

torney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this chapter; and he shall be represented in the prosecution and defense of all litigation, affecting the status or operation of Bonneville project by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as authorized by law, in conjunction with the regularly employed attorneys of the Administrator.

(Aug. 20, 1937, ch. 720, §12, 50 Stat. 736; Oct. 23, 1945, ch. 433, §6, 59 Stat. 547; July 26, 1946, ch. 673, 60 Stat. 701.)

#### AMENDMENTS

1946—Subsec. (b). Act July 26, 1946, took from the Administrator the authority to make settlement of suits.

1945—Act Oct. 23, 1945, added subsec. (a), designated existing provisions as subsec. (b), and amended such provisions generally.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

#### § 832l. Separability

If any provision of this chapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Aug. 20, 1937, ch. 720, §13, 50 Stat. 736.)

#### § 832m. Sale of excess Federal power; fish and wildlife conservation within Federal Columbia River Power System; residential exchange; personnel flexibility

##### (a) Definitions

In this section:

##### (1) Administrator

The term "Administrator" means the Administrator of the Bonneville Power Administration.

##### (2) Council

The term "Council" means the Northwest Power and Conservation Planning Council.

##### (3) Excess Federal power

The term "excess Federal power" means such electric power that has become surplus to the firm contractual obligations of the Administrator under section 839c(f) of this title due to either—

(A) any reduction in the quantity of electric power that the Administrator is contractually required to supply under subsections (b) and (d) of section 839c of this title, due to the election by customers of the Bonneville Power Administration to purchase electric power from other suppliers, as

compared to the quantity of electric power that the Administrator was contractually required to supply as of January 1, 1995; or

(B) those operations of the Federal Columbia River Power System that are primarily for the benefit of fish and wildlife affected by the development, operation, or management of the System.

##### (b) Sale of excess Federal power

Notwithstanding section 837a of this title, subsections (a), (b), and (c) of section 837b of this title, and section 837f of this title, and section 839f(c) of this title, the Administrator may, as permitted by otherwise applicable law, sell or otherwise dispose of excess Federal power—

(1) outside the Pacific Northwest on a firm basis for a contract term of not to exceed 7 years, if the excess Federal power is first offered for a reasonable period of time and under the same essential rate, terms and conditions to those Pacific Northwest public body, cooperative and investor-owned utilities and those direct service industrial customers identified in subsection (b) or (d)(1)(A) of section 839c of this title; and

(2) in any region without the prohibition on resale established by the second sentence of section 832d(a) of this title.

##### (c) Study by Council

(1)<sup>1</sup> Within 180 days of November 13, 1995, the Council shall review and report to Congress regarding the most appropriate governance structure to allow more effective regional control over efforts to conserve and enhance anadromous and resident fish and wildlife within the Federal Columbia River Power System.

##### (d) Corps of Engineers procurement

The Assistant Secretary of the Army for Civil Works, acting through the North Pacific Division of the Corps of Engineers, is authorized to place orders for goods and services related to facilities for electric power generation and fish and wildlife mitigation associated with the Federal Columbia River Power System with and through the Administrator using the authorities available to the Administrator.

##### (e) Residential exchange

Notwithstanding the establishment, confirmation and approval of rates pursuant to section 839e of this title, and notwithstanding the provisions of section 839c(c) of this title, the cost benefits of eligible utilities' total purchase and exchange sales under section 839c(c)(1) of this title shall be \$145,000,000 for fiscal year 1997, and the net benefits paid to each eligible electric utility shall be \$145,000,000 multiplied by the percentage of the total of such net benefits paid by the Administrator to such utility for fiscal year 1995.

##### (f) Personnel flexibility

The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed \$25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration.

<sup>1</sup> So in original. No par. (2) has been enacted.

**(g) Savings**

Unless superseded by an Act of Congress, the authority provided by this section is expressly intended to extend beyond the fiscal year.

(Pub. L. 104-46, title V, §508, Nov. 13, 1995, 109 Stat. 419.)

## CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1996, and not as part of the Bonneville Project Act of 1937 which comprises this chapter.

## VOLUNTARY SEPARATION INCENTIVES TO EMPLOYEES

Pub. L. 104-206, title V, §511, Sept. 30, 1996, 110 Stat. 3004, as amended by Pub. L. 106-377, §1(a)(2) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A-76, provided that: "The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed \$25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration. This authority shall expire January 1, 2003."

**CHAPTER 12C—FORT PECK PROJECT**

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**§ 833. Completion and maintenance of project; generation of electricity**

For the purpose of improving navigation on the Missouri River, and for other purposes incidental thereto, the dam and appurtenant works now under construction at Fort Peck, Montana, and a suitable power plant for the production of hydroelectric power (which dam, power plant, and appurtenant works are hereinafter called Fort Peck project), shall be completed, maintained, and operated under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, subject to the provisions of this chapter relating to the powers and duties of the Bureau of Reclamation (hereinafter called the Bureau), as provided for in section 833a(a) of this title, respecting the transmission and sale of electric energy generated at said project. The

Secretary of the Army shall provide, construct, operate, maintain, and improve at Fort Peck project such machinery, equipment, and facilities for the generation of electric energy as the Bureau may deem necessary to develop such electric energy as rapidly as markets may be found therefor. The electric energy thus generated and not required for the operation of the dam at such project and the navigation facilities employed in connection therewith shall be delivered to the Bureau for disposition as provided in this chapter.

(May 18, 1938, ch. 250, §1, 52 Stat. 403; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

## CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

## TRANSFER OF FUNCTIONS

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

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 in the Appendix to Title 5, Government Organization and Employees.

**§ 833a. Administration of project****(a) Disposal of energy; temporary administration; installation and maintenance of equipment**

The electric energy generated in the operation of the said Fort Peck project shall be disposed of by the Bureau as hereinafter provided. The Bureau shall exercise the powers and perform the duties provided for in this chapter under the supervision and direction of the Secretary of the Interior in accordance with section 373a of title 43. The Bureau shall, as hereinafter provided, make all arrangements for the sale and disposition of electric energy generated at the Fort Peck project not required for the operation of the dam at such project and the navigation facilities employed in connection therewith. The form of administration herein established for the Fort Peck project is intended to be provisional pending the establishment of a permanent administration for Fort Peck and other projects in the Missouri River Basin. The Secretary of the Army shall install and maintain additional machinery, equipment, and facilities for the generation of electric energy at the Fort Peck project when in the judgment of the Bureau such additional generating facilities are desirable to meet actual or potential market requirements for such electric energy. The Secretary of the Army shall schedule the operations of the sev-