

§ 401. Amounts collected from defaulting contractors and their sureties

Any amounts collected from defaulting contractors or their sureties, including collections heretofore made, in connection with contracts entered into under the reclamation law, either collected in cash or by deduction from amounts otherwise due such contractors, shall be covered into the reclamation fund and shall be credited to the project or operation for or on account of which such contract was made.

(June 6, 1930, ch. 410, 46 Stat. 522.)

§ 402. Omitted

CODIFICATION

Section, acts Apr. 1, 1932, ch. 95, §10, 47 Stat. 78; Mar. 3, 1933, ch. 200, §2, 47 Stat. 1427, related to repayment of advances under sections 391a and 397 of this title. See section 391a-1 of this title.

§§ 403, 404. Repealed. June 30, 1947, ch. 166, title II, §206(c), 61 Stat. 208

Section 403, acts May 12, 1933, ch. 25, title II, §36, 48 Stat. 49; June 16, 1933, ch. 101, §19, 48 Stat. 308; June 19, 1934, ch. 653, §11, 48 Stat. 1110; June 27, 1934, ch. 851, 48 Stat. 1269, related to refinancing agricultural improvement districts.

Section 404, act May 12, 1933, ch. 25, title II, §37, 48 Stat. 50, related to advances by the former Reconstruction Finance Corporation.

SUBCHAPTER II-A—RECLAMATION WATER SETTLEMENTS FUND

§ 407. Reclamation Water Settlements Fund

(a) Establishment

There is established in the Treasury of the United States a fund, to be known as the “Reclamation Water Settlements Fund”, consisting of—

- (1) such amounts as are deposited to the Fund under subsection (b); and
- (2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) Deposits to Fund

(1) In general

For each of fiscal years 2020 through 2029, the Secretary of the Treasury shall deposit in the Fund, if available, \$120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by section 391 of this title.

(2) Availability of amounts

Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section—

- (A) without further appropriation; and
- (B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

(c) Expenditures from Fund

(1) In general

(A) Expenditures

Subject to subparagraph (B), for each of fiscal years 2020 through 2034, the Secretary may expend from the Fund an amount not to exceed \$120,000,000, plus the interest accrued

in the Fund, for the fiscal year in which expenditures are made pursuant to paragraphs (2) and (3).

(B) Additional expenditures

The Secretary may expend more than \$120,000,000 for any fiscal year if such amounts are available in the Fund due to expenditures not reaching \$120,000,000 for prior fiscal years.

(2) Authority

The Secretary may expend money from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, litigation involving the United States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation to provide financial assistance for, or plan, design, and construct—

- (A) water supply infrastructure; or
- (B) a project—
 - (i) to rehabilitate a water delivery system to conserve water; or
 - (ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on March 30, 2009.

(3) Use for completion of project and other settlements

(A) Priorities

(i) First priority

(I) In general

The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and in the order of, clauses (i) through (iv) of subparagraph (B).

(II) Reserved amounts

The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

(ii) Other purposes

Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

(B) Completion of project

(i) Navajo-Gallup water supply project

(I) In general

Subject to subclause (II), effective beginning January 1, 2020, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(e)(1)(A)(ix)¹ is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a),¹ the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the

¹ See References in Text note below.

Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

(II) Maximum amount

(aa) In general

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$500,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).

(ii) Other New Mexico settlements

(I) In general

Subject to subclause (II), effective beginning January 1, 2020, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount

The amount expended under subclause (I) shall not exceed \$250,000,000.

(iii) Montana settlements

(I) In general

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled "In re the General Adjudication of All the Rights to Use Surface and Groundwater in the State of Montana",

if a settlement or settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount

(aa) In general

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$350,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

(cc) Other funding

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

(iv) Arizona settlement

(I) In general

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i), (ii), and (iii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing an Indian water rights settlement agreement entered into by the State of Arizona with the Navajo Nation to resolve the water rights claims of the Nation in the Lower Colorado River basin in Arizona, if a settlement is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) Maximum amount

(aa) In general

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$100,000,000 for the period of fiscal years 2020 through 2029.

(bb) Exception

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

(cc) Other funding

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit

the funding available pursuant to clauses (i) and (ii).

(C) Reversion

If the settlements described in clauses (ii) through (iv) of subparagraph (B) have not been approved and authorized by an Act of Congress by December 31, 2019, the amounts reserved for the settlements shall no longer be reserved by the Secretary pursuant to subparagraph (A)(i) and shall revert to the Fund for any authorized use, as determined by the Secretary.

(d) Investment of amounts

(1) In general

The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(e) Transfers of amounts

(1) In general

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) Termination

On September 30, 2034—

- (1) the Fund shall terminate; and
- (2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.

