

PUBLIC LAW 106-541—DEC. 11, 2000

WATER RESOURCES DEVELOPMENT ACT
OF 2000

Public Law 106–541
106th Congress

An Act

Dec. 11, 2000
[S. 2796]

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

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

Water Resources
Development Act
of 2000.
Inter-
governmental
relations.
33 USC 2201
note.

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SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of the Army.

33 USC 2201
note.

authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1177), as continuing construction.

SEC. 552. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

Section 503(d) of the Water Resources Development Act of 1996 (110 Stat. 3756-3757; 113 Stat. 288) is amended by adding at the end the following:

- “(28) Tomales Bay watershed, California.
- “(29) Kaskaskia River watershed, Illinois.
- “(30) Sangamon River watershed, Illinois.
- “(31) Upper Charles River watershed, Massachusetts.
- “(32) Lackawanna River watershed, Pennsylvania.
- “(33) Brazos River watershed, Texas.”.

SEC. 553. MAINTENANCE OF NAVIGATION CHANNELS.

Section 509(a) of the Water Resources Development Act of 1996 (110 Stat. 3759; 113 Stat. 339) is amended by adding at the end the following:

- “(16) Cameron Loop, Louisiana, as part of the Calcasieu River and Pass Ship Channel.
- “(17) Morehead City Harbor, North Carolina.”.

SEC. 554. HYDROGRAPHIC SURVEY.

The Secretary shall enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration—

(1) to require the Secretary, not later than 60 days after the Corps of Engineers completes a project involving dredging of a channel, to provide data to the Administration in a standard digital format on the results of a hydrographic survey of the channel conducted by the Corps of Engineers; and

(2) to require the Administrator to provide the final charts with respect to the project to the Secretary in digital format, at no charge, for the purpose of enhancing the mission of the Corps of Engineers of maintaining Federal navigation projects.

33 USC 892a
note.
Contracts.

Deadline.

SEC. 555. COLUMBIA RIVER TREATY FISHING ACCESS.

Section 401(d) of the Act entitled “An Act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987)”, approved November 1, 1988 (102 Stat. 2944), is amended by striking “\$2,000,000” and inserting “\$4,000,000”.

SEC. 556. RELEASE OF USE RESTRICTION.

(a) **RELEASE.**—Notwithstanding any other provision of law, the Tennessee Valley Authority shall grant a release or releases, without monetary consideration, from the restrictive covenant that requires that property described in subsection (b) shall at all times be used solely for the purpose of erecting docks and buildings for shipbuilding purposes or for the manufacture or storage of products for the purpose of trading or shipping in transportation.

(b) **DESCRIPTION OF PROPERTY.**—This section shall apply only to those lands situated in the city of Decatur, Morgan County, Alabama, and described in an indenture conveying such lands to the Ingalls Shipbuilding Corporation dated July 29, 1954, and recorded in deed book 535 at page 6 in the office of the Probate

Applicability.
Alabama.

Judge of Morgan County, Alabama, which are owned or may be acquired by the Alabama Farmers Cooperative, Inc.

Florida.

TITLE VI—COMPREHENSIVE EVERGLADES RESTORATION

SEC. 601. COMPREHENSIVE EVERGLADES RESTORATION PLAN.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CENTRAL AND SOUTHERN FLORIDA PROJECT.—

(A) IN GENERAL.—The term “Central and Southern Florida Project” means the project for Central and Southern Florida authorized under the heading “CENTRAL AND SOUTHERN FLORIDA” in section 203 of the Flood Control Act of 1948 (62 Stat. 1176).

(B) INCLUSION.—The term “Central and Southern Florida Project” includes any modification to the project authorized by this section or any other provision of law.

(2) GOVERNOR.—The term “Governor” means the Governor of the State of Florida.

(3) NATURAL SYSTEM.—

(A) IN GENERAL.—The term “natural system” means all land and water managed by the Federal Government or the State within the South Florida ecosystem.

(B) INCLUSIONS.—The term “natural system” includes—

- (i) water conservation areas;
- (ii) sovereign submerged land;
- (iii) Everglades National Park;
- (iv) Biscayne National Park;
- (v) Big Cypress National Preserve;
- (vi) other Federal or State (including a political subdivision of a State) land that is designated and managed for conservation purposes; and
- (vii) any tribal land that is designated and managed for conservation purposes, as approved by the tribe.

(4) PLAN.—The term “Plan” means the Comprehensive Everglades Restoration Plan contained in the “Final Integrated Feasibility Report and Programmatic Environmental Impact Statement”, dated April 1, 1999, as modified by this section.

(5) SOUTH FLORIDA ECOSYSTEM.—

(A) IN GENERAL.—The term “South Florida ecosystem” means the area consisting of the land and water within the boundary of the South Florida Water Management District in effect on July 1, 1999.

(B) INCLUSIONS.—The term “South Florida ecosystem” includes—

- (i) the Everglades;
- (ii) the Florida Keys; and
- (iii) the contiguous near-shore coastal water of South Florida.

(6) STATE.—The term “State” means the State of Florida.

(b) COMPREHENSIVE EVERGLADES RESTORATION PLAN.—

(1) APPROVAL.—

(A) IN GENERAL.—Except as modified by this section, the Plan is approved as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, and the improvement of the environment of the South Florida ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this section, for as long as the project is authorized.

(B) INTEGRATION.—In carrying out the Plan, the Secretary shall integrate the activities described in subparagraph (A) with ongoing Federal and State projects and activities in accordance with section 528(c) of the Water Resources Development Act of 1996 (110 Stat. 3769). Unless specifically provided herein, nothing in this section shall be construed to modify any existing cost share or responsibility for projects as listed in subsection (c) or (e) of section 528 of the Water Resources Development Act of 1996 (110 Stat. 3769).

(2) SPECIFIC AUTHORIZATIONS.—

(A) IN GENERAL.—

(i) PROJECTS.—The Secretary shall carry out the projects included in the Plan in accordance with subparagraphs (B), (C), (D), and (E).

(ii) CONSIDERATIONS.—In carrying out activities described in the Plan, the Secretary shall—

(I) take into account the protection of water quality by considering applicable State water quality standards; and

(II) include such features as the Secretary determines are necessary to ensure that all ground water and surface water discharges from any project feature authorized by this subsection will meet all applicable water quality standards and applicable water quality permitting requirements.

(iii) REVIEW AND COMMENT.—In developing the projects authorized under subparagraph (B), the Secretary shall provide for public review and comment in accordance with applicable Federal law.

(B) PILOT PROJECTS.—The following pilot projects are authorized for implementation, after review and approval by the Secretary, at a total cost of \$69,000,000, with an estimated Federal cost of \$34,500,000 and an estimated non-Federal cost of \$34,500,000:

(i) Caloosahatchee River (C-43) Basin ASR, at a total cost of \$6,000,000, with an estimated Federal cost of \$3,000,000 and an estimated non-Federal cost of \$3,000,000.

(ii) Lake Belt In-Ground Reservoir Technology, at a total cost of \$23,000,000, with an estimated Federal cost of \$11,500,000 and an estimated non-Federal cost of \$11,500,000.

(iii) L-31N Seepage Management, at a total cost of \$10,000,000, with an estimated Federal cost of \$5,000,000 and an estimated non-Federal cost of \$5,000,000.

(iv) Wastewater Reuse Technology, at a total cost of \$30,000,000, with an estimated Federal cost of \$15,000,000 and an estimated non-Federal cost of \$15,000,000.

(C) INITIAL PROJECTS.—The following projects are authorized for implementation, after review and approval by the Secretary, subject to the conditions stated in subparagraph (D), at a total cost of \$1,100,918,000, with an estimated Federal cost of \$550,459,000 and an estimated non-Federal cost of \$550,459,000:

(i) C-44 Basin Storage Reservoir, at a total cost of \$112,562,000, with an estimated Federal cost of \$56,281,000 and an estimated non-Federal cost of \$56,281,000.

