

WATER CONSERVATION AND UTILIZATION ACT

An act authorizing construction of water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States. (Act of August 11, 1939, ch. 717, 53 Stat. 1418)

[**Sec. 1. Construction authorized—U.S. to retain title to project works—Limits on irrigation and flood control costs.**]—For the purpose of stabilizing water supply and thereby rehabilitating farmers on the land and providing opportunities for permanent settlement of farm families, the Secretary of the Interior (hereinafter referred to as “the Secretary”) is hereby authorized to investigate and, upon compliance with the provisions of this Act, to construct water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States, and to operate and maintain each such project in accordance with the provisions of this Act: *Provided*, That the United States shall retain title to the dams, reservoirs, irrigation, and other project works until Congress otherwise provides: *And provided further*, That expenditures from appropriations made directly pursuant to the authority contained in section 12 (1) to meet reimbursable construction costs allocated to irrigation as defined in section 4 (b) shall not exceed \$2,000,000 for dams and reservoirs in any one project, and that expenditures from appropriations made directly pursuant to the authority contained in section 12 (1) to meet costs allocated to flood control by the Secretary after consultation with the Chief of Engineers, War Department, shall not exceed \$500,000 on any one project. (53 Stat. 1418; Act of October 14, 1940, 54 Stat. 1119; Act of March 7, 1942, 56 Stat. 142; § 1, Act of July 16, 1943, 57 Stat. 566; 16 U.S.C. § 590y)

EXPLANATORY NOTES

1943 Amendment. Section 1 of the Act of July 16, 1943, raised the limitation on irrigation costs from \$1,000,000 to \$2,000,000. For legislative history of the 1943 Act see S. 1252, Public Law 152 in the 78th Congress; S. Rept. No. 365; H.R. Rept. No. 597 (on H.R. 3019).

1942 Amendment. The Act of March 7, 1942, 56 Stat. 142, added the limitation on flood control costs. For legislative history of the 1942 Act see H.R. 4648, Public Law 488 in the 77th Congress; H.R. Rept. No. 1447; companion bill S. 1441.

1940 Amendment. The Act of October 14, 1940, completely revised the 1939 Act and expanded it from 4 to 12 sections. For legislative history of the 1940 Act see H.R. 10122, Public Law 848 in the 76th Congress; H.R. Rept. No. 2944.

Original Text. As originally enacted, section 1 of the Act of August 11, 1939, provided as follows: “The Secretary of the Interior is hereby authorized to undertake

the construction, including acquisition of water rights, rights-of-way, and other interests in land, of water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States.”

Earlier Enactment, May 10, 1939. The Interior Department Appropriation Act, 1940, approved May 10, 1939, appropriated \$5,000,000 for the construction of water conservation and utilization projects by the Secretary of the Interior. The Act appears herein in chronological order.

Popular Names. The authority in the appropriation act of May 10, 1939, is variously referred to as the Water Conservation and Utilization Act, the 1940 Water conservation appropriation, or the Great Plains projects program. The Act of August 11, 1939, as amended, is variously referred to as the Case-Wheeler Act, the Wheeler-Case Act, or the Water Conservation and Utilization Act. Projects constructed under both

authorities are generally called water conservation and utilization projects and are considered to be part of the same program.

Cross Reference, Water Facilities Act. The Act of August 28, 1937, 50 Stat. 869, 16 U.S.C. §§ 590r-590x-4 (1958 ed.), popularly known as the Water Facilities Act, authorized the Secretary of Agriculture to construct or to assist in the construction of facilities for water storage and utilization in arid and semiarid areas of the United States. The Act of August 17, 1954, 68 Stat. 734, terminated the construction phase of the program, expanded the purposes to in-

clude land conservation and improvement projects, authorized the Secretary of Agriculture to make loans and to insure loans for purposes of the Act, and extended the coverage of the program to all of the States and Territories. This authority in turn was repealed and replaced by Title III of the Act of August 8, 1961, Public Law 87-128, 75 Stat. 294, 307, 7 U.S.C. §§ 1921-91. Extracts from this title, which may be cited separately as the Consolidated Farmers Home Administration Act of 1961, appear herein in chronological order.