(Pub. L. 111–11, title X, § 10501, Mar. 30, 2009, 123 Stat. 1375.)

REFERENCES IN TEXT

Section 10701(e)(1)(A)(ix), referred to in subsec. (c)(3)(B)(i)(D), is section 10701(e)(1)(A)(ix) of Pub. L. 111–11, which is set out as a note under section 620 of this title.

Section 10609(a), referred to in subsec. (c)(3)(B)(i)(I), is section 10609(a) of title X of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1395, which is not classified to the Code.

COMPLIANCE WITH ENVIRONMENTAL LAWS

Pub. L. 111–11, title X, § 10303, Mar. 30, 2009, 123 Stat. 1370, provided that:

“(a) EFFECT OF EXECUTION OF AGREEMENT.—The execution of the Agreement under section 10701(a)(2) [43 U.S.C. 620 note] shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this subtitle [subtitle B (§§ 10301–10704) of title X of Pub. L. 111–11, see Definitions note below], the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

- “(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).”

DEFINITIONS

Pub. L. 111–11, title X, § 10302, Mar. 30, 2009, 123 Stat. 1367, provided that: “In this subtitle [subtitle B (§§ 10301–10704) of title X of Pub. L. 111–11, enacting this section, former section 615jj, and section 620m–1 of this title, amending former section 615ss and sections 620 and 620o of this title, repealing former section 615jj of this title, and enacting provisions set out as notes under this section and sections 371 and 620 of this title]:

“(1) AAMODT ADJUDICATION.—The term ‘Aamodt adjudication’ means the general stream adjudication that is the subject of the civil action entitled ‘State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.’, No. 66 CV 6639 MV/LCS (D.N.M.).

“(2) ABEYTA ADJUDICATION.—The term ‘Abeyta adjudication’ means the general stream adjudication that is the subject of the civil actions entitled ‘State of New Mexico v. Abeyta and State of New Mexico v. Arrellano’, Civil Nos. 7896–BB (D.N.M) and 7939–BB (D.N.M.) (consolidated).

“(3) ACRE-FEET.—The term ‘acre-feet’ means acre-feet per year.

“(4) AGREEMENT.—The term ‘Agreement’ means the agreement among the State of New Mexico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.

“(5) ALLOTTEE.—The term ‘allottee’ means a person that holds a beneficial real property interest in a Navajo allotment that—

“(A) is located within the Navajo Reservation or the State of New Mexico;

“(B) is held in trust by the United States; and

“(C) was originally granted to an individual member of the Nation by public land order or otherwise.

“(6) ANIMAS-LA PLATA PROJECT.—The term ‘Animas-La Plata Project’ has the meaning given the term in section 3 of Public Law 100–585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Navajo Nation Municipal Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106–554; 114 Stat. 2763A–258).

“(7) CITY.—The term ‘City’ means the city of Gallup, New Mexico, or a designee of the City, with authority to provide water to the Gallup, New Mexico service area.

“(8) COLORADO RIVER COMPACT.—The term ‘Colorado River Compact’ means the Colorado River Compact of 1922 as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000).

“(9) COLORADO RIVER SYSTEM.—The term ‘Colorado River System’ has the same meaning given the term in Article II(a) of the Colorado River Compact.

“(10) COMPACT.—The term ‘Compact’ means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).

“(11) CONTRACT.—The term ‘Contract’ means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.

“(12) DEPLETION.—The term ‘depletion’ means the depletion of the flow of the San Juan River stream system in the State of New Mexico by a particular use of water (including any depletion incident to the use) and represents the diversion from the stream system by the use, less return flows to the stream system from the use.

“(13) DRAFT IMPACT STATEMENT.—The term ‘Draft Impact Statement’ means the draft environmental impact statement prepared by the Bureau of Reclamation for the Project dated March 2007.

“(14) FUND.—The term ‘Fund’ means the Reclamation Waters Settlements Fund established by section 10501(a) [43 U.S.C. 407(a)].

“(15) HYDROLOGIC DETERMINATION.—The term ‘hydrologic determination’ means the hydrologic determination entitled ‘Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,’ prepared by the Bureau of Reclamation pursuant to section 11 of the Act of June 13, 1962 (Public Law 87-483; 76 Stat. 99) [former 43 U.S.C. 615ss], and dated May 23, 2007.

“(16) LOWER BASIN.—The term ‘Lower Basin’ has the same meaning given the term in Article II(g) of the Colorado River Compact.

“(17) NATION.—The term ‘Nation’ means the Navajo Nation, a body politic and federally-recognized Indian nation as provided for in section 101(2) [102(2)] of the Federally Recognized Indian Tribe List [Act] of 1994 (25 U.S.C. 497a(2) [479a(2)]), also known variously as the ‘Navajo Tribe,’ the ‘Navajo Tribe of Arizona, New Mexico & Utah,’ and the ‘Navajo Tribe of Indians’ and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.

