TITLE 16 - CONSERVATION

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§ 833. Completion and maintenance of project; generation of electricity

For the purpose of improving navigation on the Missouri River, and for other purposes incidental thereto, the dam and appurtenant works now under construction at Fort Peck, Montana, and a suitable power plant for the production of hydroelectric power (which dam, power plant, and appurtenant works are hereinafter called Fort Peck project), shall be completed, maintained, and operated under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, subject to the provisions of this chapter relating to the powers and duties of the Bureau of Reclamation (hereinafter called the Bureau), as provided for in section 833a (a) of this title, respecting the transmission and sale of electric energy generated at said project. The Secretary of the Army shall provide, construct, operate, maintain, and improve at Fort Peck project such machinery, equipment, and facilities for the generation of electric energy as the Bureau may deem necessary to develop such electric energy as rapidly as markets may be found therefor. The electric energy thus generated and not required for the operation of the dam at said project and the navigation facilities employed in connection therewith shall be delivered to the Bureau for disposition as provided in this chapter.

(May 18, 1938, ch. 250, § 1, 52 Stat. 403; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Change of Name

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.
§ 833a. Administration of project

(a) Disposal of energy; temporary administration; installation and maintenance of equipment

The electric energy generated in the operation of the said Fort Peck project shall be disposed of by the Bureau as hereinafter provided. The Bureau shall exercise the powers and perform the duties provided for in this chapter under the supervision and direction of the Secretary of the Interior in accordance with section 373a of title 43. The Bureau shall, as hereinafter provided, make all arrangements for the sale and disposition of electric energy generated at the Fort Peck project not required for the operation of the dam at such project and the navigation facilities employed in connection therewith. The form of administration herein established for the Fort Peck project is intended to be provisional pending the establishment of a permanent administration for Fort Peck and other projects in the Missouri River Basin. The Secretary of the Army shall install and maintain additional machinery, equipment, and facilities for the generation of electric energy at the Fort Peck project when in the judgment of the Bureau such additional generating facilities are desirable to meet actual or potential market requirements for such electric energy. The Secretary of the Army shall schedule the operations of the several electrical generating units and appurtenant equipment of the Fort Peck project in accordance with the requirements of the Bureau. The Secretary of the Army shall provide and maintain for the use of the Bureau at said Fort Peck project adequate station space and equipment, including such switches, switchboards, instruments, and dispatching facilities as may be required by the Bureau for proper reception, handling, and dispatching of the electric energy produced at the said project, together with transformers and other equipment required by the Bureau for the transmission of such energy from that place at suitable voltage to the markets which the Bureau desires to serve.

(b) Construction and maintenance of electric transmission lines, substations, and interconnections

In order to encourage the widest possible use of all electric energy that can be generated and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the Bureau is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as it finds necessary, desirable, or appropriate for the purpose of transmitting electric energy, available for sale, from the Fort Peck project to existing and potential markets, and, for the purpose of interchange of electric energy, to interconnect the Fort Peck project with either private or with other Federal projects and publicly owned power systems now or hereafter constructed.

(c) Acquisition of real and personal property

The Secretary of the Interior is authorized, in the name of the United States, to acquire, by purchase, lease, condemnation, or donation, such real and personal property, or any interest therein, including lands, easements, rights-of-way, franchises, electric transmission lines, substations, and facilities and structures appurtenant thereto, as he finds necessary or appropriate to carry out the purposes of this chapter. Title to all property and property rights acquired by said Secretary shall be taken in the name of the United States.

(d) Acquisition of any property or property rights
The Secretary of the Interior shall have power to acquire any property or property rights, including patent rights, which in his opinion are necessary to carry out the purposes of this chapter, by purchase, lease, donation, or by the exercise of the right of eminent domain and to institute condemnation proceedings therefor in the same manner as is provided by law for the condemnation of real estate.

(e) Disposal of real and personal property

The Secretary of the Interior is authorized, in the name of the United States, to sell, lease, or otherwise dispose of such personal property as in his judgment is not required for the purposes of this chapter and such real property and interests in land acquired in connection with construction or operation of electric transmission lines or substations as in his judgment are not required for the purposes of this chapter.

(f) Contracts by Bureau

Subject to the provisions of this chapter, the Bureau is authorized, in the name of the United States, to negotiate and enter into such contracts, agreements, and arrangements as it shall find necessary or appropriate to carry out the purposes of this chapter.

understanding. Such sum shall be paid, from funds now or hereafter made available to the Department of the Interior for the construction of transmission lines and substations of the Fort Peck project, to the Commissioner of Indian Affairs, who shall deposit such sum in the Treasury of the United States as a credit on expenditures made for irrigation and power construction on the Fort Peck Indian irrigation project.