Sec. 2. [Federal and State agencies.]—In connection with the investigation, construction, or operation and maintenance of a project, pursuant to the authority of this Act, the Secretary is authorized to utilize (1) in such manner as the President may direct, services, labor, materials, or other property, including money, supplied by the Work Projects Administration, the Civilian Conservation Corps, the Office of Indian Affairs, the Department of Agriculture, or any other Federal agency, for which the United States shall be reimbursed in such amounts as the President may fix for each project, within the limits of the water users' ability to repay costs as found by the Secretary under subsection 3(a) (iv); and (2) such services, labor, materials, easements or property, including money, as may be contributed by any State or political subdivision thereof, State agency, municipal corporation, or other organization, or individuals, if, in the judgment of the Secretary, the acceptance thereof will not impair the title of the United States to the project works and will not reduce the probability that the project water users can meet the obligations to the United States entered into pursuant to this Act. Moneys received and accepted under (2) of this section shall be and remain available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes. (53 Stat. 1419; Act of October 14, 1950, 54 Stat. 1120; 16 U.S.C. § 590z)

EXPLANATORY NOTES

1940 Amendment. The Act of October 14, 1940, completely revised the 1939 Act and expanded it from 4 to 12 sections.

Original Text. As originally enacted, section 2 of the Act of August 11, 1939, provided as follows:

"SEC. 2. Any money expended on such construction from appropriations made under the authority of this Act shall be repaid to the United States by the water users

in not to exceed forty annual installments. Any labor or materials supplied for such construction by the Work Projects Administration, the Civilian Conservation Corps, or any other Federal agency shall be utilized in such manner as the President may determine, and for such labor and materials the water users shall reimburse the United States in such amounts and on such terms as the President may fix for each project."

Sec. 3. [Report on feasibility and cost allocations—Presidential approval—Land and water rights—Definitions.]—(a) No construction of a project may be undertaken pursuant to the authority of this Act unless and until the Secretary has made an investigation thereof and has submitted to the President his report and findings on—

- (i) the engineering feasibility of the proposed construction;

- (ii) the estimated cost of the proposed construction;
- (iii) the part of the estimated cost which properly can be allocated to irrigation;
- (iv) the part of the estimated cost which probably can be repaid by the water users in accordance with the requirements of section 4;
- (v) the part of the estimated cost which can properly be allocated to municipal or miscellaneous water supplies or power and probably be returned to the United States in revenues therefrom;
- (vi) the part of the estimated cost which can properly be allocated to the irrigation of Indian trust and tribal lands, and be repayable in accordance with existing law relating to Indian lands;
- (vii) the part of the estimated cost which can properly be allocated to flood control as recommended by the Secretary after consultation with the Chief of Engineers, War Department.

In connection with each such investigation, report, and finding, the Secretary shall consult with the Secretary of Agriculture regarding participation in the proposed project by the Department of Agriculture under the authority of sections 5 and 6; and the Secretary shall also transmit to the President a report by the Secretary of Agriculture to the President on the participation, if any, proposed by the Department of Agriculture. The project shall be deemed authorized and may be undertaken pursuant to this Act if (1) the Secretary finds and certifies to the President that the project has engineering feasibility and that the water users probably can repay, in accordance with the requirements of section 4, an amount equal to or in excess of that part of the estimated cost allocated by him to irrigation to be met by expenditure of moneys appropriated pursuant to section 12(1); and (2) the President has approved said report and findings and has found that services, labor, materials, easements, and other property, including money, for the construction of the project, should be made available to the Department of the Interior by the Work Projects Administration or other Federal agencies, to the extent found necessary by the Secretary to make up the difference between the estimated cost of project construction and (i) the part thereof to be met by expenditure of moneys appropriated pursuant to section 12(1), together with (ii) such services, materials, money, easements, and other property as non-Federal agencies or parties have agreed to contribute and the Secretary has found acceptable under section 2.

