

AN ACT

To authorize the Secretary of the Interior to construct, operate, and maintain the Navajo Indian irrigation project and the initial stage of the San Juan-Chama project as participating projects of the Colorado River storage project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of furnishing water for the irrigation of irrigable and arable lands and for municipal, domestic, and industrial uses, providing recreation and fish and wildlife benefits, and controlling silt, and for other beneficial purposes, the Congress approves as participating projects of the Colorado River storage project (Act of April 11, 1956, 70 Stat. 105, as amended, 43 U. S. C. 620-620o) the Navajo Indian irrigation project, New Mexico, and the initial stage of the San Juan-Chama project, Colorado-New Mexico. The Navajo Indian irrigation project and the initial stage of the San Juan-Chama project herein approved are substantially those described in the proposed coordinated report of the Acting Commissioner of Reclamation and the Commissioner of Indian Affairs, approved and adopted by the Secretary of the Interior on October 16, 1957, as conditioned, modified, and limited herein.

NAVAJO INDIAN IRRIGATION PROJECT

SEC. 2.

Pursuant to the provisions of the Act of April 11, 1956, as amended, the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian irrigation project for the principal purpose of furnishing irrigation water to approximately one hundred and ten thousand six hundred and thirty acres of land, said project to have an average annual diversion of five hundred and eight thousand acre-feet of water and the repayment of the costs of construction thereof to be in accordance with the provisions of said Act of April 11, 1956, as amended, including, but not limited to, section 4 (d) thereof.

SEC. 3.

(a) In order to provide for the most economical development of the Navajo Indian irrigation project, the Secretary shall declare by publication in the Federal Register that the United States of America holds in trust for the Navajo Tribe of Indians any legal subdivisions or unsurveyed tracts of federally owned land outside the present boundary of the Navajo Indian Reservation in New Mexico in townships 28 and 29 north, ranges 10 and 11 west, and townships 27 and 28 north, ranges 12 and 13 west, New Mexico principal meridian, susceptible to irrigation as part of the project or

necessary for location of any of the works or canals of such project: *Provided, however,* That no such legal subdivision or unsurveyed tract shall be so declared to be held in trust by the United States for the Navajo Tribe until the Navajo Tribe shall have paid the United States the full appraised value thereof: *And provided further,* That in making appraisals of such lands the Secretary shall consider their values as of the date of approval of this Act, excluding therefrom the value of minerals subject to leasing under the Act of February 25, 1920, as amended (30 U. S. C. 181-286), and such leasable minerals shall not be held in trust for the Navajo Tribe but shall continue to be subject to leasing under the Act of February 25, 1920, as amended, after the lands containing them have been declared to be held in trust by the United States for the Navajo Tribe.

(b) The Navajo Tribe is authorized to convey to the United States, and the Secretary shall accept on behalf of the United States, title to any land or interest in land within the above-described townships, susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project, acquired in fee simple by the Navajo Tribe, and after such conveyance said land or interest in land shall be held in trust by the United States for the Navajo Tribe as a part of the project.

(c) The Secretary is authorized to acquire by purchase, exchange, or condemnation any other land or interest in land within the townships above described susceptible to irrigation as part of the Navajo Indian irrigation project or necessary for location of any of the works or canals of such project. After such acquisition, said lands or interest in lands shall be held by the United States in trust for the Navajo Tribe of Indians.

SEC. 4.

In developing the Navajo Indian irrigation project, the Secretary is authorized to provide capacity for municipal and industrial water supplies or miscellaneous purposes over and above the diversion requirements for irrigation stated in section 2 of this Act, but such additional capacity shall not be constructed and no appropriation of funds for such construction shall be made until contracts have been executed which, in the judgment of the Secretary, provide satisfactory assurance of repayment of all costs properly allocated to the purposes aforesaid with interest as provided by law.

SEC. 5.

Payment of operation and maintenance charges of the irrigation features of the Navajo Indian irrigation project shall be in accordance with the provisions of the Act of August 1, 1914 (38 Stat. 582, 583), as amended (25 U.S.C. 385): *Provided,* That the Secretary may transfer to the Navajo Tribe of Indians the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe and, in such event, the Secretary may transfer to the Navajo Tribe title to movable property necessary to the operation and maintenance of those works.

SEC. 6.

For the period ending ten years after completion of construction of the Navajo Indian irrigation project no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in section 408(c) of the Agricultural Act of 1949 (63 Stat. 1056, 7 U.S.C. 1428), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 41), as amended (7 U.S.C. 1281), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 7.

There are hereby authorized to be appropriated to the Bureau of Indian Affairs such sums as may be required to construct the Navajo Indian irrigation project, including the purchase of lands under section 3, subsection (c), of this Act, but not more than \$135,000,000 (June 1961 prices) plus or minus such amounts, if any, may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved therein.

