

vision of a project, the total accumulated net profits, as determined by the Secretary, derived from the operation of project power plants, leasing of project grazing and farm lands, and the sale or use of town sites shall be credited to the construction charge of the project, or a division thereof, and thereafter the net profits from such sources may be used by the water users to be credited annually, first, on account of project construction charge, second, on account of project operation and maintenance charge, and third, as the water users may direct. No distribution to individual water users shall be made out of any such profits before all obligations to the Government shall have been fully paid.

(Dec. 5, 1924, ch. 4, § 4, subsec. I, 43 Stat. 703.)

#### DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 502. Emergency fund to assure continuous operation of projects and project facilities governed by Federal reclamation law

In order to assure continuous operation of all projects and project facilities governed by the Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) [43 U.S.C. 422a et seq.] or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), there is hereby authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions.

(June 26, 1948, ch. 676, § 1, 62 Stat. 1052; Pub. L. 97-275, Oct. 1, 1982, 96 Stat. 1185.)

#### REFERENCES IN TEXT

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

The Small Reclamation Projects Act, referred to in text, probably means the Small Reclamation Projects Act of 1956, act Aug. 6, 1956, ch. 972, 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§ 422a et seq.) of this chapter. For complete classification of this Act to the Code, see section 422k of this title and Tables.

The Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), referred to in text, probably means act July 4, 1955, ch. 271, 69 Stat. 244, as amended, which is classified generally to sections 421a to 421h of this title. Act May 14, 1956, ch. 268, 70 Stat. 155, amended section 421c of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1982—Pub. L. 97-275 substituted “all projects and project facilities governed by the Federal reclamation

law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto)” for “irrigation or power systems operated and maintained by the Bureau of Reclamation, Department of the Interior”.

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

#### EMERGENCY DROUGHT AUTHORITY

Pub. L. 100-387, title IV, subtitle B, Aug. 11, 1988, 102 Stat. 957, provided that:

“PART 1—RECLAMATION STATES DROUGHT ASSISTANCE

“SEC. 411. SHORT TITLE.

“This part may be cited as the ‘Reclamation States Drought Assistance Act of 1988’.

“SEC. 412. ASSISTANCE DURING DROUGHT.

“The Secretary of the Interior, acting under the authorities of the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388) [see Short Title note under section 371 of this title], and Acts supplementary thereto and amendatory thereof) and other appropriate authorities of the Secretary shall—

“(1)(A) perform studies to identify opportunities to augment, make use of, or conserve water supplies available to Federal reclamation projects and Indian water resource developments, which studies shall be completed no later than March 1, 1990; and

“(B) consistent with existing contractual arrangements and State law, and without further authorization, undertake construction, management, and conservation activities that will mitigate or can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, or 1989, which construction shall be completed by December 31, 1989; and

“(2) assist willing buyers in their purchase of available water supplies from willing sellers and redistribute such water based upon priorities to be determined by the Secretary consistent with State law, with the objective of minimizing losses and damages resulting from drought conditions in 1987, 1988, and 1989.

“SEC. 413. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

“(a) GENERAL AUTHORITY.—The Secretary of the Interior may make available, by contract, consistent with existing contracts or agreements and State law, water or canal capacity at existing Federal reclamation projects to water users and others, on a temporary basis to mitigate losses and damages resulting from drought conditions in 1987, 1988, and 1989.

“(b) CONTRACTS.—Any contract signed under this section shall provide that—

“(1) the price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs, and an appropriate share of capital costs, except that, for water delivered to a landholding in excess of 960 acres of class I lands or the equivalent thereof for a qualified recipient and 320 acres of class I lands or the equivalent thereof for a limited recipient, the cost of such water shall be full cost (as defined in section 202(3)(A) of Public Law 97-293, 43 U.S.C. 390bb) for those acres in excess of 960 acres or 320 acres, as appropriate;

“(2) the lands not now subject to reclamation law that receive temporary irrigation water supplies

under this section shall not become subject to the ownership limitations of Federal reclamation law because of the delivery of such temporary water supplies;

“(3) the lands that are subject to the ownership limitations of Federal reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies; and

“(4) the contract shall terminate no later than December 31, 1989.

“(c) FISH AND WILDLIFE.—The Secretary may make available water for the purposes of protecting fish and wildlife resources, including mitigating losses that occur as a result of drought conditions.

“SEC. 414. EMERGENCY LOAN PROGRAM.

“The Secretary of the Interior may make loans to water users for the purposes of undertaking management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, and 1989. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate. Section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293; 43 U.S.C. 390cc) shall not apply to any contract to repay such loan.

“SEC. 415. INTERAGENCY COORDINATION.

“The program established by this part, to the extent practicable, shall be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary of the Interior shall consult such other Federal and State agencies as he deems necessary. Other Federal agencies performing relief functions under other Federal authorities shall provide the Secretary with information and records that the Secretary deems necessary for the administration of this part.

“SEC. 416. REPORT.