“(18) NAVAJO-GALLUP WATER SUPPLY PROJECT; PROJECT.—The term ‘Navajo-Gallup Water Supply Project’ or ‘Project’ means the Navajo-Gallup Water Supply Project authorized under section 10602(a) [123 Stat. 1379], as described as the preferred alternative in the Draft Impact Statement.

“(19) NAVAJO INDIAN IRRIGATION PROJECT.—The term ‘Navajo Indian Irrigation Project’ means the Navajo Indian irrigation project authorized by section 2 of Public Law 87-483 (76 Stat. 96) [former 43 U.S.C. 615j].

“(20) NAVAJO RESERVOIR.—The term ‘Navajo Reservoir’ means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the ‘Colorado River Storage Project Act’) (43 U.S.C. 620 et seq.).

“(21) NAVAJO NATION MUNICIPAL PIPELINE; PIPELINE.—The term ‘Navajo Nation Municipal Pipeline’ or ‘Pipeline’ means the pipeline used to convey the water of the Animas-La Plata Project of the Navajo Nation from the City of Farmington, New Mexico, to communities of the Navajo Nation located in close proximity to the San Juan River Valley in the State of New Mexico (including the City of Shiprock), as authorized by section 15(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585; 102 Stat. 2973; 114 Stat. 2763A-263).

“(22) NON-NAVAJO IRRIGATION DISTRICTS.—The term ‘Non-Navajo Irrigation Districts’ means—

“(A) the Hammond Conservancy District;

“(B) the Bloomfield Irrigation District; and

“(C) any other community ditch organization in the San Juan River basin in the State of New Mexico.

“(23) PARTIAL FINAL DECREE.—The term ‘Partial Final Decree’ means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth the rights of the Nation to use and administer waters of the San Juan River Basin in New Mexico, as set forth in Appendix 1 of the Agreement.

“(24) PROJECT PARTICIPANTS.—The term ‘Project Participants’ means the City, the Nation, and the Jicarilla Apache Nation.

“(25) SAN JUAN RIVER BASIN RECOVERY IMPLEMENTATION PROGRAM.—The term ‘San Juan River Basin Recovery Implementation Program’ means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).

“(26) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.

“(27) STREAM ADJUDICATION.—The term ‘stream adjudication’ means the general stream adjudication that is the subject of *New Mexico v. United States*, et al., No. 75-185 (11th Jud. Dist., San Juan County, New

Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

“(28) SUPPLEMENTAL PARTIAL FINAL DECREE.—The term ‘Supplemental Partial Final Decree’ means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth certain water rights of the Nation, as set forth in Appendix 2 of the Agreement.

“(29) TRUST FUND.—The term ‘Trust Fund’ means the Navajo Nation Water Resources Development Trust Fund established by section 10702(a) [123 Stat. 1402].

“(30) UPPER BASIN.—The term ‘Upper Basin’ has the same meaning given the term in Article II(f) of the Colorado River Compact.”

SUBCHAPTER III—INSTITUTION AND CONSTRUCTION OF PROJECTS

§ 411. Surveys for, location, and construction of irrigation works generally

The Secretary of the Interior is authorized and directed to make examinations and surveys for, and to locate and construct, as herein provided, irrigation works for the storage, diversion, and development of waters, including artesian wells.

(June 17, 1902, ch. 1093, § 2, 32 Stat. 388; Aug. 7, 1946, ch. 770, § 1(7), 60 Stat. 867.)

REFERENCES IN TEXT

Herein, referred to in text, means in act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in acts Mar. 2, 1889, ch. 411, § 1, 25 Stat. 960; Oct. 2, 1888, ch. 1069, § 1, 25 Stat. 526.

AMENDMENTS

1946—Act Aug. 7, 1946, struck out provisions requiring annual reports to Congress as to results of those examinations and surveys.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 411a. Repealed. Feb. 28, 1929, ch. 374, § 2, 45 Stat. 1406

Section, act June 28, 1926, ch. 704, 44 Stat. 776, authorized employment of engineers for consultation.

§ 411a-1. Authorization of appropriations for investigations of feasibility of reclamation projects

The sum of \$125,000 annually is authorized to be appropriated for cooperative and miscellaneous investigations of the feasibility of reclamation projects.

(Feb. 21, 1923, ch. 101, 42 Stat. 1281.)

§ 411b. Employment of engineers, geologists, appraisers and economists for reclamation consultation work; compensation; retired Army and Navy officers as consulting engineers

The Secretary of the Interior is authorized, in his judgment and discretion, to employ for con-