SAN JUAN-CHAMA RECLAMATION PROJECT (INITIAL STAGE)

SEC. 8.

Pursuant to the provisions of the Act of April 11, 1956, as amended, the Secretary is authorized to construct, operate, and maintain the initial stage of the San Juan-Chama project, Colorado- New Mexico, for the principal purposes of furnishing water supplies to approximately thirty-nine thousand three hundred acres of land in the Cerro, Taos, Llano, and Pojoaque tributary irrigation units in the Rio Grande Basin and approximately eighty-one thousand six hundred acres of land in the existing Middle Rio Grande Conservancy District and for municipal, domestic, and industrial uses, and providing recreation and fish and wildlife benefits. The diversion facilities of the initial stage authorized herein shall be so constructed and operated as to divert only natural flow of the Navajo, Little Navajo, and Blanco Rivers in Colorado as set forth in the supplemental project report dated May 1957. The principal engineering works of the initial stage development, involving three major elements, shall include diversion dams and conduits, storage and regulation facilities at the Heron Numbered 4 Reservoir site, enlarged outlet works of the existing El Vado Dam, and water use facilities consisting of reservoirs, dams, canals, lateral and drainage systems, and associated works and appurtenances. The construction of recreation facilities at the Nambe Reservoir shall be contingent upon the Secretary's making appropriate arrangements with the governing body of the Nambe Pueblo for the operation and maintenance of such facilities, and the construction of recreation facilities at the Heron Numbered 4, Valdez, and Indian Camp Reservoirs shall be contingent upon his

making appropriate arrangements with a State or local agency or organization for the operation and maintenance of those facilities: *Provided, That—*

(a) the Secretary shall so operate the initial stage of the project authorized herein that diversions to the Rio Grande Valley shall not exceed one million three hundred and fifty thousand acre-feet of water in any period of ten consecutive years, reckoned in continuing progressive series starting with the first day of October after the project shall have commenced operation: *Provided, however, That* not more than two hundred and seventy thousand acre-feet shall be diverted in any one year;

(b) the Secretary shall operate the project so that there shall be no injury, impairment, or depletion of existing or future beneficial uses of water within the State of Colorado, the use of which is within the apportionment made to the State of Colorado by article III of the Upper Colorado River Basin compact, as provided by article IX of the Upper Colorado River Basin compact and article IX of the Rio Grande compact;

(c) all works of the project shall be constructed so as to permit compliance physically with all provisions of the Rio Grande compact, and all such works shall be operated at all times in conformity with said compact;

(d) the amount of water diverted in the Rio Grande Basin for uses served by the San Juan-Chama project shall be limited in any calendar year to the amount of imported water available to such uses from importation to and storage in the Rio Grande Basin in that year;

(e) details of project operation essential to accounting for diverted San Juan and Rio Grande flows shall be developed through the joint efforts of the Rio Grande Compact Commission, the Upper Colorado River Commission, the appropriate agencies of the United States and of the States of Colorado, New Mexico, and Texas, and the various project entities. In this connection the States of Texas and New Mexico shall agree, within a reasonable time, on a system of gaging devices and measurements to secure data necessary to determine the present effects of tributary irrigation, as well as present river channel losses: *Provided, That* if the State of Texas shall require, as a condition precedent to such agreement, gaging devices and measurements in addition to or different from those considered by the Department of the Interior and the State of New Mexico to be necessary to this determination, the State of Texas shall pay one-half of all costs of constructing and operating such additional or different devices and making such additional or different measurements which are not borne by the United States. The results of the action required by this subsection shall be incorporated in a written report transmitted to the States of Colorado, Texas, and New Mexico for comment in the manner provided in the Flood Control Act of 1944 before any appropriation shall be made for project construction;

(f) the Secretary shall operate the project so that for the preservation of fish and aquatic life the flow of the Navajo River and the flow of the Blanco River shall not be depleted at the project diversion points below the values set forth at page D2-7 of appendix D of the United States Bureau of Reclamation report entitled "San Juan-Chama Project, Colorado-New Mexico", dated November 1955;

(g) the Secretary is hereby authorized to construct the tunnel and conduit works of the initial stage of the San Juan-Chama project with sufficient capacity for future diversion of an average of two hundred and thirty-five thousand acre-feet per annum: *Provided, however,* That nothing contained in this Act shall be construed as committing the Congress of the United States to future authorization of any additional stage of the San Juan-Chama project.

SEC. 9.

For the period ending ten years after completion of construction of the initial stage of the San Juan-Chama project no water from the project shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in section 408(c) of the Agricultural Act of 1949 (63 Stat. 1056, 7 U.S.C. 1428), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 41), amended (7 U.S.C. 1281), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 10.