EXPLANATORY NOTE

1944 Supplementary Provision: Federal and State Review; Congressional Authorization. Section 1(c) of the Flood Control Act of December 22, 1944, requires that project reports shall be reviewed by the Secretary of the Army and affected States,

and provides that if objections are set forth, the proposed works shall not be deemed authorized except by Act of Congress. The 1944 Act appears herein in chronological order.

- (b) No actual construction of the physical features of a project shall be undertaken unless and until (1) the Secretary has found that lands, or interests in lands, deemed necessary for the construction and operation of the major features of the projects have been secured, or sufficient progress made in their

procurement to indicate the probability that all these lands or interests in lands can be secured, with titles and at prices satisfactory to him; and (2) the Secretary has found (i) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to him, or that such water rights have been initiated and in his judgment can be perfected in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him; and (ii) that such water rights can be utilized for the purposes of the project in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him.

(c) Any part of a project hereunder may be designated as a division of the project by the Secretary if he, after consultation with the Secretary of Agriculture, deems this desirable for orderly and efficient construction or administration. The term 'project', as used in subsection 3(b) and section 4, shall be deemed to mean also 'division of a project', designated as provided in this subsection. Any project authorized for construction from appropriations under the head 'Water Conservation and Utility Projects' in the Interior Department Appropriation Act, 1940 (53 Stat. 685), hereinafter called the 1940 water conservation appropriation, may be designated by the Secretary, upon agreement with the Secretary of Agriculture, a project under this Act and shall thereupon be subject to all the provisions and requirements thereof, except those of subsections 3(a) and 3(b). (53 Stat. 1419; Act of October 14, 1940, 54 Stat. 1120; §§ 2-4, Act of July 16, 1943, 57 Stat. 567; 16 U.S.C. § 590z-1)

EXPLANATORY NOTES

1943 Amendments. Section 2 of the Act of July 16, 1943, amended subparagraph vii of subsection (a) to provide that the allocation to flood control would be recommended by the Secretary of the Interior after consultation with the Chief of Engineers, rather than by the Chief of Engineers himself. Section 3 of the Act of July 16, 1943, amended subsection (b) by adding to clause (1) the alternative of a finding of sufficient progress in the acquisition of lands and by making certain technical changes in the wording of clause (2). Section 4 of the Act of July 16, 1943, added subsection (c).

1940 Amendment. The Act of October 14, 1940, completely revised the 1939 act and expanded it from 4 to 12 sections.

Original Text. As originally enacted, section 3 of the Act of August 11, 1939, provided as follows:

"Sec. 3. No moneys may be expended on a project pursuant to the authority of this Act unless and until (1) the Secretary of the Interior has found, and has certified to the President, that the project has engineering feasibility and that the moneys to be expended on the project from appropriations made under the authority of this Act probably can be repaid by the water users

within forty years; and (2) the President has approved said findings and has determined that labor and materials for the construction of the project should be made available to the Department of the Interior by the Work Projects Administration or a similar Federal agency, in the amount found by the Secretary of the Interior to make up the difference, if any, between the estimated cost of construction and the amount which can be expended from appropriations made under this Act and probably can be repaid by the water users: *Provided*, That the Secretary of the Interior may accept for the construction of the project such labor or materials as may be offered by any State or political subdivision thereof, State agency, or municipal corporation, and may reduce by the amount thereof the estimated cost of construction to be met by the expenditure of Federal moneys."

Reference in Text. The Interior Department Appropriation Act, 1940, referred to in the text, was approved May 10, 1939. Extracts from the Act appear herein in chronological order.

1944 Supplementary Amendment: Federal and State Review; Congressional Authorization. Section 1(c) of the Flood Control Act of December 22, 1944, requires

that W.C.U. project reports shall be reviewed by the Secretary of the Army and affected States, and provides that if objections are set forth, the proposed works shall not be deemed authorized except by Act of Congress. The text of the 1944 Act appears herein in chronological order.