(ii) Everglades Agricultural Area Storage Reservoirs—Phase I, at a total cost of \$233,408,000, with an estimated Federal cost of \$116,704,000 and an estimated non-Federal cost of \$116,704,000.

(iii) Site 1 Impoundment, at a total cost of \$38,535,000, with an estimated Federal cost of \$19,267,500 and an estimated non-Federal cost of \$19,267,500.

(iv) Water Conservation Areas 3A/3B Levee Seepage Management, at a total cost of \$100,335,000, with an estimated Federal cost of \$50,167,500 and an estimated non-Federal cost of \$50,167,500.

(v) C-11 Impoundment and Stormwater Treatment Area, at a total cost of \$124,837,000, with an estimated Federal cost of \$62,418,500 and an estimated non-Federal cost of \$62,418,500.

(vi) C-9 Impoundment and Stormwater Treatment Area, at a total cost of \$89,146,000, with an estimated Federal cost of \$44,573,000 and an estimated non-Federal cost of \$44,573,000.

(vii) Taylor Creek/Nubbin Slough Storage and Treatment Area, at a total cost of \$104,027,000, with an estimated Federal cost of \$52,013,500 and an estimated non-Federal cost of \$52,013,500.

(viii) Raise and Bridge East Portion of Tamiami Trail and Fill Miami Canal within Water Conservation Area 3, at a total cost of \$26,946,000, with an estimated Federal cost of \$13,473,000 and an estimated non-Federal cost of \$13,473,000.

(ix) North New River Improvements, at a total cost of \$77,087,000, with an estimated Federal cost of \$38,543,500 and an estimated non-Federal cost of \$38,543,500.

(x) C-111 Spreader Canal, at a total cost of \$94,035,000, with an estimated Federal cost of \$47,017,500 and an estimated non-Federal cost of \$47,017,500.

(xi) Adaptive Assessment and Monitoring Program, at a total cost of \$100,000,000, with an estimated Federal cost of \$50,000,000 and an estimated non-Federal cost of \$50,000,000.

(D) CONDITIONS.—

(i) PROJECT IMPLEMENTATION REPORTS.—Before implementation of a project described in any of clauses (i) through (x) of subparagraph (C), the Secretary shall review and approve for the project a project implementation report prepared in accordance with subsections (f) and (h).

(ii) SUBMISSION OF REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the project implementation report required by subsections (f) and (h) for each project under this paragraph (including all relevant data and information on all costs).

(iii) FUNDING CONTINGENT ON APPROVAL.—No appropriation shall be made to construct any project under this paragraph if the project implementation report for the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(iv) MODIFIED WATER DELIVERY.—No appropriation shall be made to construct the Water Conservation Area 3 Decomartmentalization and Sheetflow Enhancement Project (including component AA, Additional S-345 Structures; component QQ Phase 1, Raise and Bridge East Portion of Tamiami Trail and Fill Miami Canal within WCA 3; component QQ Phase 2, WCA 3 Decomartmentalization and Sheetflow Enhancement; and component SS, North New River Improvements) or the Central Lakebelt Storage Project (including components S and EEE, Central Lake Belt Storage Area) until the completion of the project to improve water deliveries to Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r-8).

(E) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280) shall apply to each project feature authorized under this subsection.

Applicability.

(c) ADDITIONAL PROGRAM AUTHORITY.—

(1) IN GENERAL.—To expedite implementation of the Plan, the Secretary may implement modifications to the Central and Southern Florida Project that—

(A) are described in the Plan; and

(B) will produce a substantial benefit to the restoration, preservation and protection of the South Florida ecosystem.

(2) PROJECT IMPLEMENTATION REPORTS.—Before implementation of any project feature authorized under this subsection, the Secretary shall review and approve for the project feature

a project implementation report prepared in accordance with subsections (f) and (h).

(3) FUNDING.—

(A) INDIVIDUAL PROJECT FUNDING.—

(i) FEDERAL COST.—The total Federal cost of each project carried out under this subsection shall not exceed \$12,500,000.

(ii) OVERALL COST.—The total cost of each project carried out under this subsection shall not exceed \$25,000,000.

(B) AGGREGATE COST.—The total cost of all projects carried out under this subsection shall not exceed \$206,000,000, with an estimated Federal cost of \$103,000,000 and an estimated non-Federal cost of \$103,000,000.

(d) AUTHORIZATION OF FUTURE PROJECTS.—

(1) IN GENERAL.—Except for a project authorized by subsection (b) or (c), any project included in the Plan shall require a specific authorization by Congress.

(2) SUBMISSION OF REPORT.—Before seeking congressional authorization for a project under paragraph (1), the Secretary shall submit to Congress—

(A) a description of the project; and

(B) a project implementation report for the project prepared in accordance with subsections (f) and (h).

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project authorized by subsection (b), (c), or (d) shall be 50 percent.

(2) NON-FEDERAL RESPONSIBILITIES.—The non-Federal sponsor with respect to a project described in subsection (b), (c), or (d), shall be—

(A) responsible for all land, easements, rights-of-way, and relocations necessary to implement the Plan; and

(B) afforded credit toward the non-Federal share of the cost of carrying out the project in accordance with paragraph (5)(A).

(3) FEDERAL ASSISTANCE.—

(A) IN GENERAL.—The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.

(B) AGRICULTURE FUNDS.—Funds provided to the non-Federal sponsor under the Conservation Restoration and Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) for projects in the Plan shall be credited toward the non-Federal share of the cost of the Plan if the Secretary of Agriculture certifies that the funds provided may be used for that purpose. Funds to be credited do not include funds provided under section 390 of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat. 1022).

(4) OPERATION AND MAINTENANCE.—Notwithstanding section 528(e)(3) of the Water Resources Development Act of 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible

for 50 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation activities authorized under this section. Furthermore, the Seminole Tribe of Florida shall be responsible for 50 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation activities for the Big Cypress Seminole Reservation Water Conservation Plan Project.

(5) CREDIT.—

(A) IN GENERAL.—Notwithstanding section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770) and regardless of the date of acquisition, the value of lands or interests in lands and incidental costs for land acquired by a non-Federal sponsor in accordance with a project implementation report for any project included in the Plan and authorized by Congress shall be—

- (i) included in the total cost of the project; and
- (ii) credited toward the non-Federal share of the cost of the project.

(B) WORK.—The Secretary may provide credit, including in-kind credit, toward the non-Federal share for the reasonable cost of any work performed in connection with a study, preconstruction engineering and design, or construction that is necessary for the implementation of the Plan if—

(i)(I) the credit is provided for work completed during the period of design, as defined in a design agreement between the Secretary and the non-Federal sponsor; or

(II) the credit is provided for work completed during the period of construction, as defined in a project cooperation agreement for an authorized project between the Secretary and the non-Federal sponsor;

(ii) the design agreement or the project cooperation agreement prescribes the terms and conditions of the credit; and

(iii) the Secretary determines that the work performed by the non-Federal sponsor is integral to the project.

(C) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this paragraph may be carried over between authorized projects in accordance with subparagraph (D).

(D) PERIODIC MONITORING.—

(i) IN GENERAL.—To ensure that the contributions of the non-Federal sponsor equal 50 percent proportionate share for projects in the Plan, during each 5-year period, beginning with commencement of design of the Plan, the Secretary shall, for each project—

(I) monitor the non-Federal provision of cash, in-kind services, and land; and

(II) manage, to the maximum extent practicable, the requirement of the non-Federal sponsor to provide cash, in-kind services, and land.

(ii) OTHER MONITORING.—The Secretary shall conduct monitoring under clause (i) separately for the preconstruction engineering and design phase and the construction phase.

