

Public Law 94-423
94th Congress

An Act

Sept. 28, 1976
[S. 3283]

To authorize various Federal reclamation projects and programs, and for other purposes.

Reclamation
Authorizations
Act of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Reclamation Authorizations Act of 1976.

TITLE I

KANOPOLIS UNIT, KANSAS

43 USC 391 note.

SEC. 101. The Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and industrial water supply, fish and wildlife conservation and development, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis north and south canals, laterals, drains, and necessary facilities to effect the aforesaid purposes of the unit.

Kanopolis
Reservoir area.

SEC. 102. Upon expiration of existing leases for agricultural use of publicly owned lands, in the Kanopolis Reservoir area, the Secretary of the Army is authorized to enter into a management agreement covering said lands with the Kansas Forestry, Fish and Game Commission. The Secretary of the Army is further authorized to include provisions in such operating agreements whereby revenues deriving from future use of said reservoir lands for agricultural purposes may be retained by the game commission to the extent that they are utilized for wildlife management purposes at Kanopolis Reservoir.

Repayment
contracts.

SEC. 103. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contract shall not exceed fifty years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this title. Costs allocated to environmental preservation and fish and wildlife shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 104. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), 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 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit 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 fifteen years from date of issue.

Interest rate.

SEC. 106. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of, unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

Lands eligible to receive water, limitation.

43 USC 423e.

SEC. 107. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the Kanopolis unit, the sum of \$30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section, the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for post-authorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

Transfer of funds.

TITLE II

OROVILLE-TONASKET UNIT, WASHINGTON

SEC. 201. For purposes of supplying water to approximately ten thousand acres of land and for enhancement of the fish resource of the Similkameen, Okanogan, and Columbia Rivers and the Pacific Ocean, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen 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 Oroville-Tonasket unit extension (hereinafter referred to as the project) shall consist of pumping plants, distribution systems; necessary works incidental to the rehabilitation or enlargement of portions

43 USC 391 note.

of the existing irrigation system to be incorporated in the project; drainage works; and measures necessary to provide fish passage and propagation in the Similkameen River. Irrigation works constructed and rehabilitated by the United States under the Act of October 9, 1962 (76 Stat. 761) and which are not required as a part of the project shall be dismantled and removed with funds appropriated hereunder and title to the lands and right-of-way thereto which were conveyed to the United States shall be reconveyed to the Oroville-Tonasket Irrigation District. All other irrigation works which are a part of the Oroville-Tonasket Irrigation District's existing system and which are not required as a part of the project or that do not have potential as rearing areas for fish shall be dismantled and removed with funds appropriated hereunder.

Contracts.

SEC. 202. The Secretary is authorized to terminate the contract of December 26, 1964, between the United States and the Oroville-Tonasket Irrigation District and to execute new contracts for the payment of project costs, including the then unpaid obligation under the December 26, 1964, contract. Such contracts shall be entered into pursuant to section 9 of the Act of August 4, 1939 (53 Stat. 1187). The term of such contract shall be fifty years, exclusive of any development period authorized by law. The contracts for irrigation water may provide for the assessment of an account charge for each identifiable ownership receiving water from the project. Such charge, together with the acreage or acre-foot charge, shall not exceed the repayment capacity of commercial family-size farm enterprises as determined on the basis of studies by the Secretary. Project construction costs covered by contracts entered into pursuant to section 9(d) of the Act of August 4, 1939, as determined by the Secretary, and which are beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707). The aforesaid contract shall provide that irrigation costs properly assignable to privately owned recreational lands shall be repaid in full within fifty years with interest.

43 USC 485h.

Construction costs, repayment period.

SEC. 203. Power and energy required for irrigation water pumping for the project, including existing irrigation works retained as a part of the project, shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

SEC. 204. The provision of lands, facilities, and any project modifications which furnish fish and wildlife benefits in connection with the project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended. All costs allocated to the anadromous fish species shall be nonreimbursable.

16 USC 460l-12 note.

SEC. 205. For a period of ten years from the date of enactment of this title, no water from the project authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), 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 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

Interest rate.

SEC. 206. The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid

balance of the reimbursable obligations assumed by non-Federal entities 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 from fifteen years from the date of issue.

SEC. 207. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Oroville-Tonasket unit, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

Lands eligible to receive water, limitation.
43 USC 423e.

SEC. 208. There is hereby authorized to be appropriated for construction of the works and measures authorized by this title for the fiscal year 1978 and thereafter the sum of \$39,370,000 (January 1976 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. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE III

UINTAH UNIT, UTAH

SEC. 301. Pursuant to the authorization for construction, operation, and maintenance of the Uintah unit, central Utah project, Utah, as provided in section 1 of the Act of April 11, 1956 (70 Stat. 105), as amended by section 501(a) of the Colorado River Basin Project Act (82 Stat. 897), there is authorized to be appropriated for fiscal year 1978 and thereafter, for the construction of said Uintah unit, the sum of \$90,247,000 (based on January 1976 price levels) 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.

43 USC 620.

43 USC 620, 620 note, 620a, 620k note.

SEC. 302. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Uintah works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

Single ownership lands, limitation.