Sec. 4. (a) [Repayment contract required.]—No water for irrigation may be delivered from the works of any project constructed under the authority of this Act until after the repayment contract or contracts required by this section have been executed. Where practicable in the judgment of the Secretary, the repayment contract shall be with a water users' organization or organizations satisfactory in form and powers to the Secretary; and otherwise the repayment contract shall be with the individual landowners. The contract or contracts shall contain such provisions as the Secretary deems necessary to carry out the purposes of this Act and to protect the interests of the United States.

(b) [Term "reimbursable construction costs" defined.]—The term "reimbursable construction costs" as used in this Act means that part of the costs of investigating, constructing, and operating and maintaining the project, which are allocated by the Secretary to irrigation, and which are met by expenditures of moneys therefor appropriated under the authority of section 12(1), plus such amounts as the President, under section 2(1), may determine to be reimbursable: *Provided*, That administrative expenses incurred in the District of Columbia in connection with the investigation, construction, or operation and maintenance of a project shall not be included in the reimbursable construction costs nor shall they be charged to the water users in any way.

(c) [Repayment contract terms.]—The repayment contract or contracts for a project shall, in their aggregate, provide for repayment to the United States of the total amount of the reimbursable construction costs of the project allocated to irrigation. Each such contract shall provide, among other things, that—

(1) [Development period.]—The Secretary shall fix a development period for each project of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said project; and during the development period water shall be delivered to the lands in the project involved at a charge per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water. Such charges shall be fixed with a view of returning such amounts as in the Secretary's judgment are justified by the rate of project development, including as a minimum the return over the full development period of that part of the cost of operating and maintaining the project, during said period, allocated by the Secretary to irrigation; and collections of such charges in excess of the cost of the operation and maintenance during the development period, as thereafter determined by the Secretary, shall be credited to the reimbursable construction costs of the project in the manner determined by the Secretary.

(2) [Operation and maintenance.]—The United States shall operate and maintain the project during the development period fixed for it. After the development period, the United States shall operate and maintain the project or any part thereof as long as is deemed necessary by the Secretary, and shall be paid in advance for each year that part of the estimated cost of operating and maintaining the project for such year allocated by the Secretary to irrigation.

In the event charges due the United States are not paid when due the United States may, at its election, suspend operations in whole or in part.

(3) [Repayment.]—The repayment of the reimbursable construction costs, except as to Indian lands which shall be repayable in accordance with existing law relating to Indian lands, shall be spread in not to exceed forty annual installments, of the number and amounts fixed by the Secretary; and the first annual installment under each contract shall become due and payable on the date fixed by the Secretary, in the year next following the last year of the development period fixed under subsection (c) (1): *Provided*, That the provisions of this subsection shall not be construed to modify the provisions of special legislation pertaining to any particular project.

(4) [Accounting—Protection—Delinquencies.]—The water users or their organization will take such measures as the Secretary deems proper to secure the adoption of proper accounting, to protect the condition of project works, and to provide for the proper use thereof, and to protect project lands against deterioration due to improper use of water. Delinquencies in any payments due to the United States shall be penalized by a penalty of not less than one-half of 1 per centum per month. No water shall be delivered to or for any land or party while either said land or the organization in which it is located or said party is in arrears in the advance payment of operation and maintenance charges or development period charges under subsection (c) (1), or in arrears for more than twelve months in the payment of an installment of the reimbursable construction costs.

(5) [Farm units—Anti-speculation—Prior water rights.]—The Secretary shall establish the size of farm units of irrigable lands on each project in accordance with his findings of the area sufficient in size for the support of a family on the lands to be irrigated. No water may be delivered to or for more than the farm unit area of irrigable lands in the project owned by a single landowner: *Provided*, That this subsection shall not apply to the United States or any agency or instrumentality thereof, corporate or otherwise. No water shall be delivered to or for any land, in a project area, transferred or disposed of subsequent to approval of the project by the President, and within three years from the time water becomes available, unless and until it has been shown to the satisfaction of the Secretary or his duly authorized representative that the land has been transferred or disposed of at a price not exceeding the appraised value as determined by the Secretary or his duly authorized representatives, and upon proof of fraudulent representation as to the true consideration involved the Secretary is authorized to cancel the water right attaching to the land involved: *Provided further*, That nothing herein shall be construed to create authority to interfere with the delivery of water under prior rights.

