

PUBLIC LAW 105–277—OCT. 21, 1998

112 STAT. 2681

*Public Law 105–277
105th Congress

An Act

Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Oct. 21, 1998

[H.R. 4328]

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

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a) For programs, projects or activities in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

Omnibus
Consolidated and
Emergency
Supplemental
Appropriations
Act, 1999.

Agriculture,
Rural
Development,
Food and Drug
Administration,
and Related
Agencies
Appropriations
Act, 1999.

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed \$75,000 for employment under 5 U.S.C. 3109, \$2,836,000: *Provided*, That not to exceed \$11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

*Note: This is a typeset print of the original hand enrollment as signed by the President on October 21, 1998. The text is printed without corrections.

and in a manner designed to ensure the confidentiality of the results.

“(d) EVALUATION AND COORDINATION.—Not later than 18 months after the date of enactment of the Drug-Free Workplace Act of 1998, the Administrator, in coordination with the Secretary of Labor, the Secretary of Health and Human Services, and the Director of National Drug Control Policy, shall—

“(1) evaluate the drug-free workplace programs established with assistance made available under this section; and

“(2) submit to Congress a report describing the results of the evaluation under paragraph (1). Reports.

“(e) CONTRACT AUTHORITY.—In carrying out this section, the Administrator may—

“(1) contract with public and private entities to provide assistance related to carrying out the program under this section; and

“(2) compensate those entities for provision of that assistance.

“(f) CONSTRUCTION.—Nothing in this section may be construed to require an employer who attends a program offered by an intermediary to contract for any service offered by the intermediary.

“(g) AUTHORIZATION.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal years 1999 and 2000. Amounts made available under this subsection shall remain available until expended.

“(2) SMALL BUSINESS DEVELOPMENT CENTERS.—Of the total amount made available under this subsection, not more than the greater of 10 percent or \$1,000,000 may be used to carry out section 21(c)(3)(T).”.

SEC. 905. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (R), by striking “and” at the end;

(2) in subparagraph (S), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(T) providing information and assistance to small business concerns with respect to establishing drug-free workplace programs on or before October 1, 2000.”.

TITLE X—CANYON FERRY RESERVOIR, MONTANA, ACT

SECTION 1001. FINDINGS.

Congress finds that the conveyance of the properties described in section 4(b) to the lessees of those properties for fair market value would have the beneficial results of—

(1) reducing Pick-Sloan project debt for the Canyon Ferry Unit;

(2) providing a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—

(A) restore and conserve fisheries habitat, including riparian habitat;

(B) restore and conserve wildlife habitat;

- (C) enhance public hunting, fishing, and recreational opportunities; and
- (D) improve public access to public land;
- (3) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Federal Government's ownership of the properties while increasing local tax revenues from the new owners; and
- (4) eliminating expensive and contentious disputes between the Secretary and leaseholders while ensuring that the Federal Government receives full and fair value for the properties.

SEC. 1002. PURPOSES.

The purposes of this Act are to—

- (1) establish terms and conditions under which the Secretary of the Interior shall, for fair market value, convey certain properties around Canyon Ferry Reservoir, Montana, to private parties; and
- (2) acquire certain land for fish and wildlife conservation purposes.

SEC. 1003. DEFINITIONS.

In this Act:

(1) CANYON FERRY-BROADWATER COUNTY TRUST.—The term “Canyon Ferry-Broadwater County Trust” means the Canyon Ferry-Broadwater County Trust established under section 8.

(2) CFRA.—The term “CFRA” means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.

(3) COMMISSIONERS.—The term “Commissioners” means the Board of Commissioners for Broadwater County, Montana.

(4) LEASE.—The term “lease” means a lease or permit in effect on the date of enactment of this Act that gives a leaseholder the right to occupy a property.

(5) LESSEE.—The term “lessee” means—

(A) the leaseholder of 1 of the properties on the date of enactment of this Act; and

(B) the leaseholder's heirs, executors, and assigns of the leasehold interest in the property.

(6) MONTANA FISH AND WILDLIFE CONSERVATION TRUST.—The term “Montana Fish and Wildlife Conservation Trust” means the Montana Fish and Wildlife Conservation Trust established under section 7.

(7) PROJECT.—The term “project” means the Canyon Ferry Unit of the Pick-Sloan Missouri River Basin Project.

(8) PROPERTY.—

(A) IN GENERAL.—The term “property” means 1 of the cabin sites described in section 4(b).

