

**§ 1962d-11a. Potomac River water diversion structure**

**(a) Consent of Congress for construction; written agreement providing schedule for allocation among parties for withdrawal of waters**

(1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 401 of title 33 to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river.

**(b) Authorization of Secretary of the Army to enter written agreement; amendments or revisions**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a)(2) of this section and any amendment to or revision of such agreement.

**(c) Riparian rights or other authority of Maryland, Virginia, political subdivisions; authority of District of Columbia**

Except as may be provided in the agreement referred to in subsection (a)(2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on October 22, 1976, relative to the appropriation of water from, or the use of, the Potomac River.

(Pub. L. 94-587, §181, Oct. 22, 1976, 90 Stat. 2939; Pub. L. 96-292, §2, June 28, 1980, 94 Stat. 609.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1980—Subsec. (a)(2). Pub. L. 96-292 struck out cl. “(A)” designation and cl. (B) which prohibited construction of the Potomac River water diversion structure should such structure be in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, issued in connection with a study of water resources development.

**§ 1962d-11b. Dalecarlia Reservoir; delivery of water to metropolitan Maryland; expenses; payments; purchase of water from State or local authorities in Maryland or Virginia**

(a) The Secretary, on the recommendation of the Chief of Engineers, is authorized to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at other points on the system, to any competent State or local authority in the Washington, District of Columbia, metropolitan area in Maryland. All of the expense of installing the connection or connections and appurtenances between the water supply systems and any subsequent changes therein shall be paid by the requesting entity, which shall also pay such charges for the use of the water as the Secretary may, from time to time in advance of delivery, determine to be reasonable. Payments shall be made at such time, and pursuant to such regulations, as the Secretary prescribes. The Secretary may revoke any permit for the use of water at any time.

(b) The Secretary is authorized to purchase water from any State or local authority in Maryland or Virginia that has, at the time of purchase, completed a connection with the District of Columbia water system. The Secretary is authorized to pay such charges for the use of the water as the Secretary has agreed upon in advance of delivery.

(Pub. L. 99-662, title XI, §1111, Nov. 17, 1986, 100 Stat. 4231.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1986, and not as part of the Water Resources Planning Act which comprises this chapter.

DEFINITIONS

Secretary means the Secretary of the Army, see section 2201 of Title 33, Navigation and Navigable Waters.

**§§ 1962d-12 to 1962d-14. Repealed. Pub. L. 104-58, title I, § 104(g)(3), Nov. 28, 1995, 109 Stat. 560**

Section 1962d-12, act Aug. 9, 1955, ch. 682, §1, 69 Stat. 618, authorized Secretary of the Interior to make investigations of projects for conservation, development, and utilization of Alaskan water resources and to report findings, with recommendations, to President and Congress.

Section 1962d-13, act Aug. 9, 1955, ch. 682, §2, 69 Stat. 618, directed Secretary of the Interior, prior to transmission of report on Alaskan water resource projects to Congress, to transmit copies thereof for information and comment to Governor of Alaska and to heads of interested Federal departments and agencies, and to include copies of views of such officials along with transmission of Secretary's report to Congress.

Section 1962d-14, act Aug. 9, 1955, ch. 682, §3, 69 Stat. 618, authorized to be appropriated not more than \$250,000 in any one fiscal year for Alaskan water resources investigation.

**§ 1962d-14a. Alaska hydroelectric power development**

**(a) Congressional findings and declaration**

(1) The Congress finds that the expeditious development of hydroelectric power generating facilities in Alaska that are environmentally sound to assist the Nation in meeting existing

and future energy demands is in the national interest.

(2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.

**(b) Establishment of fund; composition**

To meet the goals of this section, there is hereby established in the Treasury of the United States an Alaska Hydroelectric Power Development Fund (hereafter referred to as the "fund") to be and remain available for use by the Secretary of the Army (hereinafter referred to as the "Secretary") to make expenditures authorized by this section. The fund shall consist of (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and (2) any appropriations made by the Congress to the fund.

**(c) Authorization of appropriation**

There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of \$25,000,000.

**(d) Investments; deposits**

(1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.

(2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.

**(e) Expenditures for phase I design memorandum stage of advanced engineering and design; withholding of favorable report to Congress prior to repayment; expenditures from non-Federal funds**

The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project in Alaska that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress

prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

**(f) Authorization to construct projects; expenditures**

In connection with water resources development projects which meet the criteria established by subsection (a)(2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g)(1) of this section occurring on or subsequent to October 22, 1976, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

**(g) Agreement with non-Federal public authorities and submittal to Congressional committees, payment of total non-Federal obligations; conditions of United States assumption of excess over costs fixed in agreement, payment subject to appropriations acts**

(1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United

States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

**(h) Conveyance of title, rights, and interests of United States; Federal requirements, reservations, and provisions**

The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

**(i) Short title**

This section shall be cited as the "Alaska Hydroelectric Power Development Act".

(Pub. L. 94-587, §203, Oct. 22, 1976, 90 Stat. 2946; Pub. L. 103-437, §15(e)(2), Nov. 2, 1994, 108 Stat. 4592.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103-437 substituted "Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House" for "Committees on Public Works and Appropriations of the Senate and House".

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§ 1962d-15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States**

The requirement in any water resources development project under the jurisdiction of the

Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

(Pub. L. 93-251, title I, §9, Mar. 7, 1974, 88 Stat. 16.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

**§ 1962d-16. Comprehensive plans for development, utilization, and conservation of water and related resources**

**(a) Federal State cooperation**

**(1) Comprehensive plans**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

**(2) Technical assistance**

**(A) In general**

At the request of a governmental agency or non-Federal interest, the Secretary may provide, at Federal expense, technical assistance to such agency or non-Federal interest in managing water resources.

**(B) Types of assistance**

Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.

**(b) Fees**

**(1) Establishment and collection**

For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to subsection (a)(1), the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to whom assistance is provided under subsection (a)(1).

**(2) In-kind services**

The non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan.

**(3) Deposit and use**

Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out this section.