(d) [Existing projects.]—For each project, on which construction is commenced or continued under this subsection, appropriations heretofore or hereafter made pursuant to section 12 and the unexpended balance of the 1940 water conservation appropriations, in addition to being available for other authorized objects of expenditure, shall be available for expenditure, by the agency to which available, in lieu of the 'services, labor, materials, or other property,

including money', authorized to be utilized under section 2 and subsection 5(b). All expenditures on each such project may be excluded (1) from the project construction costs to the extent the Secretary finds necessary to keep the reimbursable costs within the findings made under subsections 3(a) (iv), 3(a) (v), and 3(a) (vi), and (2) from the costs that but for this subsection would be required to be returned under section 5, to the extent deemed necessary by the Secretary of Agriculture for the successful prosecution of the project; and as to each such project the limitations on expenditures provided in sections 1 and 9 shall be inoperative. Appropriations made pursuant to section 12 shall be available for expenditures for continuation of construction on any project heretofore undertaken under the 1940 water conservation appropriation, and such expenditures and those from the 1940 water conservation appropriation may be excluded from the costs of any such project in determining the amounts required to be reimbursed, to the extent the Secretary and the Secretary of Agriculture jointly determine is necessary to keep reimbursable costs within the ability of the water users to repay. No project may be initiated for construction or, if heretofore authorized, continued under this subsection unless the Secretary, following consultation with the Secretary of Agriculture, finds that the proposed construction under this subsection is justifiable as an aid in the production of needed agricultural products and the President approves said finding. The utilization of services or labors of prisoners of war under section 2 is authorized, subject to the approval of, and regulations by, the War Department or other Federal agency having control of said prisoners. From and after the date six months after the cessation of hostilities in the present war as determined by proclamation of the President or concurrent resolution of the Congress, this subsection shall no longer be of any force or effect except as to projects on which construction has been initiated or continued under this subsection prior to said date. (Added by Act of October 14, 1940, 54 Stat. 1121; § 5, Act of July 16, 1943, 57 Stat. 567; 16 U.S.C. § 590z-2)

EXPLANATORY NOTES

1943 Amendment. Section 5 of the Act of July 16, 1943, added subsection (d).

Cessation of Hostilities. The cessation of hostilities referred to in subsection (d), was proclaimed at 12 o'clock noon of December 31, 1946, by Proclamation No. 2714, 12 F.R. 1 (1946).

Cross Reference, Variable Payment Plans. Section 2 of the Act of August 8, 1958, authorizes the Secretary of the Interior to extend to any organization with which he has contracted under the Water Conservation and Utilization Act the benefits of a variable payment plan as authorized by section 1 of the 1958 Act. The text of the 1958 Act appears herein in chronological order.

Cross Reference, Newton Water Users' Association. The Act of May 28, 1964, 78 Stat. 203, found herein in chronological order, authorized the Secretary of the In-

terior to execute an amended repayment contract, including a variable repayment schedule, with the Newton Water Users' Association, Utah.

Cross Reference, Big Flat Irrigation District. The Act of May 28, 1964, 78 Stat. 203, found herein in chronological order, authorized the Secretary of the Interior to negotiate and execute a contract amending the repayment contract between the United States and the Big Flat Irrigation District dated April 2, 1945, by reducing the construction charge obligation of the district in the amount of \$7,190, representing the unmaturing charges as of December 30, 1962, against one hundred and sixty-four and three-tenths acres of irrigable land at that time classified as nonproductive. The reclassification of the lands of the Big Flat unit of the Missoula Valley project, Montana, dated January 1963, was approved in the same Act.

NOTES OF OPINIONS

1. Acreage limits

The excess land limits of general reclamation law do not apply to projects established under the Water Conservation and Utilization Act. The farm units established by the Secretary may be greater or less than 160 acres. Solicitor Harper Opinion, M-34062 (August 9, 1945), in re Balmorhea project.

