

RECLAMATION

Managing Water in the West

PUBLIC LAW 97-293

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PUBLIC LAW 97-293

OCT. 12, 1982
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Public Law 97-293 (as amended by Section 5302 of the Omnibus Budget Reconciliation Act of 1987 Public Law 100-2037)
97th Congress

An Act

To authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

(Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming)

TITLE II

SHORT TITLE

SEC. 201: Reclamation Reform Act of 1982

This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as “Federal reclamation law”. This title may be referred to as the “Reclamation Reform Act of 1982”. [(43 U.S.C. 390aa) (43 U.S.C. 371 note)]

SEC. 202: Definitions

As used in this title:

- (1) The term “contract” means any repayment or water service contract between the United States and a district providing for the

payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal reclamation law.

- (2) The term “district” means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.
- (3) (A) The term “full cost” means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment of the Act on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment of this Act: *Provided*, That operation, maintenance, and replacement charges required under Federal reclamation law, including this title, shall be collected in addition to the full cost charge.
(B) The interest rate used for expenditures made on or before the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made, but shall not be less than 7 1/2 per centum per annum.
(C) The interest rate used for expenditures made after the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—
 - (i) the rate as of the beginning of the fiscal year in which expenditures are made 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 issuance; and
 - (ii) the weighted average yield on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.
- (4) The term “individual” means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code of 1954 (26 U.S.C. 152).
- (5) The term “irrigation water” means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.
- (6) The term “landholding” means total irrigable acreage of one or more tracts of land situated in one or more districts owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited

recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

- (7) The term “limited recipient” means any legal entity established under State or Federal law benefiting more than twenty-five natural persons.
- (8) The term “project” means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.
- (9) The term “qualified recipient” means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five natural persons or less.
- (10) The term “recordable contract” means a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the ownership limitations of Federal reclamation law including this title.
- (11) The term “Secretary” means the Secretary of the Interior.
[(43 U.S.C 390 bb)]

SEC. 203: New or Amended Contracts

- (a) The provisions of this title shall be applicable to any district which—
 - (1) enters into a contract with the Secretary subsequent to the date of enactment of this Act;
 - (2) enters into any amendment of its contract with the Secretary subsequent to the date of enactment of this Act which enables the district to receive supplemental or additional benefits; or
 - (3) which amends its contract for the purpose of conforming to the provisions of this title.
- (b) Any district which has an existing contract with the Secretary as of the date of enactment of this Act which does not enter into an amendment of such contract as specified in subsection (a) shall be subject to Federal reclamation law in effect immediately prior to the date of enactment of this Act, as that law is amended or supplemented by sections 209 through 230 of this title. Within a district that does not enter into an amendment of its contract with the Secretary within four and one-half years of the date of enactment of this Act, irrigation water may be delivered to lands leased in excess of a landholding of one hundred and sixty acres only if full cost, as defined in section 202(3)(A) of this title, is paid for such water as is assignable to those lands leased in excess of such landholding of one hundred and sixty acres: *Provided*, That the interest rate used in computing full cost under this subsection shall be the same as provided in section 205(a)(3).
- (c) In the absence of an amendment to a contract, as specified in subsection (a), a qualified recipient or limited recipient may elect to be subject to the

provisions of this title by executing an irrevocable election in a form approved by the Secretary to comply with this title. The district shall thereupon deliver irrigation water to and collect from such recipient, for the credit of the United States, the additional charges required by this title and assignable to the recipient making the election.

- (d) Amendments to contracts which are not required by the provisions of this title shall not be made without the consent of the non-Federal party.
[(43 U.S.C. 390cc)]

SEC. 204: Limitation on Ownership

Except as provided in section 209 of this title, irrigation water may not be delivered to—

- (1) a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof; or
- (2) a limited recipient for the use in the irrigation of lands owned by such limited recipient in excess of six hundred and forty acres of class I lands or the equivalent thereof; whether situated in one or more districts.
[(43 U.S.C. 390dd)]

SEC. 205: Pricing

- (a) Notwithstanding any other provision of law, any contract with a district entered into by the Secretary as specified in section 203, shall provide for the delivery of irrigation water at full cost as defined in section 202(3) to:
- (1) a landholding in excess of nine hundred and sixty acres of class I lands or the equivalent thereof for a qualified recipient,
 - (2) a landholding in excess of three hundred and twenty acres of class I land or the equivalent thereof for a limited recipient receiving irrigation water on or before October 1, 1981; and
 - (3) the entire landholding of a limited recipient not receiving irrigation water on or before October 1, 1981: *Provided*, That the interest rate used in computing full cost under this paragraph shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of--
 - (A) 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 issuance; and
 - (B) the weighted average of market yields on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made, or the date of enactment of this Act for expenditures made before such date of enactment.
- (b) Any contract with a district entered into by the Secretary as specified in section 203, shall provide for the delivery of irrigation water to lands not in excess of the landholdings described in subsection (a) upon terms and

- conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment. However, the portion of any price established under this subsection which relates to operation and maintenance charges shall be established pursuant to section 208 of this title.
- (c) Notwithstanding any extension of time of any recordable contract as provided in section 209(e) of this title, lands under recordable contract shall be eligible to receive irrigation water at less than full cost for a period not to exceed ten years from the date such recordable contract was executed by the Secretary in the case of contracts existing prior to the date of enactment of this Act, or five years from the date such recordable contract was executed by the Secretary in the case of contracts entered into subsequent to the date of enactment, or the time specified in section 218 for lands described in that section: *Provided*, That in no case shall the right to receive water at less than full cost under this subsection terminate sooner than eighteen months after the date on which the Secretary again commences the processing or the approval of the disposition of such lands. *[(43 U.S.C. 390ee)]*

SEC. 206: Certification

As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 203, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title including a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto. *[(43 U.S.C. 390ff)]*

SEC. 207: Equivalency

Upon the request of any district, the ownership and pricing limitations imposed by this title shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability. *[(43 U.S.C. 390gg)]*

SEC. 208: Operation and Maintenance Charges

- (a) The price of irrigation water delivered by the Secretary pursuant to a contract or an amendment to a contract with a district, as specified in section 203, shall

- be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.
- (b) Whenever a district enters into a contract or requests that its contract be amended as specified in section 203, and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of irrigation water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.
 - (c) This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds. [(43 U.S.C. 390hh)]

SEC. 209: Disposition of Excess Lands

- (a) Irrigation water made available in the operation of reclamation project facilities may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, unless and until the owners thereof shall have executed a recordable contract with the Secretary, in accordance with the terms and conditions required by Federal reclamation law, requiring the disposal of their interest in such excess lands within a reasonable time to be established by the Secretary. In the case of recordable contracts entered into prior to the date of enactment of this Act, such reasonable time shall not exceed ten years after the recordable contract is executed by the Secretary. In the case of recordable contracts entered into after the date of the enactment of this Act, except as provided in section 218, such reasonable time shall not exceed five years after the recordable contract is executed by the Secretary.
- (b) Lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, which, on the date of enactment of this Act, are, or are capable of, receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only—
 - (1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or
 - (2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.
- (c) Recordable contracts existing on the date of enactment of this Act shall be amended at the request of the landowner to conform with the ownership limitations contained in this title: *Provided*, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).
- (d) Any recordable contract covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the recordable contract. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as the Secretary may establish: *Provided*, That the Secretary shall recover for the owner the fair market value

- of the land unrelated to irrigation water deliveries plus the fair market value of improvements thereon.
- (e) In the event that the owner of any lands in excess of the ownership limitations of Federal reclamation law has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.
 - (f) Excess lands which have been or may be disposed of in compliance with Federal reclamation law, including this title, shall not be considered eligible to receive irrigation water unless—
 - (1) they are held by nonexcess owners; and
 - (2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with Federal reclamation law, including this title, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled “An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes”, approved May 25, 1926 (43 U.S.C. 423e). *[(43 U.S.C. 390ii)]*

SEC. 210: Water Conservation

- (a) The Secretary shall, pursuant to his authorities under otherwise existing Federal reclamation law, encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.
- (b) Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives.
- (c) The Secretary is authorized and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing

programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.
[(43 U.S.C. 390jj)]

SEC. 211: Residency not Required

Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

[(43 U.S.C. 390kk)]

SEC. 212: Corps of Engineers Projects

- (a) Notwithstanding any other provision of law, neither the ownership or pricing limitation provisions nor the other provisions of Federal reclamation law, including this title, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—
- (1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or
 - (2) the Secretary, pursuant to his authority under Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.
- (b) Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect. [(43 U.S.C. 390ll)]

SEC. 213: Repayment of Construction Charges

- (a) The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on the date of enactment of this Act), by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts existing on the date of enactment of this Act.
- (b) (1) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the

landholding is free of the ownership or full cost pricing limitation of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located.

- (2) Any certificate issued by the Secretary prior to the date of enactment of this Act acknowledging that the landholding is free of the acreage limitation of Federal reclamation law is hereby ratified.
- (c) Nothing in this title shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district. *[(43 U.S.C. 390mm)]*

SEC. 214: Trusts

- (a) The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title.
- (b) Lands placed in a revocable trust shall be attributable to the grantor if—
 - (1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or
 - (2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor. *[(43 U.S.C. 390nn)]*

SEC. 215: Temporary Supplies of Water

- (a) Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which receive only a temporary, not to exceed one year, supply of water made possible as a result of—
 - (1) an unusually large water supply not otherwise storable for project purposes; or
 - (2) infrequent and otherwise unmanaged flood flows of short duration.
- (b) The Secretary shall have the authority to waive payments for a supply of water described in subsection (a). *[(43 U.S.C. 390oo)]*

SEC. 216: Involuntary Foreclosure

Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands when the lands are

acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise: *Provided*, That such lands were eligible to receive irrigation water prior to such transfer of title or the mortgaged lands become ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: *Provided further*, That if, after acquisition, such lands are not qualified under Federal reclamation law, including this title, they shall be furnished temporarily with an irrigation water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of irrigation water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: *Provided further*, That the provisions of section 205 of this title shall be applicable separately to each acquisition under this section if the lands are otherwise subject to the provisions of section 205. [(43 U.S.C. 390pp)]