(B) USE IN THE PLURAL.—The term “properties” means all 265 of the properties and any contiguous parcels referred to in section 4(b)(1)(B).

(9) PURCHASER.—The term “purchaser” means a person or entity, excluding CFRA or a lessee, that purchases the properties under section 4.

(10) RESERVOIR.—The term “Reservoir” means the Canyon Ferry Reservoir, Montana.

(11) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(12) STATE.—The term “State” means the State of Montana.

SEC. 1004. SALE OF PROPERTIES.

(a) **IN GENERAL.**—Consistent with the Act of June 17, 1902 (32 Stat. 388, chapter 1093) and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), the Secretary shall convey to CFRA or a purchaser—

(1) all right, title, and interest (except the mineral estate) of the United States in and to the properties, subject to valid existing rights and the operational requirements of the Pick-Sloan Missouri River Basin Program; and

(2) perpetual easements for—

(A) vehicular access to each property;

(B) access to and use of 1 dock per property; and

(C) access to and use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the leases as of the date of enactment of this Act.

(b) **DESCRIPTION OF PROPERTIES.**—

(1) **IN GENERAL.**—The properties to be conveyed are—

(A) the 265 cabin sites of the Bureau of Reclamation located along the northern end of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; and

(B) any small parcel contiguous to any property (not including shoreline or land needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate an inholding and facilitate administration of surrounding land remaining in Federal ownership.

(2) **ACREAGE; LEGAL DESCRIPTION.**—The acreage and legal description of each property and of each parcel shall be determined by the Secretary in consultation with CFRA.

(3) **RESTRICTIVE USE COVENANT.**—

(A) **IN GENERAL.**—In order to maintain the unique character of the Reservoir area, the Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that the use restrictions to carry out subparagraphs (B) and (C) shall—

(i) be appurtenant to, and run, with each property; and

(ii) be binding on each subsequent owner of each property.

(B) **ACCESS TO RESERVOIR.**—

(i) **IN GENERAL.**—The Secretary, the purchaser, CFRA, and the subsequent owners of each property shall ensure that—

(I) public access to and along the shoreline of the Reservoir in existence on the date of enactment of this Act is not obstructed; and

(II) adequate public access to and along the shoreline of the Reservoir is maintained.

(ii) **FEDERAL RECLAMATION LAW.**—

(I) **IN GENERAL.**—No conveyance of property under this Act shall restrict or limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental

to and amendatory of that Act (43 U.S.C. 371 et seq.).

(II) NO LIABILITY.—The operation of the Reservoir by the Secretary in fulfillment of the duties described in subclause (I) shall not result in liability for damages, direct or indirect, to the owner of any property conveyed under section 4(a) or damages from any loss of use or enjoyment of the property.

(C) HISTORICAL USE.—The Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that future uses of the property shall be limited to the type and intensity of uses in existence on the date of enactment of this Act, as limited by the prohibitions contained in the annual operating plan of the Bureau of Reclamation for the Reservoir in effect on October 1, 1998.

(c) PURCHASE PROCESS.—

(1) IN GENERAL.—The Secretary shall—

(A) solicit sealed bids for the properties;

(B) subject to paragraph (2), sell the properties to the bidder that submits the highest bid above the minimum bid determined under paragraph (2); and

(C) not accept any bid for less than all of the properties in 1 transaction.

(2) MINIMUM BID.—

(A) IN GENERAL.—Before accepting bids, the Secretary shall establish a minimum bid, which shall be equal to the fair market value of the properties determined by an appraisal of each property, exclusive of the value of private improvements made by the leaseholders before the date of the conveyance, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.

(B) FAIR MARKET VALUE.—Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.

(3) RIGHT OF FIRST REFUSAL.—If the highest bidder is other than CFRA, CFRA shall have the right to match the highest bid and purchase the properties at a price equal to the amount of the highest bid.

(d) TERMS OF CONVEYANCE.—

(1) PURCHASER.—If the highest bidder is other than CFRA, and CFRA does not match the highest bid, the following shall apply:

(A) PAYMENT.—The purchaser shall pay the amount bid to the Secretary for distribution in accordance with section 6.

(B) CONVEYANCE.—The Secretary shall convey the properties to the purchaser.

(C) OPTION TO PURCHASE.—The purchaser shall give each lessee of a property conveyed under this section an option to purchase the property at fair market value, as determined under subsection (c)(2).