(E) AUDITS.—Credit for land (including land value and incidental costs) or work provided under this subsection shall be subject to audit by the Secretary.

(f) EVALUATION OF PROJECTS.—

Reports.

(1) IN GENERAL.—Before implementation of a project authorized by subsection (c) or (d) or any of clauses (i) through (x) of subsection (b)(2)(C), the Secretary, in cooperation with the non-Federal sponsor, shall complete, after notice and opportunity for public comment and in accordance with subsection (h), a project implementation report for the project.

(2) PROJECT JUSTIFICATION.—

(A) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2) or any other provision of law, in carrying out any activity authorized under this section or any other provision of law to restore, preserve, or protect the South Florida ecosystem, the Secretary may determine that—

(i) the activity is justified by the environmental benefits derived by the South Florida ecosystem; and

(ii) no further economic justification for the activity is required, if the Secretary determines that the activity is cost-effective.

(B) APPLICABILITY.—Subparagraph (A) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the natural system.

(g) EXCLUSIONS AND LIMITATIONS.—The following Plan components are not approved for implementation:

(1) WATER INCLUDED IN THE PLAN.—

(A) IN GENERAL.—Any project that is designed to implement the capture and use of the approximately 245,000 acre-feet of water described in section 7.7.2 of the Plan shall not be implemented until such time as—

(i) the project-specific feasibility study described in subparagraph (B) on the need for and physical delivery of the approximately 245,000 acre-feet of water, conducted by the Secretary, in cooperation with the non-Federal sponsor, is completed;

(ii) the project is favorably recommended in a final report of the Chief of Engineers; and

(iii) the project is authorized by Act of Congress.

(B) PROJECT-SPECIFIC FEASIBILITY STUDY.—The project-specific feasibility study referred to in subparagraph (A) shall include—

(i) a comprehensive analysis of the structural facilities proposed to deliver the approximately 245,000 acre-feet of water to the natural system;

(ii) an assessment of the requirements to divert and treat the water;

(iii) an assessment of delivery alternatives;

(iv) an assessment of the feasibility of delivering the water downstream while maintaining current levels of flood protection to affected property; and

(v) any other assessments that are determined by the Secretary to be necessary to complete the study.

(2) WASTEWATER REUSE.—

(A) IN GENERAL.—On completion and evaluation of the wastewater reuse pilot project described in subsection (b)(2)(B)(iv), the Secretary, in an appropriately timed 5-year report, shall describe the results of the evaluation of advanced wastewater reuse in meeting, in a cost-effective manner, the requirements of restoration of the natural system.

Reports.

(B) SUBMISSION.—The Secretary shall submit to Congress the report described in subparagraph (A) before congressional authorization for advanced wastewater reuse is sought.

(3) PROJECTS APPROVED WITH LIMITATIONS.—The following projects in the Plan are approved for implementation with limitations:

(A) LOXAHATCHEE NATIONAL WILDLIFE REFUGE.—The Federal share for land acquisition in the project to enhance existing wetland systems along the Loxahatchee National Wildlife Refuge, including the Stazzulla tract, should be funded through the budget of the Department of the Interior.

(B) SOUTHERN CORKSCREW REGIONAL ECOSYSTEM.—The Southern Corkscrew regional ecosystem watershed addition should be accomplished outside the scope of the Plan.

(h) ASSURANCE OF PROJECT BENEFITS.—

(1) IN GENERAL.—The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida Ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, the improvement of the environment of the South Florida Ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this section, for as long as the project is authorized.

(2) AGREEMENT.—

(A) IN GENERAL.—In order to ensure that water generated by the Plan will be made available for the restoration of the natural system, no appropriations, except for any pilot project described in subsection (b)(2)(B), shall be made for the construction of a project contained in the Plan until the President and the Governor enter into a binding agreement under which the State shall ensure, by regulation or other appropriate means, that water made available by each project in the Plan shall not be permitted for a consumptive use or otherwise made unavailable by the State until such time as sufficient reservations of water for the restoration of the natural system are made under State law in accordance with the project implementation report for that project and consistent with the Plan.

(B) ENFORCEMENT.—

(i) IN GENERAL.—Any person or entity that is aggrieved by a failure of the United States or any other Federal Government instrumentality or agency, or the Governor or any other officer of a State instrumentality or agency, to comply with any provision of the agreement entered into under subparagraph

(A) may bring a civil action in United States district court for an injunction directing the United States or any other Federal Government instrumentality or agency or the Governor or any other officer of a State instrumentality or agency, as the case may be, to comply with the agreement.

(ii) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under clause (i)—

(I) before the date that is 60 days after the Secretary and the Governor receive written notice of a failure to comply with the agreement; or

(II) if the United States has commenced and is diligently prosecuting an action in a court of the United States or a State to redress a failure to comply with the agreement.

(C) TRUST RESPONSIBILITIES.—In carrying out his responsibilities under this subsection with respect to the restoration of the South Florida ecosystem, the Secretary of the Interior shall fulfill his obligations to the Indian tribes in South Florida under the Indian trust doctrine as well as other applicable legal obligations.

(3) PROGRAMMATIC REGULATIONS.—

Deadline.

(A) ISSUANCE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall, after notice and opportunity for public comment, with the concurrence of the Governor and the Secretary of the Interior, and in consultation with the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other Federal, State, and local agencies, promulgate programmatic regulations to ensure that the goals and purposes of the Plan are achieved.

Deadline.

(B) CONCURRENCY STATEMENT.—The Secretary of the Interior and the Governor shall, not later than 180 days from the end of the public comment period on proposed programmatic regulations, provide the Secretary with a written statement of concurrence or nonconcurrence. A failure to provide a written statement of concurrence or nonconcurrence within such time frame will be deemed as meeting the concurrency requirements of subparagraph (A)(i). A copy of any concurrency or nonconcurrency statements shall be made a part of the administrative record and referenced in the final programmatic regulations. Any nonconcurrency statement shall specifically detail the reason or reasons for the nonconcurrence.

(C) CONTENT OF REGULATIONS.—

(i) IN GENERAL.—Programmatic regulations promulgated under this paragraph shall establish a process—

(I) for the development of project implementation reports, project cooperation agreements, and operating manuals that ensure that the goals and objectives of the Plan are achieved;

(II) to ensure that new information resulting from changed or unforeseen circumstances, new scientific or technical information or information

that is developed through the principles of adaptive management contained in the Plan, or future authorized changes to the Plan are integrated into the implementation of the Plan; and

(III) to ensure the protection of the natural system consistent with the goals and purposes of the Plan, including the establishment of interim goals to provide a means by which the restoration success of the Plan may be evaluated throughout the implementation process.

(ii) LIMITATION ON APPLICABILITY OF PROGRAMMATIC REGULATIONS.—Programmatic regulations promulgated under this paragraph shall expressly prohibit the requirement for concurrence by the Secretary of the Interior or the Governor on project implementation reports, project cooperation agreements, operating manuals for individual projects undertaken in the Plan, and any other documents relating to the development, implementation, and management of individual features of the Plan, unless such concurrence is provided for in other Federal or State laws.

(D) SCHEDULE AND TRANSITION RULE.—

(i) IN GENERAL.—All project implementation reports approved before the date of promulgation of the programmatic regulations shall be consistent with the Plan.

(ii) PREAMBLE.—The preamble of the programmatic regulations shall include a statement concerning the consistency with the programmatic regulations of any project implementation reports that were approved before the date of promulgation of the regulations.

(E) REVIEW OF PROGRAMMATIC REGULATIONS.—Whenever necessary to attain Plan goals and purposes, but not less often than every 5 years, the Secretary, in accordance with subparagraph (A), shall review the programmatic regulations promulgated under this paragraph.

(4) PROJECT-SPECIFIC ASSURANCES.—

(A) PROJECT IMPLEMENTATION REPORTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop project implementation reports in accordance with section 10.3.1 of the Plan.

