

known and designated as the 'Hayden-Rhodes Aqueduct'.

"(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the 'Hayden-Rhodes Aqueduct'."

#### § 1522. Orme Dam and Reservoir

##### (a) Acquisition of lands of Salt River Pima-Maricopa Indian Community and Fort McDowell-Apache Indian Community; relocation; eminent domain

The Secretary shall designate the lands of the Salt River Pima-Maricopa Indian Community, Arizona, and the Fort McDowell-Apache Indian Community, Arizona, or interests therein, and any allotted lands or interests therein within said communities which he determines are necessary for use and occupancy by the United States for the construction, operation, and maintenance of Orme Dam and Reservoir, or alternative. The Secretary shall offer to pay the fair market value of the lands and interests designated, inclusive of improvements. In addition, the Secretary shall offer to pay toward the cost of relocating or replacing such improvements not to exceed \$500,000 in the aggregate, and the amount offered for the actual relocation or replacement of a residence shall not exceed the difference between the fair market value of the residence and \$8,000. Each community and each affected allottee shall have six months in which to accept or reject the Secretary's offer. If the Secretary's offer is rejected, the United States may proceed to acquire the property interests involved through eminent domain proceedings in the United States District Court for the District of Arizona under sections 3113 and 3114(a) to (d) of title 40. Upon acceptance in writing of the Secretary's offer, or upon the filing of a declaration of taking in eminent domain proceedings, title to the lands or interests involved, and the right to possession thereof, shall vest in the United States. Upon a determination by the Secretary that all or any part of such lands or interests are no longer necessary for the purpose for which acquired, title to such lands or interests shall be restored to the appropriate community upon repayment to the Federal Government of the amounts paid by it for such lands.

##### (b) Rights of former owners to use or lease land

Title to any land or easement acquired pursuant to this section shall be subject to the right of the former owner to use or lease the land for purposes not inconsistent with the construction, operation, and maintenance of the project, as determined by, and under terms and conditions prescribed by, the Secretary. Such right shall include the right to extract and dispose of minerals. The determination of fair market value under subsection (a) shall reflect the right to extract and dispose of minerals and all other uses permitted by this section.

##### (c) Addition of land to Fort McDowell Indian Reservation

In view of the fact that a substantial portion of the lands of the Fort McDowell Mohave-Apache Indian Community will be required for Orme Dam and Reservoir, or alternative, the Secretary shall, in addition to the compensation

provided for in subsection (a) of this section, designate and add to the Fort McDowell Indian Reservation twenty-five hundred acres of suitable lands in the vicinity of the reservation that are under the jurisdiction of the Department of the Interior in township 4 north, range 7 east; township 5 north, range 7 east; and township 3 north, range 7 east, Gila and Salt River base meridian, Arizona. Title to lands so added to the reservation shall be held by the United States in trust for the Fort McDowell Mohave-Apache Indian Community.

##### (d) Recreational facilities developed and operated by Indian communities along Orme Reservoir shoreline

Each community shall have a right, in accordance with plans approved by the Secretary, to develop and operate recreational facilities along the part of the shoreline of the Orme Reservoir located on or adjacent to its reservation, including land added to the Fort McDowell Reservation as provided in subsection (b) of this section, subject to rules and regulations prescribed by the Secretary governing the recreation development of the reservoir. Recreation development of the entire reservoir and federally owned lands under the jurisdiction of the Secretary adjacent thereto shall be in accordance with a master recreation plan approved by the Secretary. The members of each community shall have non-exclusive personal rights to hunt and fish on or in the reservoir without charge to the same extent they are now authorized to hunt and fish, but no community shall have the right to exclude others from the reservoir except by control of access through its reservation or any right to require payment by members of the public except for the use of community lands or facilities.

##### (e) Exemption of funds from State and Federal income taxes

All funds paid pursuant to this section, and any per capita distribution thereof, shall be exempt from all forms of State and Federal income taxes.

(Pub. L. 90-537, title III, §302, Sept. 30, 1968, 82 Stat. 888.)

#### CODIFICATION

In subsec. (a), "sections 3113 and 3114(a) to (d) of title 40" substituted for "40 U.S.C., sections 257 and 258a" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

#### INAPPLICABILITY OF SUBSECTION (a) TO FORT MCDOWELL INDIAN COMMUNITY

Pub. L. 101-628, title IV, §411(e), Nov. 28, 1990, 104 Stat. 4491, provided that: "As of the date the authorizations contained in section 409(b) of this Act become effective [see section 412 of Pub. L. 101-628, 104 Stat. 4491], section 302(a) of the Colorado River Basin Project Act (43 U.S.C. 1522(a)) shall no longer apply to the Community [Fort McDowell Indian Community]."