TITLE IV

AMERICAN CANAL EXTENSION, EL PASO, TEXAS

SEC. 401. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), in order to salvage water losses, eliminate hazards to public safety, and to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906, providing for the equitable division of the waters of the Rio Grande, is authorized as a part of the Rio Grande project, New Mexico-Texas, to construct, operate, and maintain, wholly within the United States, extensions of the American Canal approximately thirteen miles in total length, commencing in the vicinity of

43 USC 391 note.

International Dam, El Paso, Texas, and extending to Riverside Heading; together with laterals, pumping plants, wasteways, and appurtenant facilities as required to assure continuing irrigation service to the project. Existing facilities no longer required for project service shall be removed or obliterated as a part of the program herein authorized.

Repayment
contract.

SEC. 402. Construction of the American Canal extension shall not be undertaken until the Secretary of the Interior has entered into a repayment contract with the El Paso County Water Improvement District Number 1, in which said irrigation district contracts to repay to the United States, for fifty years, an annual sum representing the value of eleven thousand six hundred acre-feet of salvaged water at a price per acre-foot established by the Secretary on the basis of an up-to-date payment capacity determination. Costs of the American Canal in excess of those repaid by the El Paso County Water Improvement District Number 1 shall be nonreimbursable and nonreturnable in recognition of benefits accruing to public safety and international considerations.

SEC. 403. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the American Canal extension the sum of \$21,714,000 (January 1976 price levels), 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. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE V

ALLEN CAMP UNIT, CALIFORNIA

SEC. 501. For the purposes of providing irrigation water supplies, controlling floods, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other related purposes, 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 Allen Camp unit, Pit River division, as an addition to, and an integral part of, the Central Valley project, California. The principal works of the unit shall consist of Allen Camp Dam and Reservoir and necessary water diversion, conveyance, distribution, and drainage facilities, and other appurtenant works for the delivery of water to the unit, a wildlife refuge, channel rectification works and levees, and recreation facilities.

43 USC 391 note.

Allen Camp Dam
and Reservoir.

Integration and
coordination with
Central Valley
project.

Lands eligible to
receive water,
limitation.

SEC. 502. Subject to the provisions of this title, the operation of the Allen Camp unit shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available.

SEC. 503. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Allen Camp unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 504. The costs of the Allen Camp unit allocated to flood control, conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities shall be nonreimbursable.

Road and
bridges,
replacement.

SEC. 505. The Secretary is hereby authorized to replace those roads and bridges now under the jurisdiction of the Secretary of Agriculture

which will be inundated or otherwise rendered unusable by construction and operation of the unit. Said replacements are to be the standards (including provisions for the future) which would be used by the Secretary of Agriculture in constructing similar roads to provide similar services.

SEC. 506. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), 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 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

SEC. 507. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter the sum of \$64,220,000 (January 1976 price levels) for the construction of the Allen Camp unit, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the construction of works related to the Allen Camp unit. There are also authorized to be appropriated such sums as may be required to operate and maintain said unit and associated facilities.

TITLE VI

LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 601. The Secretary of the Interior is authorized to rehabilitate the federally owned Leadville Mine drainage tunnel, Lake County, Colorado, by installing a concrete-lined, structural steel-supported, eight-foot-diameter, horseshoe-shaped tunnel section extending for an approximate distance of one thousand feet inward, from the portal of said tunnel or for the distance required to enter structurally competent geologic formations. The Secretary is further authorized to maintain the rehabilitated tunnel in a safe condition and to monitor the quality of the tunnel discharge.

Rehabilitation.

SEC. 602. There is authorized to be appropriated for fiscal year 1978 and thereafter \$2,750,000 (January 1976 price levels) for the rehabilitation of the tunnel. There is also authorized to be appropriated such sums as are necessary for maintenance of the rehabilitated tunnel, water quality monitoring and investigations leading to recommendations for treatment measures if necessary to bring the quality of the tunnel discharge into compliance with applicable water quality statutes. All funds authorized to be appropriated by this title, together with such sums as have been expended for emergency work on the Leadville Mine drainage tunnel by the Bureau of Reclamation, shall be nonreimbursable.

TITLE VII

M'GEE CREEK PROJECT, OKLAHOMA

SEC. 701. The Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the

Construction,
operation.

43 USC 391 note.

provisions of this title for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, developing a wildlife management area and controlling floods. The principal physical works of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

Privately owned
lands, purchase.

SEC. 702. To provide for the protection, preservation, use, and enjoyment by the general public of the scenic and esthetic values of the canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary of the Interior is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

Rules and
regulations.

SEC. 703. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 702 of this title and may enter into an agreement or agreements with a non-Federal public body or bodies for operation and maintenance of the scenic recreational and wildlife management areas.

Interest rate.

SEC. 704. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project 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.

Contracts.

SEC. 705. (a) The Secretary of the Interior is authorized to enter into a contract with a qualified entity or entities, for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 702 of this title shall be nonreimbursable.

(b) Construction of the project shall not be commenced until the contracts and agreements required by this title have been entered into.

Transfer of care,
operation, and
maintenance.

(c) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the Secretary of the Interior shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse, subject to such amounts as may be provided in the appropriation Acts, the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

Permanent right
of usage.

(d) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 706. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation and wildlife management areas authorized by section 702 of this title, shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 707. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the McGee Creek project the sum of \$83,239,000 (January 1976 price levels), 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 the operation and maintenance of the project.

16 USC 460l-12
note.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1382 accompanying H.R. 14578 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1122 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 6, considered and passed Senate.

Aug. 26, considered and passed House, amended, in lieu of H.R. 14578.

Sept. 13, Senate concurred in House amendments.