The amount which section 12 of the Act of April 11, 1956, authorizes to be appropriated is hereby increased by \$85,828,000 (June 1961 prices) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved, which increase shall be available solely for construction of the San Juan-Chama project and shall not be used for any other purpose.

GENERAL

SEC. 11.

(a) No person shall have or be entitled to have the use for any purpose, including uses under the Navajo Indian irrigation project and the San Juan-Chama project authorized by section 2 and 8 of this Act, of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries originating above Navajo Reservoir to the use of which the United States is entitled under these projects except under contract satisfactory to the Secretary and conforming to the provisions of this Act. Such contracts, which, in the case of water for Indian uses, shall be executed with the Navajo Tribe, shall make provision, in any year in which the Secretary anticipates a shortage, taking into account both prospective runoff originating above Navajo Reservoir and the available water in storage in Navajo

Reservoir, for a sharing of the available water in the following manner: The prospective runoff shall be apportioned between the contractors diverting above those

diverting at or below Navajo Reservoir in the proportion that the total normal diversion requirement of each group bears to the total of all normal diversion requirements. In the case of contractors diverting above Navajo Reservoir, each such contract shall provide for a sharing of the runoff apportioned to said group in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements of all such contracts that have been made hereunder:

Provided, That for any year in which the foregoing sharing procedure either would apportion to any contractor diverting above Navajo Reservoir an amount in excess of the runoff anticipated to be physically available at the point of his diversion, or would result in no water being available to one or more such contractors, the runoff apportioned to said group shall be reapportioned, as near as may be, among the contractors diverting above Navajo Reservoir in the proportion that the normal diversion requirements of each bears to the total normal diversion requirements of the group. In the case of contractors diverting from or below Navajo Reservoir, each such contract shall provide for a sharing of the remaining runoff together with the available storage in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements under all such contracts that have been made hereunder.

The Secretary shall not enter into contracts for a total amount of water beyond that which, in his judgment, in the event of shortage, will result in a reasonable amount being available for the diversion requirements for the Navajo Indian irrigation project and the initial stage of the San Juan-Chama project as specified in section 2 and 8 of this Act.

No long-term contract, except contracts for the benefit of the lands and for the purposes specified in sections 2 and 8 of this Act, shall be entered into for the delivery of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries, as aforesaid, until the Secretary has determined by hydrologic investigations that sufficient water to fulfill said contract is reasonably likely to be available for use in the State of New Mexico during the term thereof under the allocations made in articles III and XIV of the Upper Colorado River Basin compact, and has submitted such determination to the Congress of the United States and the Congress has approved such contracts: *Provided*, That nothing contained in the foregoing shall be construed to forbid the Secretary from entering into temporary water supply contracts in the San Juan River Basin for any year in which he determines that water legally available for use in the upper basin of the Colorado River system would otherwise not be used there and is not needed to fulfill the obligations of the upper division States with respect to delivery of water at Lee Ferry.

(b) If contracts are entered into for delivery from storage in Navajo Reservoir of water not covered by subsection (a) of this section, such contracts shall be subject to the same provision for sharing of available water supply in the event of shortage as in the case of contracts required to be made pursuant to subparagraph (a) of this section.

(c) This section shall not be applicable to the water requirements of the existing Fruitland, Hogback, Cudai, and Cambridge Indian irrigation projects, nor to the water required in connection with the extension of the irrigated acreages of the Fruitland and

Hogback Indian irrigation projects in a total amount of approximately eleven thousand acres.

SEC. 12.

(a) None of the project works or structures authorized by this Act shall be so operated as to create, implement, or satisfy any preferential right in the United States or any Indian tribe to the water impounded, diverted, or used by means of such project works or structures, other than contained in those rights to the uses of water granted to the States of New Mexico or Arizona pursuant to the provisions of the Upper Colorado River Basin compact.

(b) The projects authorized by this Act shall be so operated that no waters shall be diverted or used by means of the project works, which, together with all other waters used or diverted from the San Juan River Basin in New Mexico, will exceed the water available to the States of New Mexico and Arizona under the allocation contained in article III of the Upper Colorado River Basin compact for any water year.

SEC. 13.

(a) The use of water, including that diverted from the Colorado River system to the Rio Grande Basin, through works constructed under authority of this Act, shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of New Mexico is entitled and limited under said compact, statutes, and treaty, and every contract entered into under this Act for the storage, use, and delivery of such water shall so recite.

(b) All works constructed under authority of this Act, and all officers, employees, permittees, licensees, and contractees of the United States and of the State of New Mexico acting pursuant thereto and all users and appropriators of water of the Colorado River system diverted or delivered through the works constructed under authority of this Act and any enlargements or additions thereto shall observe and be subject to said compacts, statutes, and treaty, as hereinbefore provided, in the diversion, delivery, and use of water of the Colorado River system, and such condition and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River system.