The limitation in section 4(c)(5) of the Water Conservation and Utilization Act, as amended, against delivery of water to more than one farm unit in single ownership would not be superseded by the granting of a loan under the Small Reclamation Projects Act of 1956 for improvement of a W.C.U. Act project. Memorandum of Associate Solicitor Fisher to Commissioner, February 24, 1958, in re application of Reeves County Water Improvement District, Balmorhea project.

Under Section 4(c)(5) of the Water Conservation and Utilization Act of October 14, 1940, two farm units held

either separately or jointly by husband and wife are eligible for the delivery of water. The phrase "owned by a single landowner" in this act should be given the same interpretation as given to similar phrases in reclamation acts by the Solicitor's Opinion, M-34172 (August 21, 1945). Memorandum of Associate Solicitor Fisher to Regional Solicitor, Denver, April 8, 1958.

The Secretary may revise the size of the farm units on the Eden project under the authority of section 4(c)(5) of the Water Conservation and Utilization Act as amended. Nothing in the Colorado River Storage Project Act of 1956 altered, repealed or superseded the original authority for the Eden project, except as to the extent of participation in power revenues; and the Act of June 28, 1949, did not alter the original authorization except with respect to repayment and participation in revenues. Memorandum of Associate Solicitor Hogan, April 13, 1965.

Sec. 5. [Activities of Secretary of Agriculture.]—(a) In connection with the construction or operation and maintenance of projects undertaken pursuant to the authority of this Act, and in order to further in the Great Plains and arid and semiarid areas of the United States an effective rehabilitation program, stabilization of the agricultural economy and maximum utilization of funds spent for relief purposes, the Secretary of Agriculture is hereby authorized, pursuant to cooperative agreement with the Secretary of the Interior, (1) to arrange for the settlement of the projects on a sound agricultural basis, and insofar as practicable, the location thereon of persons in need; (2) to extend guidance and advice to settlers thereon in matters of farm practice, soil conservation, and efficient land use; (3) to acquire agricultural lands within the boundaries of such projects, with titles and at prices satisfactory to him; and (4) to arrange for the improvement of lands within the project boundaries, including clearing, leveling, and preparing them for distribution of irrigation water. Contracts between the United States and water users or water users' organizations for the lease or purchase of, or the improvement of, lands within such projects shall provide for annual or semiannual payments to the United States, of the number and amounts fixed by the Secretary of Agriculture. The lease, purchase, or improvement contracts for each tract of land shall provide in the aggregate for the return, in not to exceed fifty years from the date the land is first settled upon, of the costs incurred by the United States in acquiring and improving such tract of land with funds appropriated under authority of section 12 (2), except administrative expenses incurred in the District of Columbia, together with interest on unpaid balances of said costs at not less than 3 per centum per annum. Such lease, purchase, or improvement contracts shall also provide for the fulfillment of such obligations related to reimbursable construction costs

and operation and maintenance charges as may be applicable to such lands in accordance with the repayment contract or contracts required by section 4.

(b) For the purposes of this section, the Secretary of Agriculture may utilize (1) in such manner as the President may direct, services, labor, materials, or other property, including money, supplied by the Work Projects Administration, the Civilian Conservation Corps, the Office of Indian Affairs, the Department of Agriculture, or any other Federal agency to the extent that the President, upon the report and recommendations of the Secretary of Agriculture, finds that the same should be supplied in assistance of such improvement work, and for which the United States shall be reimbursed in such amounts as the President may fix for each project; and (2) such services, labor, materials, easements, or other property, including money, as may be contributed by any State or political subdivision thereof, State agency, municipal corporation, or other organization, or individuals. Moneys received and accepted under (2) of this subsection shall remain available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.

(c) Where the aggregate amount involved does not exceed \$300, the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to any purchase or service authorized for the Department of Agriculture under this Act or under the 1940 water conservation appropriation. (Added by Act of October 14, 1940, 54 Stat. 1122; § 6, Act of July 16, 1943, 57 Stat. 568; 16 U.S.C. § 590z-3)

EXPLANATORY NOTES

1943 Amendment. Section 6 of the Act of July 16, 1943, added subsection (c).

Reference in the Text. Section 3709 of the Revised Statutes (41 U.S.C. 5), referred to in the text, deals with competitive

bidding. The section appears herein in the Appendix.