(ii) COORDINATION.—In developing a project implementation report, the Secretary and the non-Federal sponsor shall coordinate with appropriate Federal, State, tribal, and local governments.

(iii) REQUIREMENTS.—A project implementation report shall—

(I) be consistent with the Plan and the programmatic regulations promulgated under paragraph (3);

(II) describe how each of the requirements stated in paragraph (3)(B) is satisfied;

(III) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(IV) identify the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;

(V) identify the amount of water to be reserved or allocated for the natural system necessary to implement, under State law, subclauses (IV) and (VI);

(VI) comply with applicable water quality standards and applicable water quality permitting requirements under subsection (b)(2)(A)(ii);

(VII) be based on the best available science; and

(VIII) include an analysis concerning the cost-effectiveness and engineering feasibility of the project.

(B) PROJECT COOPERATION AGREEMENTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall execute project cooperation agreements in accordance with section 10 of the Plan.

(ii) CONDITION.—The Secretary shall not execute a project cooperation agreement until any reservation or allocation of water for the natural system identified in the project implementation report is executed under State law.

(C) OPERATING MANUALS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop and issue, for each project or group of projects, an operating manual that is consistent with the water reservation or allocation for the natural system described in the project implementation report and the project cooperation agreement for the project or group of projects.

(ii) MODIFICATIONS.—Any significant modification by the Secretary and the non-Federal sponsor to an operating manual after the operating manual is issued shall only be carried out subject to notice and opportunity for public comment.

(5) SAVINGS CLAUSE.—

(A) NO ELIMINATION OR TRANSFER.—Until a new source of water supply of comparable quantity and quality as that available on the date of enactment of this Act is available to replace the water to be lost as a result of implementation of the Plan, the Secretary and the non-Federal sponsor shall not eliminate or transfer existing legal sources of water, including those for—

(i) an agricultural or urban water supply;

(ii) allocation or entitlement to the Seminole Indian Tribe of Florida under section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);

(iii) the Miccosukee Tribe of Indians of Florida;

(iv) water supply for Everglades National Park;

or

(v) water supply for fish and wildlife.

(B) MAINTENANCE OF FLOOD PROTECTION.—Implementation of the Plan shall not reduce levels of service for flood protection that are—

(i) in existence on the date of enactment of this Act; and

(ii) in accordance with applicable law.

(C) NO EFFECT ON TRIBAL COMPACT.—Nothing in this section amends, alters, prevents, or otherwise abrogates rights of the Seminole Indian Tribe of Florida under the compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District, defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).

(i) DISPUTE RESOLUTION.—

(1) IN GENERAL.—The Secretary and the Governor shall within 180 days from the date of enactment of this Act develop an agreement for resolving disputes between the Corps of Engineers and the State associated with the implementation of the Plan. Such agreement shall establish a mechanism for the timely and efficient resolution of disputes, including—

Deadline.
Contracts.

(A) a preference for the resolution of disputes between the Jacksonville District of the Corps of Engineers and the South Florida Water Management District;

(B) a mechanism for the Jacksonville District of the Corps of Engineers or the South Florida Water Management District to initiate the dispute resolution process for unresolved issues;

(C) the establishment of appropriate timeframes and intermediate steps for the elevation of disputes to the Governor and the Secretary; and

(D) a mechanism for the final resolution of disputes, within 180 days from the date that the dispute resolution process is initiated under subparagraph (B).

Deadline.

(2) CONDITION FOR REPORT APPROVAL.—The Secretary shall not approve a project implementation report under this section until the agreement established under this subsection has been executed.

(3) NO EFFECT ON LAW.—Nothing in the agreement established under this subsection shall alter or amend any existing Federal or State law, or the responsibility of any party to the agreement to comply with any Federal or State law.

(j) INDEPENDENT SCIENTIFIC REVIEW.—

(1) IN GENERAL.—The Secretary, the Secretary of the Interior, and the Governor, in consultation with the South Florida Ecosystem Restoration Task Force, shall establish an independent scientific review panel convened by a body, such as the National Academy of Sciences, to review the Plan's progress toward achieving the natural system restoration goals of the Plan.

Establishment.

(2) REPORT.—The panel described in paragraph (1) shall produce a biennial report to Congress, the Secretary, the Secretary of the Interior, and the Governor that includes an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

(k) OUTREACH AND ASSISTANCE.—

(1) SMALL BUSINESS CONCERNS OWNED AND OPERATED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—

In executing the Plan, the Secretary shall ensure that small business concerns owned and controlled by socially and economically disadvantaged individuals are provided opportunities to participate under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) COMMUNITY OUTREACH AND EDUCATION.—

(A) IN GENERAL.—The Secretary shall ensure that impacts on socially and economically disadvantaged individuals, including individuals with limited English proficiency, and communities are considered during implementation of the Plan, and that such individuals have opportunities to review and comment on its implementation.

(B) PROVISION OF OPPORTUNITIES.—The Secretary shall ensure, to the maximum extent practicable, that public outreach and educational opportunities are provided, during implementation of the Plan, to the individuals of South Florida, including individuals with limited English proficiency, and in particular for socially and economically disadvantaged communities.

Effective date.
Termination
date.

(1) REPORT TO CONGRESS.—Beginning on October 1, 2005, and periodically thereafter until October 1, 2036, the Secretary and the Secretary of the Interior, in consultation with the Environmental Protection Agency, the Department of Commerce, and the State of Florida, shall jointly submit to Congress a report on the implementation of the Plan. Such reports shall be completed not less often than every 5 years. Such reports shall include a description of planning, design, and construction work completed, the amount of funds expended during the period covered by the report (including a detailed analysis of the funds expended for adaptive assessment under subsection (b)(2)(C)(xi)), and the work anticipated over the next 5-year period. In addition, each report shall include—

(1) the determination of each Secretary, and the Administrator of the Environmental Protection Agency, concerning the benefits to the natural system and the human environment achieved as of the date of the report and whether the completed projects of the Plan are being operated in a manner that is consistent with the requirements of subsection (h);

(2) progress toward interim goals established in accordance with subsection (h)(3)(B); and

(3) a review of the activities performed by the Secretary under subsection (k) as they relate to socially and economically disadvantaged individuals and individuals with limited English proficiency.

Deadline.

(m) REPORT ON AQUIFER STORAGE AND RECOVERY PROJECT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing a determination as to whether the ongoing Biscayne Aquifer Storage and Recovery Program located in Miami-Dade County has a substantial benefit to the restoration, preservation, and protection of the South Florida ecosystem.

President.

(n) FULL DISCLOSURE OF PROPOSED FUNDING.—

(1) FUNDING FROM ALL SOURCES.—The President, as part of the annual budget of the United States Government, shall display under the heading “Everglades Restoration” all proposed funding for the Plan for all agency programs.

(2) **FUNDING FROM CORPS OF ENGINEERS CIVIL WORKS PROGRAM.**—The President, as part of the annual budget of the United States Government, shall display under the accounts “Construction, General” and “Operation and Maintenance, General” of the title “Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil”, the total proposed funding level for each account for the Plan and the percentage such level represents of the overall levels in such accounts. The President shall also include an assessment of the impact such funding levels for the Plan would have on the budget year and long-term funding levels for the overall Corps of Engineers civil works program.

(o) **SURPLUS FEDERAL LANDS.**—Section 390(f)(2)(A)(i) of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat. 1023) is amended by inserting after “on or after the date of enactment of this Act” the following: “and before the date of enactment of the Water Resources Development Act of 2000”.

(p) **SEVERABILITY.**—If any provision or remedy provided by this section is found to be unconstitutional or unenforceable by any court of competent jurisdiction, any remaining provisions in this section shall remain valid and enforceable.

SEC. 602. SENSE OF CONGRESS CONCERNING HOMESTEAD AIR FORCE BASE.

