

Public Law 86-488

AN ACT

June 3, 1960
[S. 44]

To authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, to enter into an agreement with the State of California with respect to the construction and operation of such unit, and for other purposes.

Central Valley
Project, Calif.
San Luis unit.
Construction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the principal purpose of furnishing water for the irrigation of approximately five hundred thousand acres of land in Merced, Fresno, and Kings Counties, California, hereinafter referred to as the Federal San Luis unit service area, and as incidents thereto of furnishing water for municipal and domestic use and providing recreation and fish and wildlife benefits, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the San Luis unit as an integral part of the Central Valley project. The principal engineering features of said unit shall be a dam and reservoir at or near the San Luis site, a forebay and afterbay, the San Luis Canal, the Pleasant Valley Canal, and necessary pumping plants, distribution systems, drains, channels, levees, flood works, and related facilities, but no facilities shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of an offer of a firm fifty-year contract from a local public or private agency, can through such contract be obtained at less cost to the Federal Government than by construction and operation of Government facilities. The works (hereinafter referred to as joint-use facilities) for joint use with the State of California (hereinafter referred to as the State) shall be the dam and reservoir at or near the San Luis site, forebay and afterbay, pumping plants, and the San Luis Canal. The joint-use facilities consisting of the dam and reservoir shall be constructed, and other joint-use facilities may be constructed, so as to permit future expansion; or the joint-use facilities shall be constructed initially to the capacities necessary to serve both the Federal San Luis unit service area and the State's service area, as hereinafter provided. In constructing, operating, and maintaining the San Luis unit, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto). Construction of the San Luis unit shall not be commenced until the Secretary has (1) secured, or has satisfactory assurance of his ability to secure, all rights to the use of water which are necessary to carry out the purposes of the unit and the terms and conditions of this Act, and (2) received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled "San Luis Unit, Central Valley Project," dated December 17, 1956.

(b) No water provided by the Federal San Luis unit shall be delivered in the Federal San Luis service area to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity as estimated by the Secretary of Agriculture for the marketing year in which the bulk

43 USC 371 and
note.
Preliminary
measures.

Conditions.

63 Stat. 1051.
7 USC 1421 note.

of the crop would normally be marketed and which will be in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary calls for an increase in production of such commodity in the interest of national security.

SEC. 2. The Secretary is authorized, on behalf of the United States, to negotiate and enter into an agreement with the State of California providing for coordinated operation of the San Luis unit, including the joint-use facilities, in order that the State may, without cost to the United States, deliver water in service areas outside the Federal San Luis unit service area as described in the report of the Department of the Interior, entitled "San Luis Unit, Central Valley Project", dated December 17, 1956. Said agreement shall recite that the liability of the United States thereunder is contingent upon the availability of appropriations to carry out its obligations under the same. No funds shall be appropriated to commence construction of the San Luis unit under any such agreement, except for the preparation of designs and specifications and other preliminary work, prior to ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) after it has been submitted to the Congress, and then only if neither the House nor the Senate Interior and Insular Affairs Committee has disapproved it by committee resolution within said ninety days. If such an agreement has not been executed by January 1, 1962, and if, after consultation with the Governor of the State, the Secretary determines that the prospects of reaching accord on the terms thereof are not reasonably firm, he may proceed to construct and operate the San Luis unit in accordance with section 1 of this Act: *Provided*, That, if the Secretary so determines, he shall report thereon to the Congress and shall not commence construction for ninety calendar days from the date of his report (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days). In considering the prospects of reaching accord on the terms of the agreement the Secretary shall give substantial weight to any relevant affirmative action theretofore taken by the State, including the enactment of State legislation authorizing the State to acquire and convey to the United States title to lands to be used for the San Luis unit or assistance given by it in financing Federal design and construction of the unit. The authority conferred upon the Secretary by the first sentence of this section shall not, except as is otherwise provided in this section, be construed as a limitation upon the exercise by him of the authority conferred in section 1 of this Act, but if the State shall agree that, if it later enlarges the joint-use facilities, or any of them, it will pay an equitable share of the cost to the United States of those facilities as initially constructed before utilizing them for the storage or delivery of water and will bear the entire cost of enlarging the same and if, as a part of said equitable share, it makes available to the Secretary sufficient funds to pay the additional cost of designing and constructing the joint-use facilities so as to permit enlargement, it shall have an irrevocable right to enlarge or modify such facilities at any time in the future, and a perpetual right to the use of such additional capacity: *Provided*, That the performance of such work by the State, after approval of its plans by the Secretary, shall be so carried on as not to interfere unduly with the operation of the project for the purposes set forth in section 1 of this Act and the use of the additional capacity for water service shall be limited to service outside of the Federal San

52 Stat. 41,
7 USC 1301(b).

Negotiation for
delivery outside
San Luis area.

