executive Order No. 6964 and Taylor Grazing Act apply 516
- WITHDRAWALS  
 International Boundary and Water Commission, for purposes of 523  
 Irrigable lands 15  
 Power sites. *See* POWER SITES.  
 Presidential  
 Executive Orders 6910 and 6964 43, 515  
 Generally 155  
 Reclamation projects. *See* RECLAMATION WITHDRAWALS.  
 Reservoir sites 15
- WOLF CREEK DAM 801
- WOODS, RUFUS, LAKE 1091
- WORKS PROGRESS ADMINISTRATION 591, 620, 669
- WORLD WAR I 238, 258, 331, 435
- WORLD WAR II 435, 674, 710, 821, 903
- WUNDERLICH ACT  
 Background explained 1390  
 Text 2002
- WYNOOCHEE PROJECT, Washington 1909
- WYNOOCHEE RIVER 1703
- WYOMING, STATE OF  
 Apportionment to, of excess revenues in Upper Colorado River Basin Fund  
 1253, 1258  
 Approval of definite plan report for Glendo unit required 976  
 Approval of definite plan report for Moorhead Dam and Reservoir required 977  
 Compacts of. *See* BEAR RIVER COMPACT; BELLE FOURCHE RIVER COMPACT; COLORADO  
 RIVER COMPACT; COLUMBIA RIVER COMPACT; GROUND WATER; LITTLE MISSOURI  
 RIVER COMPACT; NIOBRARA RIVER; PONCA CREEK; SNAKE RIVER COMPACT; UPPER  
 COLORADO RIVER BASIN COMPACT; YELLOWSTONE RIVER COMPACT.  
 Desert Land Act applies 13  
 Executive Order No. 6910 and Taylor Grazing Act apply 515  
 Projects in. *See* individual dams and projects by name.  
 Reclamation Act applies 31

## Y

## YAKIMA INDIANS

Additional water for Wapato Indian irrigation project	693
Reclamation of surplus or unallotted lands authorized	105
Settlement of water rights of, authorized	185

## YAKIMA PROJECT, Washington

## Ahtanum unit

Feasibility study authorized	1889
Amended contract approved	987, 1141
Amended contract approved, land reclassification	928
Authorization explained	1491
Bumping Lake enlargement	
Completion of studies authorized	1887
Certain administrative costs nonreimbursable	1129
Delivery of water to Yakima Indians	185
Determination of costs of Yakima project attributable to serving Wapato Indian irrigation project	1491
Disposal of certain Federal property authorized	1610
Kennewick division	
Authorized	881
Kennewick division extension	
Additional studies authorized	1886
Power revenues, application of	457
Rate fixed for payment of construction costs on Wapato Indian irrigation project	589
Reduction and suspension of construction charges	371
Repayment contract required	338, 715
Title to Prosser Dam and power canal right of way required	457

YAKIMA RIVER 1886

YAKIMA RIVER BASIN 1889

YAMHILL RIVER 1889

YAMPA RIVER 919

YANKTON UNIT, MRB 1888

YAZOO RIVER 396

## YELLOW-JACKET PROJECT, Colorado

Expeditious completion of planning report directed	1249
--	------

YELLOWSTONE COUNTY 1497

## YELLOWSTONE DIVISION, MRB, Montana

Feasibility studies of Billings pump, Cracker Box, and Stipek units authorized	1892
--	------

YELLOWSTONE NATIONAL PARK 875, 940, 996, 1061

YELLOWSTONE RIVER 104, 940, 1892

YELLOWSTONE RIVER BASIN 1062

- YELLOWSTONE RIVER COMPACT  
 Consent to negotiate 940  
 Text 1061
- YELLOWSTONE RIVER SYSTEM 1062
- YELLOWTAIL DAM AND RESERVOIR 808, 863, 1429, 1904
- YELLOWTAIL UNIT, MRB, Montana  
 Certain funds for access roads made nonreimbursable 1651  
 Compensation to Crow Tribe of Indians for lands utilized for Yellowtail Dam and Reservoir 1429  
 Recreation development. *See* BIGHORN CANYON NATIONAL RECREATION AREA.
- YOSEMITE NATIONAL PARK  
 Rights of way 29
- YUBA RIVER BASIN 1922
- YUGCA. *See* MORONGO-YUCA-UPPER COACHELLA VALLEY PROJECT.
- YUKON RIVER 11
- YUMA ARMY AIR BASE 857
- YUMA AUXILIARY PROJECT, Arizona  
 Authorized 229, 241  
 Certain irrigable lands in Yuma County excluded 1241  
 Credit for payments made by Imperial Irrigation District 395, 447, 950  
 Lands severed from, and arrangements established for furnishing water to, from works of Gila project 950  
 Mesa division authorized 333  
 Transfer of accounts to Colorado Front Work and Levee System 1018
- YUMA, CITY OF 1271
- YUMA COUNTY 1241, 1680
- YUMA COUNTY WATER USERS' ASSOCIATION 1270, 1738
- YUMA INDIANS  
 Credit lands in reservation for payments made by Imperial Irrigation District 395, 447  
 Miscellaneous references to 19, 427  
 Reclamation of irrigable lands of 90
- YUMA MAIN CANAL 1270
- YUMA MESA 858
- YUMA MESA DIVISION, Gila project 858, 1240
- YUMA MESA IRRIGATION AND DRAINAGE DISTRICT 97, 657, 1239
- YUMA PROJECT, Arizona-California  
 Appropriations for Colorado River flood protection works adjacent to. *See* COLORADO RIVER FRONT WORK AND LEVEE SYSTEM.  
 Authorization explained 1019  
 Construction of powerplant on main canal 312  
 Contract with Yuma County Water Users' Association relating to Valley division authorized 1271

## YUMA PROJECT, ARIZONA-CALIFORNIA—Continued

Credit for payments made by Imperial Irrigation District	395, 447, 950
Entry rights for settlers	227
Miscellaneous references to	491
Power revenues, application of	405, 503
Relief of Charles Cooper	1060
Relief from further costs	1018
Reserve funds for Siphon Drop powerplant transferred to Yuma County Water Users' Association	1738
Statutory references to	694
Transfer of accounts to Colorado River Front Work and Levee System	1018
Withdrawal of public notices and reduction of water-right charges	983
Yuma auxiliary project authorized on lands withdrawn for	229

## Z

ZILLAH, TOWN OF	1610
-----------------	------