(a) **FINDINGS.**—Congress finds that—

(1) the Everglades is an American treasure and includes uniquely-important and diverse wildlife resources and recreational opportunities;

(2) the preservation of the pristine and natural character of the South Florida ecosystem is critical to the regional economy;

(3) as this legislation demonstrates, Congress believes it to be a vital national mission to restore and preserve this ecosystem and accordingly is authorizing a significant Federal investment to do so;

(4) Congress seeks to have the remaining property at the former Homestead Air Base conveyed and reused as expeditiously as possible, and several options for base reuse are being considered, including as a commercial airport; and

(5) Congress is aware that the Homestead site is located in a sensitive environmental location, and that Biscayne National Park is only approximately 1.5 miles to the east, Everglades National Park approximately 8 miles to the west, and the Florida Keys National Marine Sanctuary approximately 10 miles to the south.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) development at the Homestead site could potentially cause significant air, water, and noise pollution and result in the degradation of adjacent national parks and other protected Federal resources;

(2) in their decisionmaking, the Federal agencies charged with determining the reuse of the remaining property at the Homestead base should carefully consider and weigh all available information concerning potential environmental impacts of various reuse options;

(3) the redevelopment of the former base should be consistent with restoration goals, provide desirable numbers of

jobs and economic redevelopment for the community, and be consistent with other applicable laws;

(4) consistent with applicable laws, the Secretary of the Air Force should proceed as quickly as practicable to issue a final SEIS and Record of Decision so that reuse of the former air base can proceed expeditiously;

(5) following conveyance of the remaining surplus property, the Secretary, as part of his oversight for Everglades restoration, should cooperate with the entities to which the various parcels of surplus property were conveyed so that the planned use of those properties is implemented in such a manner as to remain consistent with the goals of the Everglades restoration plan; and

Deadline.
Reports.

(6) not later than August 1, 2002, the Secretary should submit a report to the appropriate committees of Congress on actions taken and make any recommendations for consideration by Congress.

Missouri River
Protection and
Improvement Act
of 2000.
Conservation.

TITLE VII—MISSOURI RIVER RESTORATION, NORTH DAKOTA

SEC. 701. SHORT TITLE.

This title may be cited as the “Missouri River Protection and Improvement Act of 2000”.

SEC. 702. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Missouri River is—

(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and

(B) a critical source of water for drinking and irrigation;

(2) millions of people fish, hunt, and camp along the Missouri River each year;

(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;

(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;

(5) in 1944, Congress approved the Pick-Sloan program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(6) the Garrison Dam was constructed on the Missouri River in North Dakota and the Oahe Dam was constructed in South Dakota under the Pick-Sloan program;

(7) the dams referred to in paragraph (6)—

(A) generate low-cost electricity for millions of people in the United States;

(B) provide revenue to the Treasury; and

(C) provide flood control that has prevented billions of dollars of damage;

(8) the Garrison and Oahe Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Sakakawea and Lake Oahe;

(9) the sediment depositions—

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation;

and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program—

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) PURPOSES.—The purposes of this title are—

(1) to reduce the siltation of the Missouri River in the State of North Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River;

and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

SEC. 703. DEFINITIONS.

In this title, the following definitions apply:

(1) PICK-SLOAN PROGRAM.—The term “Pick-Sloan program” means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891).

(2) PLAN.—The term “plan” means the plan for the use of funds made available by this title that is required to be prepared under section 705(e).

(3) STATE.—The term “State” means the State of North Dakota.

(4) TASK FORCE.—The term “Task Force” means the North Dakota Missouri River Task Force established by section 705(a).

(5) TRUST.—The term “Trust” means the North Dakota Missouri River Trust established by section 704(a).

SEC. 704. MISSOURI RIVER TRUST.

(a) ESTABLISHMENT.—There is established a committee to be known as the North Dakota Missouri River Trust.

(b) MEMBERSHIP.—The Trust shall be composed of 16 members to be appointed by the Secretary, including—

(1) 12 members recommended by the Governor of North Dakota that—

(A) represent equally the various interests of the public; and

(B) include representatives of—

(i) the North Dakota Department of Health;

(ii) the North Dakota Department of Parks and Recreation;

(iii) the North Dakota Department of Game and Fish;

(iv) the North Dakota State Water Commission;

(v) the North Dakota Indian Affairs Commission;

(vi) agriculture groups;

(vii) environmental or conservation organizations;

(viii) the hydroelectric power industry;

(ix) recreation user groups;

(x) local governments; and

(xi) other appropriate interests;

(2) 4 members representing each of the 4 Indian tribes in the State of North Dakota.

SEC. 705. MISSOURI RIVER TASK FORCE.

(a) ESTABLISHMENT.—There is established the Missouri River Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary (or a designee), who shall serve as Chairperson;

(2) the Secretary of Agriculture (or a designee);

(3) the Secretary of Energy (or a designee);

(4) the Secretary of the Interior (or a designee); and

(5) the Trust.

(c) DUTIES.—The Task Force shall—

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;

(3) review projects to meet the goals of the plan; and

(4) recommend to the Secretary critical projects for implementation.

(d) ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall transmit to the other members of the Task Force a report on—

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;

(ii) recreation;

(iii) hydropower generation;

(iv) fish and wildlife; and

(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;

(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and

Deadline.
Reports.

(D) other issues, as requested by the Task Force.

(2) CONSULTATION.—In preparing the report under paragraph (1), the Secretary shall consult with—

- (A) the Secretary of Energy;
- (B) the Secretary of the Interior;
- (C) the Secretary of Agriculture;
- (D) the State; and
- (E) Indian tribes in the State.

(e) PLAN FOR USE OF FUNDS MADE AVAILABLE BY THIS TITLE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.

Deadline.

(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—

- (A) conservation practices in the Missouri River watershed;
- (B) the general control and removal of sediment from the Missouri River;
- (C) the protection of recreation on the Missouri River from sedimentation;
- (D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;
- (E) erosion control along the Missouri River; or
- (F) any combination of the activities described in subparagraphs (A) through (E).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final in accordance with procedures established by the Task Force.

Public information.

(B) REVISION OF PLAN.—

(i) IN GENERAL.—The Task Force may, on an annual basis, revise the plan.

(ii) PUBLIC REVIEW AND COMMENT.—In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.

(f) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.

(2) AGREEMENT.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

(3) INDIAN PROJECTS.—To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are—

- (A) within the boundary of an Indian reservation; or
- (B) administered by an Indian tribe.

(g) COST SHARING.—

(1) ASSESSMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out the assessment may be provided in the form of services, materials, or other in-kind contributions.

(2) PLAN.—

(A) FEDERAL SHARE.—The Federal share of the cost of preparing the plan shall be 75 percent.

(B) NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share of the cost of preparing the plan may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—A non-Federal cost share shall be required to carry out any project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed \$5,000,000 for any project.

(C) NON-FEDERAL SHARE.—

(i) IN GENERAL.—Not more than 50 percent of the non-Federal share of the cost of carrying out a project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) REQUIRED NON-FEDERAL CONTRIBUTIONS.—For any project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) CREDIT.—The Secretary shall credit the non-Federal interest for all contributions provided under clause (ii)(I).

SEC. 706. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled “An Act for the protection of the bald eagle”, approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) **FEDERAL LIABILITY FOR DAMAGE.**—Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.

(c) **FLOOD CONTROL.**—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Flood Control Act of December 22, 1944 (33 U.S.C. 701-1 et seq.; 58 Stat. 887).

(d) **USE OF FUNDS.**—Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

SEC. 707. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to the Secretary to carry out this title \$5,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

(b) **EXISTING PROGRAMS.**—The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

TITLE VIII—WILDLIFE REFUGE ENHANCEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the “Charles M. Russell National Wildlife Refuge Enhancement Act of 2000”.

SEC. 802. PURPOSE.