“Not later than March 1, 1990, the Secretary of the Interior shall submit a report and recommendations to the President and Congress on—

“(1) expenditures and accomplishments under this part;

“(2) legislative and administrative recommendations for responding to droughts and drought related problems in the Reclamation States; and

“(3) structural and non-structural measures to mitigate the effects of droughts.

“SEC. 417. CARRYOVER STORAGE AND WATER, NEW MELONES UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA.

“The first undesignated paragraph under the heading ‘San Joaquin River Basin’ in section 203 of the Flood Control Act of 1962 (Public Law 87-874, 76 Stat. 1191) is amended by inserting before the last period the following: ‘*And provided further*, That the Secretary of the Interior is authorized to make available to the Oakdale and South San Joaquin irrigation districts, at the current contract rate, unallocated storage of such districts carried over from the previous year’.

“SEC. 418. INITIATION AND DEADLINE OF EMERGENCY DROUGHT PROGRAM.

“(a) LIMITATION.—The programs and authorities established under this part shall become operative in any Reclamation State only after—

“(1) the Governor of that State has declared a drought emergency; and

“(2) the affected area is declared eligible for Federal disaster relief under applicable rules and regulations.

“(b) TERMINATION.—The programs and authorities established under this part shall terminate on December 31, 1989, unless otherwise specifically stated.

“PART 2—WATER PROJECT

“SEC. 421. CENTRAL VALLEY PROJECT WATER RELEASES.

“The Secretary of the Interior is authorized to install a temperature control curtain as a demonstration

project at Shasta Dam, Central Valley project, California, at a cost not to exceed \$5,500,000. The purpose of the demonstration project is to determine the effectiveness of the temperature control curtain in controlling the temperature of water releases from Shasta Dam, so as to protect and enhance anadromous fisheries in the Sacramento River and San Francisco Bay/Sacramento-San Joaquin Delta and Estuary[.]

“PART 3—AUTHORIZATION AND SAVINGS CLAUSE

“SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

“(a) There are authorized to be appropriated a total amount not to exceed \$25,000,000 for section 412(1)(B) and section 414 of this subtitle.

“(b) Unless otherwise specified, there are authorized to be appropriated such sums as may be necessary to carry out the remaining provisions of this subtitle.

“SEC. 432. SAVINGS CLAUSE.

“Nothing in this subtitle shall be construed as limiting or restricting the power and authority of the United States or—

“(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

“(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

“(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

“(4) as superseding, modifying, or repealing, except as specifically set forth in this subtitle, existing law applicable to the various Federal agencies; or

“(5) as modifying the terms of any interstate compact.”

USE OF WESTERN AREA POWER ADMINISTRATION CONTINUING FUND TO PAY FOR PURCHASE POWER AND WHEELING EXPENSES TO MEET CONTRACTUAL OBLIGATIONS DURING PERIODS OF BELOW-AVERAGE HYDRO-POWER GENERATION

Pub. L. 101-101, title III, Sept. 29, 1989, 103 Stat. 661, provided: “That, the continuing fund established in Public Law 98-50 [July 14, 1983, 97 Stat. 247, 257] shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-normal hydro-power generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the continuing fund shall occur within twelve months of the month in which the funds were first expended.”

EMERGENCY FUND

Provisions relating to appropriations for the emergency fund to assure continuous operation of projects and project facilities governed by Federal reclamation law were contained in the following appropriation acts:

Pub. L. 103-316, title II, Aug. 26, 1994, 108 Stat. 1714.

Pub. L. 103-126, title II, Oct. 28, 1993, 107 Stat. 1324.

Pub. L. 102-377, title II, Oct. 2, 1992, 106 Stat. 1329.

Pub. L. 102-104, title II, Aug. 17, 1991, 105 Stat. 524.

Pub. L. 101-514, title II, Nov. 5, 1990, 104 Stat. 2085.

Pub. L. 101-101, title II, Sept. 29, 1989, 103 Stat. 654.

Pub. L. 100-371, title II, July 19, 1988, 102 Stat. 864.

Pub. L. 100-202, §101(d) [title II], Dec. 22, 1987, 101 Stat. 1329-104, 1329-116.

Pub. L. 99-500, §101(e) [title II], Oct. 18, 1986, 100 Stat. 1783-194, 1783-202, and Pub. L. 99-591, §101(e) [title II], Oct. 30, 1986, 100 Stat. 3341-194, 3341-202.

Pub. L. 99-141, title II, title III, Nov. 1, 1985, 99 Stat. 569, 575.

Pub. L. 98-360, title II, title III, July 16, 1984, 98 Stat. 409, 416.

Pub. L. 98-50, title II, title III, July 14, 1983, 97 Stat. 252, 257.