“Sec. 3. The Secretary of the Interior is authorized to perform any and all acts as may be deemed necessary to carry out the provisions of this Act [Act Feb. 27, 1948, ch. 75, 62 Stat. 36].”

§ 833b. Definitions

As employed in this chapter, the term “public body,” or “public bodies,” means States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof.

As employed in this chapter, the term “cooperative,” or “cooperatives,” means any form of nonprofit-making organization or organizations of citizens supplying, or which may be created to supply, members with any kind of goods, commodities, or services, as nearly as possible at cost.

(May 18, 1938, ch. 250, § 3, 52 Stat. 405.)

§ 833c. Preference to public bodies and cooperatives

In order to insure that the facilities for the generation of electric energy at the Fort Peck project shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the Bureau shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives.

(May 18, 1938, ch. 250, § 4, 52 Stat. 405.)

Transfer of Functions

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152 (a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833d. Rate schedules; preparation, approval, and uniformity

Schedules of rates and charges for electric energy produced at the Fort Peck project and sold to purchasers as in this chapter provided shall be prepared by the Bureau and become effective upon confirmation and approval thereof by the Secretary of Energy. Subject to confirmation and approval by the Secretary of Energy, such rate schedules may be modified from time to time by the Bureau and shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy. The said rate schedules may provide for uniform rate or rates uniform throughout prescribed transmission areas in order to extend the benefits of an integrated transmission system and encourage the equitable distribution of the electric energy developed at the Fort Peck project.

§ 833e. Factors in determining rate schedules

It is the intent of Congress that rate schedules for the sale of electric energy which is or may be generated at the Fort Peck project in excess of the amount required for operating the dam and appurtenant works at said project shall be determined with due regard to and predicated upon the fact that such electric energy is developed from water power created as an incident to the construction of the dam in the Missouri River at the Fort Peck project for the purposes set forth in section 833 of this title. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the Fort Peck project) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment over a reasonable period of years. Rate schedules shall be based upon an allocation of costs made by the Secretary of Energy. In computing the cost of electric energy developed from water power created as an incident to and a byproduct of the construction of the Fort Peck project, the Secretary of Energy may allocate to the costs of electric facilities such a share of the cost of facilities having joint value for the production of electric energy and other purposes as the power development may fairly bear as compared with such other purposes.

§ 833f. Purchase of supplies and services

Notwithstanding any other provision of law, all purchases and contracts made by the Bureau or the Secretary of the Army for supplies or for services, except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the Bureau or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when

1. an emergency requires immediate delivery of the supplies or performance of the services; or
2. repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or
3. the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500; in which cases such purchase of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the Bureau or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder’s financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.


Change of Name

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

Transfer of Functions

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833g. Miscellaneous administrative provisions

(a) Accounts

The Bureau, subject to the requirements of the Federal Power Act [16 U.S.C. 791a et seq.], shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission and sale of electric energy generated at the Fort Peck project.

(b) Expenditures

The Bureau may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for attendance at meetings; and for such other facilities and services as it may find necessary for the proper administration of this chapter.

§ 833h. Personnel; appointment and compensation

The Secretary of the Interior, the Secretary of the Army, and the Secretary of Energy, respectively, shall appoint such attorneys, engineers, and other experts as may be necessary for carrying out the functions entrusted to them under this chapter, and shall fix the compensation of each of such attorneys, engineers, and other experts; and they may, subject to the civil-service laws, appoint such other officers and employees as may be necessary to carry out such functions and fix their salaries in accordance with chapter 51 and subchapter III of chapter 53 of title 5. In the administration of this chapter the services of regular employees in the Bureau may be utilized and an equitable part of the salaries of such employees whose services are thus utilized may be charged by the Bureau to the operating costs of the power features of the Fort Peck project. The Bureau similarly may utilize and charge for facilities of the Bureau which economically can be used in connection with the administration of this chapter.


Codification

Provisions which authorized the Secretary of the Interior, the Secretary of the Army, and the Secretary of Energy to appoint such attorneys, engineers, and other experts as may be necessary for carrying out the functions entrusted to them under this chapter “without regard to the provisions of the civil-service laws”, and to fix their compensation “at not to exceed $7,500 per annum”, have been omitted as obsolete and superseded.