The purpose of this title is to direct the Secretary, working with the Secretary of the Interior, to convey cabin sites at Fort Peck Lake, Montana, and to acquire land with greater wildlife

Charles M.
Russell National
Wildlife Refuge
Enhancement
Act of 2000.
Montana.
16 USC 668dd
note.

and other public value for the Charles M. Russell National Wildlife Refuge, to—

- (1) better achieve the wildlife conservation purposes for which the Refuge was established;
- (2) protect additional fish and wildlife habitat in and adjacent to the Refuge;
- (3) enhance public opportunities for hunting, fishing, and other wildlife-dependent activities;
- (4) improve management of the Refuge; and
- (5) reduce Federal expenditures associated with the administration of cabin site leases.

SEC. 803. DEFINITIONS.

In this title, the following definitions apply:

(1) ASSOCIATION.—The term “Association” means the Fort Peck Lake Association.

(2) CABIN SITE.—

(A) IN GENERAL.—The term “cabin site” means a parcel of property within the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas that is—

- (i) managed by the Corps of Engineers;
- (ii) located in or near the eastern portion of Fort Peck Lake, Montana; and
- (iii) leased for single family use or occupancy.

(B) INCLUSIONS.—The term “cabin site” includes all right, title, and interest of the United States in and to the property, including—

- (i) any permanent easement that is necessary to provide vehicular and utility access to the cabin site;
- (ii) the right to reconstruct, operate, and maintain an easement described in clause (i); and
- (iii) any adjacent parcel of land that the Secretary determines should be conveyed under section 804(c)(1).

(3) CABIN SITE AREA.—

(A) IN GENERAL.—The term “cabin site area” means a portion of the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas referred to in paragraph (2) that is occupied by 1 or more cabin sites.

(B) INCLUSION.—The term “cabin site area” includes such immediately adjacent land, if any, as is needed for the cabin site area to exist as a generally contiguous parcel of land and for each cabin site in the cabin site area to meet the requirements of section 804(e)(1), as determined by the Secretary, with the concurrence of the Secretary of the Interior.

(4) LAND.—The term “land” means land or an interest in land.

(5) LESSEE.—The term “lessee” means a person that is leasing a cabin site.

(6) REFUGE.—The term “Refuge” means the Charles M. Russell National Wildlife Refuge in the State of Montana.

SEC. 804. CONVEYANCE OF CABIN SITES.

(a) IN GENERAL.—

(1) PROHIBITION.—As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prohibit the issuance of new cabin site leases within the Refuge, except as is necessary to consolidate with,

or substitute for, an existing cabin site lease under paragraph (2).

(2) DETERMINATION; NOTICE.—Not later than 1 year after the date of enactment of this Act, and before proceeding with any exchange under this title, the Secretary shall—

Deadline.

(A)(i) with the concurrence of the Secretary of the Interior, determine individual cabin sites that are not suitable for conveyance to a lessee because the cabin sites are isolated so that conveyance of 1 or more of the cabin sites would create an inholding that would impair management of the Refuge; and

(ii) with the concurrence of the Secretary of the Interior and the lessee, determine individual cabin sites that are not suitable for conveyance to a lessee for any other reason that adversely impacts the future habitability of the cabin sites; and

(B) provide written notice to each lessee that specifies any requirements concerning the form of a notice of interest in acquiring a cabin site that the lessee may submit under subsection (b)(1) and an estimate of the portion of administrative costs that would be required to be reimbursed to the Secretary under section 808(b), to—

(i) determine whether the lessee is interested in acquiring the cabin site area of the lessee; and

(ii) inform each lessee of the rights of the lessee under this title.

(3) OFFER OF COMPARABLE CABIN SITE.—If the Secretary determines that a cabin site is not suitable for conveyance to a lessee under paragraph (2)(A), the Secretary, in consultation with the Secretary of the Interior, shall offer to the lessee the opportunity to acquire a comparable cabin site within the same cabin site area.

(b) RESPONSE.—

(1) NOTICE OF INTEREST.—

(A) IN GENERAL.—Not later than July 1, 2003, a lessee shall notify the Secretary in writing of an interest in acquiring the cabin site of the lessee.

Deadline.

(B) FORM.—The notice under this paragraph shall be submitted in such form as is required by the Secretary under subsection (a)(2)(B).

(2) UNPURCHASED CABIN SITES.—If the Secretary receives no notice of interest or offer to purchase a cabin site from the lessee under paragraph (1) or the lessee declines an opportunity to purchase a comparable cabin site under subsection (a)(3), the cabin site shall be subject to sections 805 and 806.

(c) PROCESS.—After providing notice to a lessee under subsection (a)(2)(B), the Secretary, with the concurrence of the Secretary of the Interior, shall—

(1) determine whether any small parcel of land adjacent to any cabin site (not including shoreline or land needed to provide public access to the shoreline of Fort Peck Lake) should be conveyed as part of the cabin site to—

(A) protect water quality;

(B) eliminate an inholding; or

(C) facilitate administration of the land remaining in Federal ownership;

(2) if the Secretary and the Secretary of the Interior determine that a conveyance should be completed under paragraph (1), provide notice of the intent of the Secretary to complete the conveyance to the lessee of each affected cabin site;

(3) survey each cabin site to determine the acreage and legal description of the cabin site area, including land identified under paragraph (1);

(4) take such actions as are necessary to ensure compliance with all applicable environmental laws;

(5) prepare permanent easements or deed restrictions to be enforceable by the Secretary of the Interior or an acceptable third party, to be placed on a cabin site before conveyance out of Federal ownership in order to—

(A) comply with the Act of May 18, 1938 (16 U.S.C. 833 et seq.);

(B) comply with any other laws (including regulations);

(C) ensure the maintenance of existing and adequate public access to and along Fort Peck Lake;

(D) limit future uses of the cabin site to—

(i) noncommercial, single-family use; and

(ii) the type and intensity of use of the cabin site as of the date of enactment of this Act; and

(E) maintain the values of the Refuge; and

(6) conduct an appraisal of each cabin site (including any expansion of the cabin site under paragraph (1)) that—

(A) is carried out in accordance with the Uniform Appraisal Standards for Federal Land Acquisition;

(B) excludes the value of any private improvement to the cabin site; and

(C) takes into consideration—

(i) any easement or deed restriction determined to be necessary under paragraph (5) and subsection (h); and

(ii) the definition of “cabin site” under section 803(2).

(d) CONSULTATION AND PUBLIC INVOLVEMENT.—The Secretary shall—

(1) carry out subsections (b) and (c) in consultation with—

(A) affected lessees;

(B) affected counties in the State of Montana; and

(C) the Association; and

(2) hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

(e) CONVEYANCE.—Subject to subsections (h) and (i) and section 808(b), the Secretary or, if necessary, the Secretary of the Interior shall convey a cabin site by individual patent or deed to the lessee under this title—

(1) if the cabin site complies with Federal, State, and county septic and water quality laws (including regulations);

(2) if the lessee complies with other requirements of this section; and

(3) after receipt of the payment from the lessee for the cabin site of an amount equal to the sum of—

(A) the appraised fair market value of the cabin site as determined in accordance with subsection (c)(6); and

(B) the administrative costs required to be reimbursed under section 808.

(f) VEHICULAR ACCESS.—

(1) IN GENERAL.—Nothing in this title authorizes any addition to or improvement of vehicular access to a cabin site.

(2) CONSTRUCTION.—The Secretary and the Secretary of the Interior—

(A) shall not construct any road for the sole purpose of providing access to land conveyed under this section; and

(B) shall be under no obligation to service or maintain any existing road used primarily for access to that land (or to a cabin site).

(3) OFFER TO CONVEY.—The Secretary, with the concurrence of the Secretary of the Interior, may offer to convey to the State of Montana, any political subdivision of the State of Montana, or the Association, any road determined by the Secretary to primarily service the land conveyed under this section.