Editor's Note, Annotations. Annotations of opinions regarding activities of the Secretary of Agriculture are not included.

Sec. 6. [Cooperative agreements with Agriculture and other Federal or State agencies.]—The Secretary, by cooperative agreements, may arrange with the Department of Agriculture or with such other Federal or State agencies, as the President may deem desirable, for cooperation in the investigations and surveys of projects proposed under the authority of this Act; and in connection with any such project which is undertaken the Secretary by such cooperative agreements may arrange for such cooperation in the construction or operation and maintenance of the project as he deems desirable. Any such cooperative agreement with the Department of Agriculture may provide, among other things (1) that the Secretary of Agriculture shall enter into the repayment contracts, required by section 4, and shall handle the collections of repayments and shall take over the other administrative duties connected with the project, after the Secretary of the Interior announces that the project is ready for operation; (2) if such agreement be entered into after construction of the project has been undertaken by the Secretary of the Interior and after he has entered into the repayment contracts required by section 4, that the Secretary of Agriculture shall take over the collection of repayments and other administrative duties connected with the

project; (3) that no water shall be delivered to or for any land or party while the owner of said land or said party is in arrears for more than twelve months in the payment to the United States of money due and payable under a land contract entered into pursuant to section 5 (a); and (4) that any repayment contract with a water user or water users' organization entered into pursuant to section 4 and any land contract with the same water user or organization entered into pursuant to section 5 (a), if said contracts involve the same land, may be combined in a single instrument. The Secretary of Agriculture is hereby authorized to carry out the provision of any such cooperative agreements. (Added by Act of October 14, 1960, 54 Stat. 1123; 16 U.S.C. § 590z-4)

Sec. 7. [Limit on size of water facilities projects of Department of Agriculture.]—Repealed. (Added by Act of October 14, 1940, 54 Stat. 1124; Act of June 10, 1949, 63 Stat. 171; repealed by § 2, Act of August 17, 1954, 68 Stat. 736; 16 U.S.C. § 590z-5)

EXPLANATORY NOTES

1940 and 1949 Amendments; Repeal. As added by the Act of October 14, 1940, this section imposed a limit of \$50,000 on expenditures for any one water facilities project of the Department of Agriculture under the Act of August 28, 1937. The Act of June 10, 1949, increased the limit to \$100,000, and section 2 of the Act of August 17, 1954, repealed the limit at this point, but substituted a limit on outstanding loans.

Cross Reference, Water Facilities Act. The Act of August 28, 1937, 50 Stat. 869, 16 U.S.C. §§ 590r-590x-4 (1958 ed.), popularly known as the Water Facilities Act, authorized the Secretary of Agriculture to construct or to assist in the construction of facilities for water storage and utilization in

arid and semiarid areas of the United States. The Act of August 17, 1954, 68 Stat. 734, terminated the construction phase of the program, expanded the purposes to include land conservation and improvement projects, authorized the Secretary of Agriculture to make loans and to insure loans for purposes of the Act, and extended the coverage of the program to all of the States and Territories. This authority in turn was repealed and replaced by Title III of the Act of August 8, 1961, Public Law 87-128, 75 Stat. 294, 307, 7 U.S.C. §§ 1921-91. Extracts from this title, which may be cited separately as the Consolidated Farmers Home Administration Act of 1961, appear herein in chronological order.

Sec. 8. [Disposition of receipts.]—All payments made to the United States under repayment contracts on account of reimbursable construction costs, including penalties collected for delinquencies in such payments, and all other receipts from project operations pursuant to sections 4 and 9 shall be covered into the Treasury to the credit of miscellaneous receipts. Charges collected during the development period of a project under section 4(c) (1), excepting such amounts thereof as may be credited to reimbursable construction costs, and charges collected for the operation and maintenance of a project under section 4(c) (2), shall be available for expenditure for operation and maintenance of said project in like manner as if said funds had been specifically appropriated for said purposes. (Added by Act of October 14, 1940, 54 Stat. 1124; 16 U.S.C. § 590z-6)