#### INAPPLICABILITY TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Pub. L. 100-512, §11(c), Oct. 20, 1988, 102 Stat. 2558, provided that: "Upon the effective date of this Act as set forth in section 12 [102 Stat. 2559], section 302 of the Colorado River Basin Project Act (43 U.S.C. 1522) shall

no longer apply to the Community [Salt River Pima-Maricopa Indian Community].”

**§ 1523. Power requirements of Central Arizona Project and augmentation of Lower Colorado River Basin Development Fund**

**(a) Engineering and economic studies**

The Secretary is authorized and directed to continue to a conclusion appropriate engineering and economic studies and to recommend the most feasible plan for the construction and operation of hydroelectric generating and transmission facilities, the purchase of electrical energy, the purchase of entitlement to electrical plant capacity, or any combination thereof, including participation, operation, or construction by non-Federal entities, for the purpose of supplying the power requirements of the Central Arizona Project and augmenting the Lower Colorado River Basin Development Fund: *Provided*, That nothing in this section or in this chapter contained shall be construed to authorize the study or construction of any dams on the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam.

**(b) Construction of thermal generating powerplants; agreements for acquisition by United States of portions of plant capacity**

If included as a part of the recommended plan, the Secretary may enter into agreements with non-Federal interests proposing to construct thermal generating powerplants whereby the United States shall acquire the right to such portions of their capacity, including delivery of power and energy over appurtenant transmission facilities to mutually agreed upon delivery points, as he determines is required in connection with the operation of the Central Arizona Project. When not required for the Central Arizona Project, the power and energy acquired by such agreements may be disposed of intermittently by the Secretary for other purposes at such prices as he may determine, including its marketing in conjunction with the sale of power and energy from Federal powerplants in the Colorado River system so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. The agreements shall provide among other things, that—

(1) the United States shall pay not more than that portion of the total construction cost, exclusive of interest during construction, of the powerplants, and of any switchyards and transmission facilities serving the United States, as is represented by the ratios of the respective capacities to be provided for the United States therein to the total capacities of such facilities. The Secretary shall make the Federal portion of such costs available to the non-Federal interests during the construction period, including the period of preparation of designs and specifications, in such installments as will facilitate a timely construction schedule, but no funds other than for pre-construction activities shall be made available by the Secretary until he determines that adequate contractual arrangements have been entered into between all the affected parties covering land, water, fuel supplies, power (its

availability and use), rights-of-way, transmission facilities and all other necessary matters for the thermal generating powerplants;

(2) annual operation and maintenance costs shall be apportioned between the United States and the non-Federal interests on an equitable basis taking into account the ratios determined in accordance with the foregoing clause (1): *Provided, however*, That the United States shall share on the foregoing basis in the depreciation component of such costs only to the extent of provision for depreciation on replacements financed by the non-Federal interests;

(3) the United States shall be given appropriate credit for any interests in Federal lands administered by the Department of the Interior that are made available for the power plants and appurtenances;

(4) costs to be borne by the United States under clauses (1) and (2) shall not include (a) interest and interest during construction, (b) financing charges, (c) franchise fees, and (d) such other costs as shall be specified in the agreement.

**(c) Recommended plan; submission to Congress**

No later than one year from September 30, 1968, the Secretary shall submit his recommended plan to the Congress. Except as authorized by subsection (b) of this section, such plan shall not become effective until approved by the Congress.

**(d) Apportionment of water for Arizona plants diverted above Lee Ferry**

If any thermal generating plant referred to in subsection (b) of this section is located in Arizona, and if it is served by water diverted from the drainage area of the Colorado River system above Lee Ferry, other provisions of existing law to the contrary notwithstanding, such consumptive use of water shall be a part of the fifty thousand acre-feet per annum apportioned to the State of Arizona by article III(a) of the Upper Colorado River Basin Compact (63 Stat. 31).

(Pub. L. 90-537, title III, §303, Sept. 30, 1968, 82 Stat. 889.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 90-537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa-1, 620a-1, 620a-2, 620c-1, and 620d-1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

**§ 1524. Water furnished from Central Arizona Project**

**(a) Restriction on use of water for irrigation**

Unless and until otherwise provided by Congress, water from the Central Arizona Project shall not be made available directly or indirectly for the irrigation of lands not having a recent irrigation history as determined by the Secretary, except in the case of Indian lands, national wildlife refuges, and, with the approval of