SEC. 217: Isolated Tracts

Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed such ownership limitations. [(43 U.S.C. 390qq)]

SEC. 218: Central Arizona Project

Lands receiving irrigation water pursuant to a contract with the Secretary as authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521 et seq.) which are placed under recordable contract shall be eligible to receive irrigation water upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, for a period of time not to exceed ten years from the date such lands are capable of being served with irrigation water, as determined by the Secretary. [(43 U.S.C. 390rr)]

SEC. 219: Religious or Charitable Organizations

An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as an individual under the provisions of this title regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchial authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

- (1) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;
- (2) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and
- (3) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual. [(43 U.S.C. 390ss)] [(26 U.S.C. 501)]

SEC. 220: Contract Required

Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such irrigation water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such irrigation water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of Federal reclamation law. [(43 U.S.C. 390tt)] [(43 U.S.C. 485k)]

SEC. 221: Waiver of Sovereign Immunity

Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amendable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated. [(43 U.S.C. 390uu)]

SEC. 222: Excess Crop Restrictions

- (a) Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation water. The report shall include—
 - (1) data delineating the production of surplus crops on lands served by irrigation water;
 - (2) the percentage of participation of farms served by irrigation water in set-aside programs, by acreage, crop, and State;
 - (3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement; and

- (4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.
- (b) In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this Act, any restriction prohibiting the delivery of irrigation water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project. [(43 U.S.C. 390vv)]

SEC. 223: Small Reclamation Projects Act

Section 5(c)(2) of the Act of August 6, 1956 (43 U.S.C.422e), is amended by striking out “by any one owner in excess of one hundred and sixty irrigable acres;” and inserting in lieu thereof “by a qualified recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres;”.

SEC. 224: Administrative Provisions

- (a) The provisions of Federal reclamation law shall remain in full force and effect, except to the extent such law is amended by, or is inconsistent with, this title.
- (b) Nothing in this title shall repeal or amend any existing statutory exemptions from the ownership or pricing limitations of Federal reclamation law.
- (c) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this title and other provisions of Federal reclamation law.
- (d) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase “for a period not to exceed twenty-five years” following the term “project water”.
- (e) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this title or to section 46 of the Act entitled “An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes”, approved May 25, 1926 (43 U.S.C. 423e): *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

- (f) The first proviso in the third paragraph of section 1 of the Act of April 4, 1910 (36 Stat. 269, 270), as amended by the Act of August 7, 1946 (60 Stat. 866, 867), is hereby repealed.
- (g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years.
- (h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided*, That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.
- (i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment. [(43 U.S.C. 390ww)] [(25 U.S.C. 383)]

SEC. 225: Validation

The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States. [(43 U.S.C. 390xx)]

SEC. 226: Public Participation

Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding at the end the following new subsection:

- “(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year or less) the Secretary shall—
 - “(1) publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom

comments or inquiries concerning the proposed actions can be addressed; and

- “(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.”

SEC. 227: Leasing Requirements

Notwithstanding any other provision of Federal reclamation law, including this title, lands which receive irrigation water may be leased only if the lease instrument is-

- (1) written; and
- (2) for a term not to exceed ten years, including any exercisable options: *Provided, however,* That leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years [(43 U.S.C. 390yy)]

SEC. 228: Reporting

Any contracting entity subject to the ownership or pricing limitations of Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this title and Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide a form suitable to the Secretary such reports on the above matters as the Secretary may require. [(43 U.S.C. 390zz)]

SEC. 229: Commissioner of Reclamation

The Act of May 26, 1926 (44 Stat. 657), is amended by adding the words “by and with the advice and consent of the Senate” after the word “President”. [(43 U.S.C. 373a.)]

SEC. 230: Severability

If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby. [(43 U.S.C. 390zz-1)]

TITLE III

(Southern Arizona Water Rights Settlement Act of 1982.)

Approved October 12, 1982

LEGISLATIVE HISTORY—S. 1409 (H.R.5118):

HOUSE REPORTS: No. 97-422 accompanying H.R. 5118 (Comm. on Interior and Insular Affairs), No. 97-855 (Comm. of Conference).

SENATE REPORTS: No. 97-375 accompanying H.R. 5118 (Comm. on Indian Affairs).

No. 97-420 (Comm. on Energy and Natural Resources),
No. 97-568 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 4, H.R. 5118 considered and passed House.

May 11, H.R. 5118 considered and passed Senate, amended.

May 12, H.R. 5118 House concurred in Senate amendment with amendments.

May 13, Senate concurred in House amendments.

June 1, H.R. 5118 vetoed by President.

June 22, considered and passed Senate.

August 17, considered and passed House, amended.

Aug. 20, Senate concurred in House amendments with amendments.

Sept. 24, Senate agreed to conference report.

Sept. 29, House agreed to conference report.