(g) UTILITIES AND INFRASTRUCTURE.—

(1) IN GENERAL.—The purchaser of a cabin site shall be responsible for acquiring or securing the use of all utilities and infrastructure necessary to support the cabin site.

(2) NO FEDERAL ASSISTANCE.—The Secretary and the Secretary of the Interior shall not provide any utilities or infrastructure to the cabin site.

(h) EASEMENTS AND DEED RESTRICTIONS.—

(1) IN GENERAL.—Before conveying any cabin site under subsection (e), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance—

(A) includes such easements and deed restrictions as are determined, under subsection (c), to be necessary; and

(B) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(2) RESERVATION OF RIGHTS.—The Secretary may reserve the perpetual right, power, privilege, and easement to permanently overflow, flood, submerge, saturate, percolate, or erode a cabin site (or any portion of a cabin site) that the Secretary determines is necessary in the operation of the Fort Peck Dam.

(i) NO CONVEYANCE OF UNSUITABLE CABIN SITES.—A cabin site that is determined to be unsuitable for conveyance under subsection (a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

(j) IDENTIFICATION OF LAND FOR EXCHANGE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall identify land that may be acquired that meets the purposes of this title specified in paragraphs (1) through (4) of section 802 and for which 1 or more willing sellers exist.

(2) APPRAISAL.—On a request by a willing seller, the Secretary of the Interior shall appraise the land identified under paragraph (1).

(3) ACQUISITION.—If the Secretary of the Interior determines that the acquisition of the land would meet the purposes of this title specified in paragraphs (1) through (4) of section 802, the Secretary of the Interior shall cooperate with the

willing seller to facilitate the acquisition of the land in accordance with section 807.

(4) PUBLIC PARTICIPATION.—The Secretary of the Interior shall hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

SEC. 805. RIGHTS OF NONPARTICIPATING LESSEES.

(a) CONTINUATION OF LEASE.—

(1) IN GENERAL.—A lessee that does not provide the Secretary with an offer to acquire the cabin site of the lessee under section 804 (including a lessee who declines an offer of a comparable cabin site under section 804(a)(3)) may elect to continue to lease the cabin site for the remainder of the current term of the lease, which, except as provided in paragraph (2), shall not be renewed or otherwise extended.

(2) EXPIRATION BEFORE 2010.—If the current term of a lessee described in paragraph (1) expires or is scheduled to expire before 2010, the Secretary shall offer to extend or renew the lease through 2010.

(b) IMPROVEMENTS.—Any improvements and personal property of the lessee that are not removed from the cabin site before the termination of the lease shall be considered property of the United States in accordance with the provisions of the lease.

(c) OPTION TO PURCHASE.—Subject to subsections (d) and (e) and section 808(b), if at any time before termination of the lease, a lessee described in subsection (a)(1)—

(1) notifies the Secretary of the intent of the lessee to purchase the cabin site of the lessee; and

(2) pays for an updated appraisal of the cabin site in accordance with section 804(c)(6);

the Secretary or, if necessary, the Secretary of the Interior shall convey the cabin site to the lessee, by individual patent or deed, on receipt of payment from the lessee for the cabin site of an amount equal to the sum of the appraised fair market value of the cabin site, as determined by the updated appraisal, and the administrative costs required to be reimbursed under section 808.

(d) EASEMENTS AND DEED RESTRICTIONS.—Before conveying any cabin site under subsection (c), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance—

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(e) NO CONVEYANCE OF UNSUITABLE CABIN SITES.—A cabin site that is determined to be unsuitable for conveyance under subsection 804(a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

Deadline.

(f) REPORT.—Not later than July 1, 2003, the Secretary shall submit to Congress a report that—

(1) describes progress made in implementing this title; and

(2) identifies cabin owners that have filed a notice of interest under section 804(b) and have declined an opportunity to acquire a comparable cabin site under section 804(a)(3).

SEC. 806. CONVEYANCE TO THIRD PARTIES.

(a) **CONVEYANCES TO THIRD PARTIES.**—As soon as practicable after the expiration or surrender of a lease, the Secretary, with the concurrence of the Secretary of the Interior, may offer for sale, by public auction, written invitation, or other competitive sales procedure, and at the fair market value of the cabin site determined under section 804(c)(6), any cabin site that—

(1) is not conveyed to a lessee under this title; and

(2) has not been determined to be unsuitable for conveyance under section 804(a)(2)(A).

(b) **EASEMENTS AND DEED RESTRICTIONS.**—Before conveying any cabin site under subsection (a), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance—

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(c) **MANAGEMENT OF REMAINING LAND WITHIN CABIN SITE AREAS.**—

(1) **MANAGEMENT BY THE SECRETARY.**—All land within the outer boundaries of a cabin site area that is not conveyed under this Act shall be managed by the Secretary, in consultation with the Secretary of the Interior, in substantially the same manner as that land is managed on the date of enactment of this Act and consistent with the purposes for which the Refuge was established.

(2) **CONSTRUCTION AND DEVELOPMENT.**—The Secretary shall not initiate or authorize any development or construction on land under paragraph (1) except with the concurrence of the Secretary of the Interior.

SEC. 807. USE OF PROCEEDS.

(a) **PROCEEDS.**—All payments for the conveyance of cabin sites under this title, except costs reimbursed to the Secretary under section 808(b)—

(1) shall be deposited in a special fund within the Montana Fish and Wildlife Conservation Trust established under section 1007 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-715) (as amended by title IV of H.R. 3425 of the 106th Congress, as enacted by section 1000(a)(5) of Public Law 106-113 (113 Stat. 1536, 1501A-307); and

(2) notwithstanding title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-710), shall be available for use by the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service in the Director's sole discretion and without further Act of appropriation, solely for the acquisition from willing sellers of property that—

(A) is within or adjacent to the Refuge;

(B) would be suitable to carry out the purposes of this title specified in paragraphs (1) through (4) of section 802; and

(C) on acquisition by the Secretary of the Interior, would be accessible to the general public for use in conducting activities consistent with approved uses of the Refuge.

(b) LIMITATIONS.—

(1) IN GENERAL.—To the extent practicable, acquisitions under this title shall be of land within the Refuge.

(2) NO EFFECT ON ACQUISITION.—Nothing in this subsection limits the ability of the Secretary of the Interior to acquire land adjacent to the Refuge from a willing seller in cases in which the Secretary of the Interior also acquires land within the Refuge from the same willing seller.

SEC. 808. ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall pay all administrative costs incurred in carrying out this title.

(b) REIMBURSEMENT.—As a condition of the conveyance of any cabin site area under this title, the Secretary or the Secretary of the Interior—

(1) may require the party to whom the property is conveyed to reimburse the Secretary or the Secretary of the Interior for a reasonable portion, as determined by the Secretary or the Secretary of the Interior, of the direct administrative costs (including survey costs) incurred in carrying out conveyance activities under this title, taking into consideration any cost savings achieved as a result of the party's agreeing to purchase its cabin site as part of a single transaction for the conveyance of multiple cabin sites; and

(2) shall require the party to whom the property is conveyed to reimburse the Association for a proportionate share of the costs (including interest) incurred by the Association in carrying out transactions under this title.

SEC. 809. REVOCATION OF WITHDRAWALS.

(a) IN GENERAL.—Upon execution of any patent or deed, by the Secretary or the Secretary of the Interior, conveying land as specifically authorized by this title, any public land withdrawal affecting the land described in the conveyance document as being conveyed shall be revoked with respect to that land.

(b) EXCLUSIONS.—Nothing in this section affects—

(1) the status of any public land withdrawal on land retained by the Secretary or the Secretary of the Interior;

(2) the boundary of the Refuge as established by Executive Order No. 7509 (December 11, 1936); or

(3) enforcement of any right retained by the United States.

