Public Law 101-183
101st Congress

Joint Resolution

Nov. 28, 1989
[H.J. Res. 393]

To grant the consent of Congress to the boundary change compact between South Dakota and Nebraska.

Real property.
Rivers and harbors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the consent of Congress is hereby given to—

(1) the South Dakota-Nebraska Boundary Compact, approved by the State of South Dakota on March 14, 1989, and by the State of Nebraska on May 25, 1989; and

(2) the establishment of the boundary between the States of South Dakota and Nebraska agreed to in the compact referred to in paragraph (1).

(b) The South Dakota-Nebraska Boundary Compact is substantially as follows:

SOUTH DAKOTA-NEBRASKA BOUNDARY COMPACT

WHEREAS, the Missouri River has constituted the territorial boundary between the state of Nebraska and the state of South Dakota common to Dakota County, Nebraska, and Union County, South Dakota; and,

WHEREAS, by the forces of nature and construction, operation and maintenance efforts by agencies of the federal government, the flow of the Missouri River has changed its course, and the main channel of the river has changed its position in many areas along the boundary between said counties of the states; and,

WHEREAS, disputes between the state of Nebraska and the state of South Dakota, their political and governmental subdivisions, citizens and other persons have arisen with respect to the location of the true boundary between said counties of the states; and,

WHEREAS, there has for many years existed as between said counties of the states, a question as to the true and correct boundary line between them; and,

WHEREAS, in some areas land is taxed or may be taxed by governmental bodies in both states and in other areas land may be untaxed by governmental bodies in either state; and,

WHEREAS, at times courts have found some land as located in Nebraska, at other times the courts have found the same land as located in South Dakota; and,

WHEREAS, the Missouri River is now relatively stabilized by work done under the direction and supervision of the United States Army Corps of Engineers, and a boundary based upon the present main channel of the Missouri River would be, if the works are properly maintained, as near as can be anticipated at this time, fixed and permanent; and,

WHEREAS, it is to the best interest of the states of Nebraska and South Dakota, their political and governmental subdivisions and their citizens, to determine a new and compromise boundary be-

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tween said counties of the states, to avoid litigation and multiple exercises of sovereignty and jurisdiction, to encourage the optimum beneficial use of the river, its facilities and its waters, and to remove all causes of controversy between said states with respect to the boundary between said counties of the states; and,

WHEREAS, the states by entering into an agreement for a new boundary are not recognizing and do not desire to recognize the former compact boundary established between them by their legislative actions and the consent of the Congress in 1905; and,

WHEREAS, because of the numerous natural cutoffs over the years and the construction and stabilization work by the Corps of Engineers, which included the dredging of channels and construction of dikes and revetments, thus moving the river around and across islands, bar areas, and lands, as between the states, neither of them recognizes any presumption that the river has moved gradually into the present designed channel location; and,

WHEREAS, the states recognize that the Corps of Engineers' activities have caused tracts of land formerly on one side of the river to be isolated on the other side, and the states recognize there may have been many natural cutoffs of the Missouri River prior to the stabilization work by the Corps of Engineers; and,

WHEREAS, as to lands along or in proximity to the Missouri River, the states desire not to disturb private titles or claims which may have been established by individuals by recognizing or locating any specific areas as belonging to or being within one state or the other; instead the states desire to leave any questions of private titles to the parties involved; and,

WHEREAS, the terms of this compact shall be binding upon the states, their political and governmental subdivisions and officers and agents thereof; and,

WHEREAS, the parties recognize that the present main channel of the Missouri River as it exists within the designed channel stabilized by the Corps of Engineers is or may be different from a line parallel and equidistant from the present banks of the Missouri River; and,

WHEREAS, the states of Nebraska and South Dakota have agreed upon the terms and provisions of a compact to establish the boundary between said counties of the state.

To these ends, duly appointed commissioners for the state of Nebraska and the state of South Dakota jointly convened on February 24, 1989, in Lincoln, Nebraska, and have resolved to conclude a compact, following enactment by their respective legislative bodies and with consent of the Congress of the United States, and have agreed upon the following Articles:

ARTICLE I. Findings and Purposes

(a) The state of Nebraska and the state of South Dakota find that there have been actual and potential disputes, controversies, criminal proceedings and litigation arising or which may arise out of the location of the boundary line between Dakota County, Nebraska, and Union County, South Dakota; that the Missouri River constituting the boundary between said counties of the states has changed its course from time to time, and that the United States Army Corps of Engineers has established a designed channel of the river for navigation and other purposes, which is described and shown in the survey referred to in Article II.

(b) It is the principal purpose of the states in executing this compact to establish an identifiable compromise boundary between said counties of the states for the entire distance thereof as of the effective date of this compact without interfering with or otherwise affecting private rights or titles to property, and the states declare that further compelling purposes of this compact are: (1) to create a friendly and harmonious interstate relationship; (2) to avoid multiple exercise of sovereignty and jurisdiction including matters of taxation, judicial and police powers and exercise of administrative authority; (3) to encourage settlement and disposition of pending litigation and criminal proceedings and avoid or minimize future disputes and litigations; (4) to promote economic and political stability; (5) to encourage the optimum mutual beneficial use of the Missouri River, its waters and its facilities; (6) to establish a forum for settlement of future disputes; (7) to place the boundary in a new or reestablished location which can be identified or located; and (8) to express the intent and policy of the states that the common boundary between said counties be established within the confines of the Missouri River and both states shall continue to have access to and use of the waters of the river.