Report to Con-
gress.

San Luis unit service area: *And provided further*, That this right may be relinquished by the State at any time at its option.

Provisions.

SEC. 3. The agreement between the United States and the State referred to in section 2 of this Act shall provide, among other things, that—

(a) the joint-use facilities to be constructed by the Secretary shall be so designed and constructed to such capacities and in such manner as to permit either (i) immediate integration and coordinated operation with the State's water projects by providing, among other things, a capacity in San Luis Reservoir of approximately two million one hundred thousand acre-feet and corresponding capacities in the other joint-use facilities or (ii) such subsequent enlargement or other modification as may be required for integration and coordinated operation therewith;

(b) the State shall make available to the Secretary during the construction period sufficient funds to pay an equitable share of the construction costs of any facilities designed and constructed as provided in paragraph (a) above. The State contribution shall be made in annual installments, each of which bears approximately the same ratio to total expenditures during that year as the total of the State's share bears to the total cost of the facilities; the State may make advances to the United States in order to maintain a timely construction schedule of the joint-use facilities and the works of the San Luis unit to be used by the State and the United States;

(c) the State may at any time after approval of its plans by the Secretary and at its own expense enlarge or modify San Luis Dam and Reservoir and other facilities to be used jointly by the State and the United States, but the performance of such work shall be so carried on as not to interfere unduly with the operation of the San Luis unit for the purposes set forth in section 1 of this Act;

(d) the United States and the State shall each pay annually an equitable share of the operation, maintenance, and replacement costs of the joint-use facilities;

(e) promptly after execution of this agreement between the Secretary and the State, and for the purpose of said agreement, the State shall convey to the United States title to any lands, easements, and rights-of-way which it then owns and which are required for the joint-use facilities. The State shall be given credit for the costs of these lands, easements, and rights-of-way toward its share of the construction cost of the joint-use facilities. The State shall likewise be given credit for any funds advanced by it to the Secretary for preparation of designs and specifications or for any other work in connection with the joint-use facilities;

(f) the rights to the use of capacities of the joint-use facilities of the San Luis unit shall be allocated to the United States and the State, respectively, in such manner as may be mutually agreed upon. The United States shall not be restricted in the exercise of its right so allocated, which shall be sufficient to carry out the purposes of section 1 of this Act and which shall extend throughout the repayment period and so long thereafter as title to the works remains in the United States. The State shall not be restricted in the exercise of its allocated right to the use of the capacities of the joint-use facilities for water service outside the Federal San Luis unit service area;

(g) the Secretary may turn over to the State the care, operation, and maintenance of any works of the San Luis unit which are used

jointly by the United States and the State at such time and under such conditions as shall be agreed upon by the Secretary and the State;

(h) notwithstanding transfer of the care, operation, and maintenance of any works to the State, as hereinbefore provided, any organization which has theretofore entered into a contract with the United States under the Reclamation Project Act of 1939, and amendments thereto, for a water supply through the works of the San Luis unit, including joint-use facilities, shall continue to be subject to the same limitations and obligations and to have and to enjoy the same rights which it would have had under its contract with the United States and the provisions of paragraph (4) of section 1 of the Act of July 2, 1956 (70 Stat. 483, 43 U.S.C. 485h-1) in the absence of such transfer, and its enjoyment of such rights shall be without added cost or other detriment arising from such transfer;

53 Stat. 1187.
43 USC 485k.

(i) if a nonreimbursable allocation to the preservation and propagation of fish and wildlife has been made as provided in section 2 of the Act of August 14, 1946 (60 Stat. 1080, 16 U.S.C. 662), as amended, the features of the unit to which such allocation is attributable shall, notwithstanding transfer of the care, operation, and maintenance to the State, be operated and maintained in such wise as to retain the bases upon which such allocation is premised and, upon failure so to operate and maintain those features, the amount allocated thereto shall become a reimbursable cost to be paid by the State;

(j) the State shall not serve any lands within the Federal San Luis unit service area except as such service is required as a consequence of its acceptance of the care, operation, and maintenance of works under paragraph (g) of this section.

