

cluding 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 preconstruction 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.)

Editorial Notes

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, 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 the Secretary, State-administered wildlife management areas.

(b) Contracts with municipal and industrial users

(1) Irrigation and municipal and industrial water supply under the Central Arizona Project within the State of Arizona may, in the event the Secretary determines that it is necessary to effect repayment, be pursuant to master contracts with organizations which have power to levy assessments against all taxable real property within their boundaries. The terms and conditions of contracts or other arrangements

whereby each such organization makes water from the Central Arizona Project available to users within its boundaries shall be subject to the Secretary's approval, and the United States shall, if the Secretary determines such action is desirable to facilitate carrying out the provisions of this chapter, have the right to require that it be a party to such contracts or that contracts subsidiary to the master contracts be entered into between the United States and any user. The provisions of this clause (1) shall not apply to the supplying of water to an Indian tribe for use within the boundaries of an Indian reservation.

(2) Any obligation assumed pursuant to section 485h(d) of this title with respect to any project contract unit or irrigation block shall be repaid over a basic period of not more than fifty years; any water service provided pursuant to section 485h(e) of this title may be on the basis of delivery of water for a period of fifty years and for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits and from such other points of delivery as the Secretary may designate; and long-term contracts relating to irrigation water supply shall provide that water made available thereunder may be made available by the Secretary for municipal or industrial purposes if and to the extent that such water is not required by the contractor for irrigation purposes.

(3) Contracts relating to municipal and industrial water supply under the Central Arizona Project may be made without regard to the limitations of the last sentence of section 485h(c) of this title; may provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits; and may provide for repayment over a period of fifty years if made pursuant to clause (1) of said section and for the delivery of water over a period of fifty years if made pursuant to clause (2) thereof.

(c) Water conservation

Each contract under which water is provided under the Central Arizona Project shall require that (1) there be in effect measures, adequate in the judgment of the Secretary, to control expansion of irrigation from aquifers affected by the irrigation in the contract service area; (2) the canals and distribution systems through which water is conveyed after its delivery by the United States to the contractors shall be provided and maintained with linings adequate in his judgment to prevent excessive conveyance losses; and (3) [Repealed. Pub. L. 102-575, title XXXVII, §3710(k), Oct. 30, 1992, 106 Stat. 4751]. Such contracts shall be subordinate at all times to the satisfaction of all existing contracts between the Secretary and users in Arizona heretofore made pursuant to the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.].

(d) Water exchanges

The Secretary may require in any contract under which water is provided from the Central Arizona Project that the contractor agree to ac-

cept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream. The Secretary shall so require in the case of users in Arizona who also use water from the Gila River system to the extent necessary to make available to users of water from the Gila River system in New Mexico additional quantities of water as provided in and under the conditions specified in subsection (f) of this section: *Provided*, That such exchanges and replacements shall be accomplished without economic injury or cost to such Arizona contractors.

(e) Water shortage priorities

In times of shortage or reduction of main stream Colorado River water for the Central Arizona Project, as determined by the Secretary, users which have yielded water from other sources in exchange for main stream water supplied by that project shall have a first priority to receive main stream water, as against other users supplied by that project which have not so yielded water from other sources, but only in quantities adequate to replace the water so yielded.

(f) New Mexico users; water exchange contracts

(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in the State of New Mexico, with the approval of its Interstate Stream Commission, or with the State of New Mexico, through its Interstate Stream Commission, for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of 10 consecutive years of 14,000 acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in *Arizona v. California* (376 U.S. 340). Such increased consumptive uses shall continue only so long as delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this chapter, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose, full consideration shall be given to any differences in the quality of the water involved.

(2) All additional consumptive uses provided for in clauses (1) and (2)¹ of this subsection shall be subject to all rights in New Mexico and Arizona as established by the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in *United States against Gila Valley Irrigation District and others* (Globe Equity Numbered 59) and to all other rights existing on September 30, 1968, in New Mexico and Arizona to water from the Gila River, its tributaries, and underground water sources, and shall be junior thereto and shall be made only to the extent possible without economic injury or cost to the holders of such rights.