(c) REINSTATEMENT.—If, at any time after the date of enactment of this Act, the Secretary or the Secretary of the Interior reacquires land conveyed under this title, any public land withdrawal revoked under this section shall be reinstated with respect to the reacquired land.

SEC. 810. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE IX—MISSOURI RIVER RESTORATION, SOUTH DAKOTA

Missouri River
Restoration Act
of 2000.
Conservation.

SEC. 901. SHORT TITLE.

This title may be cited as the “Missouri River Restoration Act of 2000”.

SEC. 902. FINDINGS AND PURPOSES.

- (a) FINDINGS.—Congress finds that—
- (1) the Missouri River is—
 - (A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and
 - (B) a critical source of water for drinking and irrigation;
 - (2) millions of people fish, hunt, and camp along the Missouri River each year;
 - (3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;
 - (4) the Missouri River provides critical wildlife habitat for threatened and endangered species;
 - (5) in 1944, Congress approved the Pick-Sloan program—
 - (A) to promote the general economic development of the United States;
 - (B) to provide for irrigation above Sioux City, Iowa;
 - (C) to protect urban and rural areas from devastating floods of the Missouri River; and
 - (D) for other purposes;
 - (6) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams were constructed on the Missouri River in South Dakota under the Pick-Sloan program;
 - (7) the dams referred to in paragraph (6)—
 - (A) generate low-cost electricity for millions of people in the United States;
 - (B) provide revenue to the Treasury; and
 - (C) provide flood control that has prevented billions of dollars of damage;
 - (8) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Oahe, Lake Sharpe, Lake Francis Case, and Lewis and Clark Lake;
 - (9) the sediment depositions—
 - (A) cause shoreline flooding;
 - (B) destroy wildlife habitat;
 - (C) limit recreational opportunities;
 - (D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;
 - (E) reduce water quality; and
 - (F) threaten intakes for drinking water and irrigation;
 - and
 - (10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program—
 - (A) to improve conservation;

- (B) to reduce the deposition of sediment; and
- (C) to take other steps necessary for proper management of the Missouri River.
- (b) PURPOSES.—The purposes of this title are—
 - (1) to reduce the siltation of the Missouri River in the State of South Dakota;
 - (2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—
 - (A) to improve conservation in the Missouri River watershed;
 - (B) to protect recreation on the Missouri River from sedimentation;
 - (C) to improve water quality in the Missouri River;
 - (D) to improve erosion control along the Missouri River;
 - and
 - (E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and
 - (3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

SEC. 903. DEFINITIONS.

In this title, the following definitions apply:

- (1) PICK-SLOAN PROGRAM.—The term “Pick-Sloan program” means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891).
- (2) PLAN.—The term “plan” means the plan for the use of funds made available by this title that is required to be prepared under section 905(e).
- (3) STATE.—The term “State” means the State of South Dakota.
- (4) TASK FORCE.—The term “Task Force” means the Missouri River Task Force established by section 905(a).
- (5) TRUST.—The term “Trust” means the Missouri River Trust established by section 904(a).

SEC. 904. MISSOURI RIVER TRUST.

- (a) ESTABLISHMENT.—There is established a committee to be known as the Missouri River Trust.
- (b) MEMBERSHIP.—The Trust shall be composed of 25 members to be appointed by the Secretary, including—
 - (1) 15 members recommended by the Governor of South Dakota that—
 - (A) represent equally the various interests of the public; and
 - (B) include representatives of—
 - (i) the South Dakota Department of Environment and Natural Resources;
 - (ii) the South Dakota Department of Game, Fish, and Parks;
 - (iii) environmental groups;
 - (iv) the hydroelectric power industry;
 - (v) local governments;
 - (vi) recreation user groups;
 - (vii) agricultural groups; and
 - (viii) other appropriate interests;

(2) 9 members, 1 of each of whom shall be recommended by each of the 9 Indian tribes in the State of South Dakota; and

(3) 1 member recommended by the organization known as the “Three Affiliated Tribes of North Dakota” (composed of the Mandan, Hidatsa, and Arikara tribes).

SEC. 905. MISSOURI RIVER TASK FORCE.

(a) ESTABLISHMENT.—There is established the Missouri River Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary (or a designee), who shall serve as Chairperson;

(2) the Secretary of Agriculture (or a designee);

(3) the Secretary of Energy (or a designee);

(4) the Secretary of the Interior (or a designee); and

(5) the Trust.

(c) DUTIES.—The Task Force shall—

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;

(3) review projects to meet the goals of the plan; and

(4) recommend to the Secretary critical projects for implementation.

(d) ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall submit to the other members of the Task Force a report on—

Deadline.
Reports.

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;

(ii) recreation;

(iii) hydropower generation;

(iv) fish and wildlife; and

(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;

(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and

(D) other issues, as requested by the Task Force.

(2) CONSULTATION.—In preparing the report under paragraph (1), the Secretary shall consult with—

(A) the Secretary of Energy;

(B) the Secretary of the Interior;

(C) the Secretary of Agriculture;

(D) the State; and

(E) Indian tribes in the State.

(e) PLAN FOR USE OF FUNDS MADE AVAILABLE BY THIS TITLE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.

Deadline.

(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—

(A) conservation practices in the Missouri River watershed;

(B) the general control and removal of sediment from the Missouri River;

(C) the protection of recreation on the Missouri River from sedimentation;

(D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;

(E) erosion control along the Missouri River; or

(F) any combination of the activities described in subparagraphs (A) through (E).

Public
information.

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final, in accordance with procedures established by the Task Force.

(B) REVISION OF PLAN.—

(i) IN GENERAL.—The Task Force may, on an annual basis, revise the plan.

(ii) PUBLIC REVIEW AND COMMENT.—In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.

(f) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.

(2) AGREEMENT.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.

(3) INDIAN PROJECTS.—To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are—

(A) within the boundary of an Indian reservation; or

(B) administered by an Indian tribe.

(g) COST SHARING.—

(1) ASSESSMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out the assessment may be provided in the form of services, materials, or other in-kind contributions.

(2) PLAN.—

(A) FEDERAL SHARE.—The Federal share of the cost of preparing the plan under subsection (e) shall be 75 percent.

(B) NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share of the cost of preparing the plan may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) **IN GENERAL.**—A non-Federal cost share shall be required to carry out any critical restoration project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) **FEDERAL SHARE.**—The Federal share of the cost of carrying out a project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed \$5,000,000 for any critical restoration project.

(C) **NON-FEDERAL SHARE.**—

(i) **IN GENERAL.**—Not more than 50 percent of the non-Federal share of the cost of carrying out a project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) **REQUIRED NON-FEDERAL CONTRIBUTIONS.**—For any project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) **CREDIT.**—The Secretary shall credit the non-Federal interest for all contributions provided under clause (ii)(I).

SEC. 906. ADMINISTRATION.

(a) **IN GENERAL.**—Nothing in this title diminishes or affects—

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled “An Act for the protection of the bald eagle”, approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) **FEDERAL LIABILITY FOR DAMAGE.**—Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.

(c) **FLOOD CONTROL.**—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Flood Control Act of December 22, 1944 (33 U.S.C. 701-1 et seq.; 58 Stat. 887).

(d) **USE OF FUNDS.**—Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

SEC. 907. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to the Secretary to carry out this title \$10,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

(b) **EXISTING PROGRAMS.**—The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

Approved December 11, 2000.

LEGISLATIVE HISTORY—S. 2796:

HOUSE REPORTS: No. 106-1020 (Comm. of Conference).

SENATE REPORTS: No. 106-362 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 146 (2000):

Sept. 21, 25 considered and passed Senate.

Oct. 19, considered and passed House, amended.

Oct. 23, Senate disagreed to House amendments.

Oct. 31, Senate agreed to conference report.

Nov. 3, House agreed to conference report.