SEC. 4. If the Secretary proceeds to construct, operate, and maintain the San Luis works under the terms of section 1 of this Act solely as a Federal project, the operation shall be subject to the following restriction: Whenever the chlorides in the water at the head of the Delta-Mendota Canal exceed one hundred and fifty parts per million during the months of July, August, or September, the mean daily diversion from the Sacramento-San Joaquin Delta to San Luis unit via Tracy pumping plant and Delta-Mendota Canal as measured at the San Luis pumping plant shall not exceed the mean daily import to the Sacramento Valley from the Trinity project.

Restriction.

SEC. 5. In constructing, operating, and maintaining a drainage system for the San Luis unit, the Secretary is authorized to permit the use thereof by other parties under contracts the terms of which are as nearly similar as is practicable to those required by the Federal reclamation laws in the case of irrigation repayment or service contracts and is further authorized to enter into agreements and participate in construction and operation of drainage facilities designed to serve the general area of which the lands to be served by the San Luis unit are a part, to the extent the works authorized in section 1 of this Act contribute to drainage requirements of said area. The Secretary is also authorized to permit the use of the irrigation facilities of the San Luis unit, including its facilities for supplying pumping energy, under contracts entered into pursuant to section 1 of the Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523).

Use by others,
agreements, etc.

SEC. 6. The Secretary is directed to plan the works authorized in this Act in such a manner as to contemplate and make possible the future provision of Central Valley project service, by way of the Pacheco Tunnel route, to lands and municipalities in Santa Clara, San Benito, Santa Cruz, and Monterey Counties heretofore antici-

Service to other
areas.

Report.

pated as a possibility by the Acts of October 14, 1949 (63 Stat. 852), and August 27, 1958 (72 Stat. 937). Construction of additional works to provide such service shall not be undertaken until a report demonstrating their physical and economic feasibility has been completed, reviewed by the State, and approved by the Secretary, and the works have been authorized by Act of Congress.

Recreational facilities.

SEC. 7. The Secretary is authorized, in connection with the San Luis unit, to construct minimum basic public recreational facilities and to arrange for the operation and maintenance of the same by the State or an appropriate local agency or organization. The cost of such facilities shall be nonreturnable and nonreimbursable under the Federal reclamation laws.

Appropriation.

SEC. 8. There is hereby authorized to be appropriated for construction of the works of the San Luis unit, including joint-use facilities, authorized by this Act, other than distribution systems and drains, the sum of \$290,430,000, plus such additional amount, if any, as may be required by reason of changes in costs of construction of the types involved in the San Luis unit as shown by engineering indexes. Said base sum of \$290,430,000 shall, however, be diminished to the extent that the State makes funds or lands or interests in land available to the Secretary pursuant to sections 2 or 3 of this Act which decrease the costs which would be incurred if the works authorized in section 1 of this Act (including provision for their subsequent expansion) were constructed solely as a Federal project. There are also authorized to be appropriated, in addition thereto, such amounts as are required (a) for construction of such distribution systems and drains as are not constructed by local interests, but not to exceed in total cost the sum of \$192,650,000, and (b) for operation and maintenance of the unit: *Provided*, That no funds shall be appropriated for construction of distribution systems and drains prior to ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) after a contract has been submitted to the Congress calling for complete repayment of the distribution systems and drains within a period of forty years from the date such works are placed in service. All moneys received by the Secretary from the State under this Act shall be covered into the same accounts as moneys appropriated hereunder and shall be available, without further appropriation, to carry out the purposes of this Act.

Approved June 3, 1960.

Public Law 86-489

AN ACT

Granting the consent of Congress to the States of Kansas and Nebraska to negotiate and enter into a compact relating to the apportionment of the waters of the Big Blue River and its tributaries as they affect such States.

June 3, 1960
[S. 1605]

Interstate compact,
Kansas and Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Kansas and Nebraska to negotiate and enter into a compact relating to the interests of such States in the waters of the Big Blue River and all its tributaries, and providing for an equitable apportionment between said States of the waters of the Big Blue River and its tributaries and for matters incident thereto: *Provided*, That one qualified person appointed by the President of the United States shall participate in such negotia-