¹ So in original.

(Pub. L. 90-537, title III, §304, Sept. 30, 1968, 82 Stat. 891; Pub. L. 102-575, title XXXVII, §3710(k), Oct. 30, 1992, 106 Stat. 4751; Pub. L. 108-451, title II, §212(d), Dec. 10, 2004, 118 Stat. 3528.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (f)(1), was in the original "this Act", meaning Pub. L. 90-537, Sept. 30, 1968, 82 Stat. 885, 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.

The Boulder Canyon Project Act, referred to in subsec. (c), is act Dec. 21, 1923, ch. 42, 45 Stat. 1057, which is classified generally to subchapter I (§617 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 617t of this title and Tables.

CODIFICATION

Subsec. (g) of this section, which restricted the use of water from the projects authorized by this chapter for the production of basic agricultural commodities on newly irrigated lands for a period of ten years from Sept. 30, 1968, was omitted.

AMENDMENTS

2004—Subsec. (f)(1). Pub. L. 108-451, §212(d)(1), added par. (1) and struck out former par. (1) which read as follows: "In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in New Mexico for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of eighteen thousand acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340). Such increased consumptive uses shall not begin until, and shall continue only so long as, delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this chapter, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved."

Subsec. (f)(2), (3). Pub. L. 108-451, §212(d)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The Secretary shall further offer to contract with water users in New Mexico for water from the Gila River, its tributaries, and underground water sources in amounts that will permit consumptive uses of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of an additional thirty thousand acre-feet, including reservoir evaporation. Such further increases in consumptive use shall not begin until, and shall continue only so long as, works capable of augmenting the water supply of the Colorado River system have been completed and water sufficiently in excess of two million eight hundred thousand acre-feet per annum is available from the main stream of the Colorado River for consumptive use in Arizona to provide water for the exchanges herein authorized and provided. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved."

1992—Subsec. (c)(3). Pub. L. 102-575 repealed cl. (3) which read as follows: "neither the contractor nor the

Secretary shall pump or permit others to pump ground water from within the exterior boundaries of the service area of a contractor receiving water from the Central Arizona Project for any use outside said contractor's service area unless the Secretary and such contractor shall agree, or shall have previously agreed, that a surplus of ground water exists and that drainage is or was required."

Statutory Notes and Related Subsidiaries

TRANSPORTATION OF WATER PUMPED WITHIN BOUNDARY

Pub. L. 102-575, title XXXVII, §3710(k), Oct. 30, 1992, 106 Stat. 4751, provided in part that: "This subsection [amending this section] does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391) [see Short Title note set out under section 371 of this title], as amended and supplemented, across project boundaries."

§ 1525. Cost of main stream water of Colorado River

To the extent that the flow of the main stream of the Colorado River is augmented in order to make sufficient water available for release, as determined by the Secretary pursuant to article II(b)(1) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340), to satisfy annual consumptive use of two million eight hundred thousand acre-feet in Arizona, four million four hundred thousand acre-feet in California, and three hundred thousand acre-feet in Nevada, respectively, the Secretary shall make such water available to users of main stream water in those States at the same costs (to the extent that such costs can be made comparable through the nonreimbursable allocation to the replenishment of the deficiencies occasioned by satisfaction of the Mexican Treaty burden as herein provided and financial assistance from the development fund established by section 1543 of this title) and on the same terms as would be applicable if main stream water were available for release in the quantities required to supply such consumptive use.

(Pub. L. 90-537, title III, §305, Sept. 30, 1968, 82 Stat. 893.)

§ 1526. Water salvage programs

The Secretary shall undertake programs for water salvage and ground water recovery along and adjacent to the main stream of the Colorado River. Such programs shall be consistent with maintenance of a reasonable degree of undistributed habitat for fish and wildlife in the area, as determined by the Secretary.

(Pub. L. 90-537, title III, §306, Sept. 30, 1968, 82 Stat. 893.)

§ 1527. Fish and wildlife conservation and development

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the project works authorized pursuant to this subchapter shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) [16 U.S.C. 4601-12 et seq.], except as provided in section 1522 of this title.