Such appointments are subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 contains the applicability provisions of the
§ 833i. Deposit of receipts; establishment of continuing fund; authorization of appropriations

All receipts from transmission and sale of electric energy generated at the Fort Peck project shall be covered into the Treasury of the United States to the credit of miscellaneous receipts, save and except that the Treasury shall set up and maintain from such receipts a continuing fund of $500,000, to the credit of the Bureau and subject to expenditure by it, to defray the operating expense of generation and transmission of power delivered to the Bureau for disposal under this chapter, to defray emergency expenses and to insure continuous operation. There is authorized to be appropriated from time to time, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter, including installation of equipment and machinery for the generation of electric energy, and facilities for its transmission and sale.

(May 18, 1938, ch. 250, § 10, 52 Stat. 406.)
§ 833j. Suits for and against project; legal representation

The Secretary of the Interior may, in the name of the United States, under the supervision of the Attorney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this chapter; and he shall be represented in the prosecution and defense of all litigation affecting the status or operation of the Fort Peck project by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as authorized by law, in conjunction with the regularly employed attorneys of the Bureau.

(May 18, 1938, ch. 250, § 11, 52 Stat. 407.)

§ 833k. Separability

If any provision of this chapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the chapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(May 18, 1938, ch. 250, § 12, 52 Stat. 407.)

§ 833l. Acquisition of Indian lands

In aid of the construction of the Fort Peck project, there is granted to the United States, subject to the provisions of sections 833l to 833p of this title, such right, title, and interest of the Indians as may be required in and to such tribal and allotted lands as may be designated by the Secretary of the Interior from time to time for the construction, operation, and maintenance of electric transmission lines and other works of the project or for the relocation or reconstruction of properties made necessary by the construction of the project.

(Apr. 23, 1946, ch. 199, § 1, 60 Stat. 118.)
§ 833m. Determination of compensation for acquisition of Indian lands; funds payable from; disposition of moneys

As lands or interests in lands are designated from time to time under sections 833l to 833p of this title, the Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation therefor. The amounts due the tribe and the individual allottees or their heirs or devisees shall be paid from funds now or hereafter made available to the Department of the Interior for the Fort Peck project to the superintendent of the appropriate Indian agency, or such other officer as may be designated by the Secretary of the Interior, for credit on the books of such agency to the accounts of the tribe and the individuals concerned.

(Apr. 23, 1946, ch. 199, § 2, 60 Stat. 118.)

§ 833n. Use of deposits by allottees; nontaxability of lands

Funds deposited to the credit of allottees, their heirs, or devisees may be used, in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements, or the relocation of existing improvements or construction of new improvements on the lands so acquired for the allottees or heirs whose lands and improvements are acquired under the provisions of sections 833l to 833p of this title. Lands so acquired shall be held in the same status as those from which the funds were derived, and shall be nontaxable until otherwise provided by Congress.

(Apr. 23, 1946, ch. 199, § 3, 60 Stat. 118.)
§ 833o. Authority of Secretary of the Interior for acquisition of Indian land

The Secretary of the Interior is authorized to perform any and all acts and to prescribe such regulations as he may deem appropriate to carry out the provisions of sections 833l to 833p of this title.

(Apr. 23, 1946, ch. 199, § 4, 60 Stat. 118.)

Codification

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

Transfer of Functions

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 833p. Reversion of title

All designations of Indian lands pursuant to sections 833l to 833p of this title shall be made subject to the condition that in the event any such lands shall no longer be required for the purposes for which they were designated, then the right, title, or interest so acquired in lands so designated shall revert to the United States in trust for the Fort Peck Indian Tribes.

(Apr. 23, 1946, ch. 199, § 5, 60 Stat. 118.)

Codification

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

§ 833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund

Under regulations prescribed by the Secretary of the Army, payments may be made, in advance or otherwise, from any funds available for the Fort Peck project, Montana, to the school district or districts serving that project as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the construction, operation, and maintenance of the project and living at or near Fort Peck upon real property of the United States not subject to taxation by State or local agencies and upon which payments in lieu of taxes are not made by the United States, which payments for any school year shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils aforesaid in average daily attendance during that year bears to the whole number of pupils in average daily attendance at those schools during that year: Provided, That of the whole amount so paid in any fiscal year, the Bureau of Reclamation, Department of the Interior, shall reimburse the Secretary of the Army from the continuing fund provided in section 833i of this title, that part which is properly chargeable as an operation expense incident to the generation and transmission of power delivered to the Bureau under said section.

(June 3, 1948, ch. 389, 62 Stat. 297.)
Codification

Section was not enacted as part of act May 18, 1938, which comprises this chapter.

Transfer of Functions

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152 (a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by Secretary through a separate Administration within Department of Energy.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.