Pub. L. 97-88, title III, Dec. 4, 1981, 95 Stat. 1145.  
 Pub. L. 96-367, title I, Oct. 1, 1980, 94 Stat. 1335.  
 Pub. L. 96-69, title I, Sept. 25, 1979, 93 Stat. 440.  
 Pub. L. 94-355, title III, July 12, 1976, 89 Stat. 895.  
 Pub. L. 93-393, title III, Aug. 28, 1974, 88 Stat. 787.  
 Pub. L. 93-97, title III, Aug. 16, 1973, 87 Stat. 321.  
 Pub. L. 92-134, title III, Oct. 5, 1971, 85 Stat. 370.  
 Pub. L. 91-144, title III, Dec. 11, 1969, 83 Stat. 331.  
 Pub. L. 89-689, title II, Oct. 15, 1966, 80 Stat. 1008.  
 Pub. L. 88-511, title II, Aug. 30, 1964, 78 Stat. 687.  
 Pub. L. 87-880, title II, Oct. 24, 1962, 76 Stat. 1221.

TEMPORARY AUTHORITY OF SECRETARY OF THE INTERIOR TO FACILITATE EMERGENCY ACTIONS WITH REGARD TO 1976-1977 DROUGHT

Pub. L. 95-18, Apr. 7, 1977, 91 Stat. 36, as amended by Pub. L. 95-107, Aug. 17, 1977, 91 Stat. 870; Pub. L. 95-226, Feb. 7, 1978, 92 Stat. 10, directed Secretary of the Interior to undertake construction, management and conservation activities designed to mitigate losses and damages to Federal reclamation projects and Indian irrigation projects resulting from 1976-1977 drought, to assist willing buyers in purchasing available water supplies from willing sellers, and to undertake studies of potential facilities to mitigate effects of a recurrence of drought and make recommendations to President and Congress evaluating potential undertakings, authorized Secretary to defer, without penalty, the 1977 installment payments on charges owed the United States and to make loans to irrigators for construction, management, conservation activities, or acquisition and transportation of water, appropriated \$100,000,000 to carry out provisions of this Act and specified the availability of such funds for expenditures, directed Secretary, not later than May 1, 1978, to provide President and Congress a complete report on expenditures and accomplishments, and provided that authorities conferred by this Act terminate on Nov. 30, 1977.

**§ 503. “Unusual or emergency conditions” defined**

The term “unusual or emergency conditions”, as used in section 502 of this title, shall be construed to mean canal bank failures, generator failures, damage to transmission lines; or other physical failures or damage, or acts of God, or of the public enemy, fires, floods, drought, epidemics, strikes, or freight embargoes, or conditions, causing or threatening to cause interruption in water or power service.

(June 26, 1948, ch. 676, § 2, 62 Stat. 1052.)

**§ 504. Rehabilitation and betterment of Federal reclamation projects, including small reclamation projects; return of costs; interest; definitions; performance of work**

Expenditures of funds hereafter specifically appropriated for rehabilitation and betterment of any project constructed under authority of the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof and supplementary thereto) [43 U.S.C. 422a et seq.] and of irrigation systems on projects governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), shall be made only after the organizations concerned shall have obligated themselves for the return thereof, in installments fixed in accordance with their ability to pay, as determined by the Secretary of the Interior in the light of their outstanding repayment obligations, and which shall, to the fullest practicable extent, be sched-

uled for return with their construction charge installments or otherwise scheduled as he shall determine: *Provided*, That repayment of such loans made for small reclamation projects shall include interest in accordance with the provisions of said Small Reclamation Projects Act. No such determination of the Secretary of the Interior shall become effective until the expiration of sixty days after it has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; except that, any such determination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary in writing, of such approval: *Provided*, That when Congress is not in session the Secretary’s determination, if accompanied by a finding by the Secretary that substantial hardship to the water users concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings. The term “rehabilitation and betterment”, as used in this section, shall mean maintenance, including replacements, which cannot be financed currently, as otherwise contemplated by the Federal reclamation laws in the case of operation and maintenance costs, but shall not include construction, the costs of which are returnable, in whole or in part, through “construction charges” as that term is defined in section 485a(d) of this title. Such rehabilitation and betterment work may be performed by contract, by force-account, or, notwithstanding any other law and subject to such reasonable terms and conditions as the Secretary of the Interior shall deem appropriate for the protection of the United States, by contract entered into with the organization concerned whereby such organization shall perform such work.

(Oct. 7, 1949, ch. 650, § 1, 63 Stat. 724; Mar. 3, 1950, ch. 47, 64 Stat. 11; Pub. L. 94-102, Oct. 3, 1975, 89 Stat. 485; Pub. L. 103-437, § 16(c), Nov. 2, 1994, 108 Stat. 4594.)

REFERENCES IN TEXT

The Small Reclamation Projects Act, referred to in text, probably means the Small Reclamation Projects Act of 1956, act Aug. 6, 1956, ch. 972, 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§ 422a et seq.) of this chapter. For complete classification of this Act to the Code, see section 422k of this title and Tables.

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

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House” for “Committee on Interior and Insular Affairs of the Senate and the Committee on Public Lands of the House”.

1975—Pub. L. 94-102 required return of costs for small reclamation projects including interest payments.

1950—Act Mar. 3, 1950, struck out period at end of second sentence and inserted “; except that, any such de-