ARTICLE II. Establishment of Boundary

(a) The permanent compromise boundary line between said counties of the states shall be fixed at the centerline of the designed channel of the Missouri River (the westerly channel adjacent to Section 5, Township 29 North, Range 7 East of the 6th P.M. shall be considered the main channel). The state of Nebraska and the state of South Dakota by the ratification of this document agree to accurately describe the centerline of the design channel by reference to permanent monuments which shall be placed at locations which are easily accessible and safe from destruction. The Nebraska State Surveyors Office and a representative from South Dakota shall jointly supervise and approve placement of the monuments and the location of the compact boundary. Upon completion, the maps and record of the survey shall be incorporated herein and made a part hereof by reference. Said maps shall be placed on file with the secretaries of state of South Dakota and Nebraska. The approval of contracts and all necessary costs for the accurate survey and placement of proper monuments shall be shared equally between the states of South Dakota and Nebraska.

(b) This centerline of the channel of the Missouri River as described on said survey shall hereinafter be referred to as the "compromise boundary."

ARTICLE III. Relinquishment of Sovereignty

On the effective date of this compact, the state of South Dakota hereby relinquishes to the state of Nebraska all sovereignty over lands lying on the Nebraska side of said compromise boundary and the state of Nebraska hereby relinquishes to the state of South Dakota all sovereignty over lands lying on the South Dakota side of the compromise boundary.

ARTICLE IV. Pending Litigation

Nothing in this compact shall be deemed or construed to affect any litigation pending in the courts of either of the states concerning title to any of the lands, sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska or by the state

of Nebraska to the state of South Dakota and any matter concerning the title to lands, sovereignty over which is relinquished by either state to the other, may be continued in the courts of the state where pending until a final determination thereof.

ARTICLE V. Public Records

(a) On and following the effective date of this compact, the public record of real estate titles, mortgages and other liens in the state of Nebraska to any lands, the sovereignty over which is relinquished by the state of Nebraska to the state of South Dakota, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the state of Nebraska, by the courts of the state of South Dakota.

(b) On and following the effective date of this compact, the public record of real estate titles, mortgages and other liens in the state of South Dakota to any lands, the sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the state of South Dakota, by the courts of the state of Nebraska.

(c) As to lands, the sovereignty over which is relinquished, on the effective date of this compact the recording officials of each state including the counties thereof shall accept for filing documents of title using legal descriptions derived from the land descriptions of the other state. The acceptance of such documents for filing shall have no bearing upon the legal effect or sufficiency thereof.

ARTICLE VI. Taxes

(a) Taxes for the calendar year of the effective date of this compact which are lawfully imposed by either Nebraska or South Dakota may be levied and collected by such state or its authorized governmental subdivisions and agencies on land, subsequent jurisdiction over which is relinquished by the taxing state to the other, and any liens or other rights accrued or accruing, including the right of collection, shall be fully recognized and the county treasurers of the said counties or other taxing authorities affected shall act as agents in carrying out the provisions of this Article; provided, that all liens or other rights arising out of the imposition of taxes, accrued or accruing as aforesaid, shall be claimed or asserted within five years after this compact becomes effective and if not so claimed or asserted shall be forever barred.

(b) The lands, sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska, shall not thereafter be subject to the imposition of taxes in the state of South Dakota from and after the calendar year of the effective date of this compact. The lands, sovereignty over which is relinquished by the state of Nebraska to the state of South Dakota, shall not thereafter be subject to the imposition of taxes in the state of Nebraska from and after the calendar year of the effective date of this compact.

ARTICLE VII. Private Rights

(a) This compact shall not deprive any riparian owner of such riparian owner's rights based upon riparian law and the establishment of the compromise boundary between said counties of the state shall not in any way be deemed to change or affect the boundary line or riparian owners along the Missouri River as between such owners. The establishment of the compromise boundary shall not

operate to limit such riparian owner's rights to accretions across such compromise boundary.

(b) No private individual or entity claiming title to lands along the Missouri River, over which sovereignty is relinquished by this compact, shall be prejudiced by the relinquishment of such sovereignty and any claims or possessory rights necessary to establish adverse possession shall not be terminated or limited by the fact that the jurisdiction over such lands may have been transferred by the compact. Neither state will assert any claim of title to abandoned beds of the Missouri River, lands along the Missouri River, or the bed of the Missouri River based upon any doctrine of state ownership of the beds or abandoned beds of navigable waters, as against any land owners or claimants claiming interest in real estate arising out of titles, muniments of title, or exercises of jurisdiction of or from the other state, which titles or muniments of title commenced prior to the effective date of this compact.

ARTICLE VIII. Readjustment of Boundary by Negotiation

If at any time after the effective date of this compact, the Missouri River shall move or be moved by natural means or otherwise so that the flow thereof at any point along the course forming the boundary between the states occurs entirely within one of the states, each state at the request of the other, agrees to enter into and conduct negotiations in good faith for the purpose of readjusting the boundary at the place or places where such movement occurred consistent with the intent, policy and purpose hereof that the boundary will be placed within the Missouri River.

ARTICLE IX. Effective Date

(a) This compact shall become effective when ratified by the legislature of the state of Nebraska and the legislature of the state of South Dakota and approved by the Congress of the United States.

(b) As of the effective date of this compact, the state of Nebraska and the state of South Dakota shall relinquish sovereignty over the lands described herein and shall assume and accept sovereignty over such lands ceded to them as herein provided.

(c) In the event this compact is not approved by the legislature of each state on or before July, 1990, and approved by the Congress of the United States within three years from the date hereof, this compact shall be inoperative and for all purposes shall be void.

ARTICLE X. Enforcement

Nothing in this compact shall be construed to limit or prevent either state from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction, for the protection of any right under this compact or the enforcement of any of its provisions.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 393 (S.J. Res. 192):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed House and Senate.