

Public Law 101-438
101st Congress

An Act

To provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

Oct. 18, 1990

[H.R. 4758]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rio Grande
American Canal
Extension Act of
1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande American Canal Extension Act of 1990".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Riverside Dam on the international reach of the Rio Grande River at El Paso, Texas, provides the water used to irrigate nearly 32,000 acres of farmland in the United States.

(2) In June 1987, the Riverside Dam failed, and the temporary replacement structure now in place on the river cannot be relied upon to guarantee the continued provision of these waters to the United States.

(3) Building a permanent structure in an international reach of the Rio Grande would require the conditional approval of the Government of Mexico through an action of the International Boundary and Water Commission, United States and Mexico, and Mexico could use such structure to divert waters to its own land.

(4) The United States constructed the American Dam completely in United States territory to ensure that waters from the American Canal would be completely retained within the United States up to a point below Mexico's diversion at the International Dam.

(5) Potentially disruptive international issues might arise from the commingling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river.

(6) The construction and operation of an extension of the American Canal which would lie wholly in the United States would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and eliminate many hazards to public safety.

SEC. 3. CONSTRUCTION OF CANAL EXTENSION, OPERATION, MAINTENANCE, AND USE.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at

the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.—The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-Federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay \$5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will contribute a cumulative amount of \$50,000 each year to the United States Commissioner as its share of the costs for maintenance of the extension of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-

Government
contracts.
Mexico.

Urban Wage Earners and Clerical Workers (CPI-W)—1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund for necessary preventative and routine maintenance work to be performed by the United States Section, International Boundary and Water Commission.

(f) **REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.**—Title IV of the Act entitled “An Act to authorize various Federal reclamation projects and programs, and for other purposes”, approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

SEC. 4. STUDY OF SUBSIDENCE DAMAGE.

The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in section 3(a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) \$42,000,000 to construct the extension of the American Canal provided for in section 3(a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by section 4.

SEC. 6. DEFINITIONS.

As used in this Act—

(1) the term “American Canal” means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961);

(2) the term “United States Commissioner” means the United States Commissioner, International Boundary and Water Commission, United States and Mexico; and

(3) the term “Secretary” means the Secretary of State, acting through the United States Commissioner.

Approved October 18, 1990.

LEGISLATIVE HISTORY—H.R. 4758:

CONGRESSIONAL RECORD, Vol. 136 (1990):

June 12, considered and passed House.

Oct. 4, considered and passed Senate.