Sec. 9. [Municipal or miscellaneous water supply and power—Sales—Cost allocations.]—In connection with any project undertaken pursuant to this Act, provisions, including contracts of sale, may be made for furnishing municipal or miscellaneous water supplies, or for developing and furnishing power in addition to the power requirements of irrigation: *Provided*, That expenditures from appropriations made directly pursuant to the authority contained in section 12 (1) to meet costs allocated to municipal or miscellaneous water supplies or surplus

power shall not exceed \$500,000 for any one project: *Provided further*, That no contract relating to a water supply for municipal or miscellaneous purposes or to electric power shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes. On any project where such provisions are made, the Secretary shall allocate to municipal or miscellaneous water purposes or to surplus power the part of the estimated construction costs of the project which he deems properly so allocable; and such allocations shall not be included in the reimbursable construction costs covered by the repayment contract or contracts required under section 4. All right, title, and interest in the facilities provided for such municipal or miscellaneous water supplies or surplus power and the revenues derived therefrom shall be and remain in the United States. Contracts for such municipal or miscellaneous water supplies or for such surplus power shall be at such rates as, in the Secretary's judgment, will produce revenues at least sufficient to cover the appropriate share of the annual operation and maintenance cost of the project and such fixed charges, including interest, as the Secretary deems proper. Contracts for the sale of surplus power shall be for periods not to exceed forty years and contracts for water supply for municipal or miscellaneous purposes shall be for such periods as the Secretary may determine and may include such renewal options as the Secretary deems desirable: *And provided further*, That in sales or leases of such power, preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other non-profit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 and any amendments thereof. (Added by Act of October 14, 1940; 54 Stat. 1124; 16 U.S.C. § 590z-7)

EXPLANATORY NOTE

Reference in the Text. The Rural Electrification Act of 1936, referred to in the text, was enacted May 20, 1936, 49 Stat. 1363, and has been amended at intervals

since its enactment. The Act as amended is found in title 7, United States Code, section 901, *et seq.*

Sec. 10. [Authorities under reclamation laws.]—(a) In connection with any project constructed pursuant to the provisions of this Act, the Secretary shall have the same authority, with regard to the utilization of lands owned by the United States, other than lands acquired under section 5 as he has in connection with projects undertaken pursuant to the Federal reclamation laws, Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(b) In connection with the construction or operation and maintenance of a project undertaken pursuant to the authority of this Act, the Secretary shall have with respect to construction and supply contracts, and with respect to the acquisition, exchange, and disposition of lands, interest in lands, water rights, and other property and the relocation thereof, the same authority, including authority to acquire lands and interests in land and water rights with titles and at prices satisfactory to him, which he has in connection with projects under the Federal reclamation laws. (Added by Act of October 14, 1940; 16 U.S.C. § 590z-8)

Sec. 11. [Regulations—Necessary acts.]—The Secretary of the Interior and the Secretary of Agriculture are hereby authorized to perform any and all Acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying out their respective functions under this Act and for the purpose of carrying the provisions of this Act into full force and effect. (Added by Act of October 14, 1940; 16 U.S.C. § 590z-9)

Sec. 12. [Appropriations.]—To carry out the purposes of this Act there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated (1) for the Department of the Interior such sums as may be necessary to carry out its functions under this Act, and (2) for the Department of Agriculture such sums as may be necessary to carry out its functions under this Act. (§ 4, Act of August 11, 1939, 53 Stat. 1419; Act of October 14, 1940, 54 Stat. 1125; 16 U.S.C. § 590z-10)

EXPLANATORY NOTES

1940 Amendment. Section 12 of the Act of October 14, 1940, constitutes a revision of section 4 of the Act of August 11, 1939, which also authorized appropriations. The principal change was to specify appropria-

tions for both the Secretary of the Interior and the Secretary of Agriculture.

Legislative History. S. 1802, Public Law 398 in the 76th Congress. S. Rept. No. 863. H.R. Rept. No. 1446 (on H.R. 6613).