(c) No right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by this Act, and Congress does not by its enactment, construe or interpret any provision of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon

Project Adjustment Act, the Colorado River Storage Project Act, or the Mexican Water Treaty or subject the United States to, or approve or disapprove any interpretation of, said compacts, statutes, or treaty, anything in this Act to the contrary notwithstanding.

SEC. 14.

In the operation and maintenance of all facilities under the jurisdiction and supervision of the Secretary of the Interior authorized by this Act, the Secretary is directed to comply with the applicable provisions of the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act and the treaty with the United Mexican States in the storage and releases of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise.

SEC. 15.

The Secretary of the Interior is directed to continue his studies of the quality of water of the Colorado River system, to appraise its suitability for municipal, domestic, and industrial use and for irrigation in the various areas in the United States in which it is used or proposed to be used, to estimate the effect of additional developments involving its storage and use (whether heretofore authorized or contemplated for authorization) on the remaining water available for use in United States, to study all possible means of improving the quality of such water and of alleviating the ill effects of water of poor quality, and to report the results of his studies and estimates to the Eighty-seventh Congress and every two years thereafter.

SEC. 16.

(a) The diversion of water for either or both of the projects authorized in this Act shall in no way impair or diminish the obligation of the "States of the upper division" as provided in article III(d) of the Colorado River compact "not to cause the flow of the river at Lee Ferry to be depleted below an aggregate of seventy-five million acre-feet for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification of this compact".

(b) The diversion of water for either or both of the projects authorized in this Act shall in no way impair or diminish the obligation of the "States of the upper division" to meet their share of the Mexican Treaty burden as provided in article III(c) of the Colorado River compact.

SEC. 17.

Section 12 of the Act of April 11, 1956, shall not apply to the works authorized by this Act except as otherwise provided by section 10 of this Act.

SEC. 18.

The Act of April 11, 1956, as amended, is hereby further amended as follows: (i) In Section 1, subsection (2), after the words "Central Utah (initial phase)" delete the colon and insert in lieu thereof a comma and the words "San Juan-Chama (initial stage)," and after the word "Lyman" insert the words "Navajo Indian,"; (ii) in section 2 delete the words "San Juan-Chama, Navajo," from the first sentence; (iii) in section 5, subsection (e), in the phrase "herein or hereinafter authorized" delete the word "hereinafter" and insert in lieu thereof the word "hereafter";(iv) in section 7 in the phrase "and any contract lawfully entered unto under said compacts and Acts" delete the word "unto" and insert in lieu thereof the word "into".

Approved, June 13, 1962, 11:15 a.m.

Public Law 91-416

September 25, 1970 | [S. 203] 84 Stat. 867

AN ACT

To amend the Act of June 13, 1962 (76 Stat. 96), with respect to the Navajo Indian irrigation project.

Section 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 13, 1962 (76 Stat. 96), is amended as follows:

(a) By deleting "and" in the first sentence of section 3 (a) immediately preceding "townships 27" and by inserting immediately preceding "New Mexico principal meridian", the following: "townships 26 and 27 north, range 11 west, and townships 24, 25, and 26 north, ranges 12 and 13 west,";

(b) By deleting "\$135,000,000 (June 1961 prices)" in the first sentence of section 7 and substituting in lieu thereof "\$206,000,000 (April 1970 prices)"; and

(c) By adding the following subsection to section 3:

"(d) Each permit that is in effect on lands declared to be held in trust for the Navajo Tribe pursuant to section 3 (a) of this Act shall continue in effect for the term thereof unless the land is needed for irrigation purposes, subject to regulations applicable to permits of Indian lands, and upon its expiration it shall only be renewed on an annual basis until the land is required for irrigation purposes. When, in the judgment of the Secretary of the Interior, such land is required for irrigation purposes, the Secretary shall notify the permittee and the permit shall be deemed to be canceled, with no right

of appeal. The permittee shall be compensated by the Navajo Tribe for the reasonable value of any range improvements of a permanent nature placed on the lands under authority of a permit or agreement with the United States, as determined by the Secretary of the Interior. Amounts paid to the United States by the Navajo Tribe out of tribal funds for the full appraised value of lands declared to be held in trust for the Navajo Tribe pursuant to section 3 (a) of this Act shall be reduced by the amount of compensation paid by the Navajo Tribe to permittees pursuant to this subsection."

SEC. 2.

The Navajo Indian irrigation project shall be operated in such manner that identifiable flows of water will not cause the project to be in violation of water quality standards promulgated pursuant to the Water Quality Act of 1965 (79 Stat. 903).

Approved, September 25, 1970