(D) NONPURCHASING LESSEES.—

(i) RIGHT TO CONTINUE LEASE.—A lessee that is unable or unwilling to purchase a property shall be provided the opportunity to continue to lease the

property for fair market value rent under the same terms and conditions as apply under the existing lease for the property, and shall have the right to renew the term of the existing lease for 2 consecutive 5-year terms.

(ii) COMPENSATION FOR IMPROVEMENTS.—If a lessee declines to purchase a property, the purchaser shall compensate the lessee for the fair market value, as determined pursuant to customary appraisal procedures, of all improvements made to the property by the lessee. The lessee may sell the improvements to the purchaser at any time, but the sale shall be completed by the final termination of the lease, after all renewals under clause (i).

(2) CFRA.—If CFRA is the highest bidder, or matches the highest bid, the following shall apply:

(A) CLOSING.—On receipt of a purchase request from a lessee or CFRA, the Secretary shall close on the property and prepare all other properties for closing within 45 days.

(B) PAYMENT.—At the closing for a property—

(i) the lessee or CFRA shall deliver to the Secretary payment for the property, which the Secretary shall distribute in accordance with section 6; and

(ii) the Secretary shall convey the property to the lessee or CFRA.

(C) APPRAISAL.—The Secretary shall determine the purchase amount of each property based on the appraisal conducted under subsection (c)(2), the amount of the bid under subsection (c)(1), and the proportionate share of administrative costs pursuant to subsection (e). The total purchase amount for all properties shall equal the total bid amount plus administrative costs under subsection (e).

(D) TIMING.—CFRA and the lessees shall purchase at least 75 percent of the properties not later than August 1 of the year that begins at least 12 months after title to the first property is conveyed by the Secretary to a lessee.

(E) RIGHT TO RENEW.—The Secretary shall afford the lessees who have not purchased properties under this section the right to renew the term of the existing lease for 2 (but not more than 2) consecutive 5-year terms.

(F) REIMBURSEMENT.—A lessee shall reimburse CFRA for a proportionate share of the costs to CFRA of completing the transactions contemplated by this Act, including any interest charges.

(G) RENTAL PAYMENTS.—All rent received from the leases shall be distributed by the Secretary in accordance with section 6.

(e) ADMINISTRATIVE COSTS.—Any reasonable administrative costs incurred by the Secretary, including the costs of survey and appraisals, incident to the conveyance under subsection (a) shall be reimbursed by the purchaser or CFRA.

(f) TIMING.—The Secretary shall make every effort to complete the conveyance under subsection (a) not later than 1 year after the satisfaction of the condition established by section 8(b).

(g) CLOSINGS.—Real estate closings to complete the conveyance under subsection (a) may be staggered to facilitate the conveyance as agreed to by the Secretary and the purchaser or CFRA.

(h) CONVEYANCE TO LESSEE.—If a lessee purchases a property from the purchaser or CFRA, the Secretary, at the request of the lessee, shall have the conveyance documents prepared in the name or names of the lessee so as to minimize the amount of time and number of documents required to complete the closing for the property.

SEC. 1005. AGREEMENT.

(a) MANAGEMENT OF SILO’S CAMPGROUND.—Not later than 180 days after the date of enactment of this Act, the Secretary, acting through the Commissioner of Reclamation, shall—

(1) offer to contract with the Commissioners to manage the Silo’s campground;

(2) enter into such a contract if agreed to by the Secretary and the Commissioners; and

(3) grant necessary easements for access roads within and adjacent to the Silo’s campground.

(b) CONCESSION INCOME.—Any income generated by any concession that may be granted by the Commissioners at the Silo’s recreation area—

(1) shall be deposited in the Canyon Ferry-Broadwater County Trust; and

(2) may be disbursed by the Canyon Ferry-Broadwater County Trust manager as part of the income of the Trust.

SEC. 1006. USE OF PROCEEDS.

Notwithstanding any other provision of law, proceeds of conveyances under this Act shall be available, without further Act of appropriation, as follows:

(1) 10 percent of the proceeds shall be applied by the Secretary of the Treasury to reduce the outstanding debt for the Pick-Sloan project at the Reservoir.

(2) 90 percent of the proceeds shall be deposited in the Montana Fish and Wildlife Conservation Trust.

SEC. 1007. MONTANA FISH AND WILDLIFE CONSERVATION TRUST.

(a) ESTABLISHMENT.—The Secretary, in consultation with the State congressional delegation and the Governor of the State, shall establish a nonprofit charitable permanent perpetual public trust in the State, to be known as the “Montana Fish and Wildlife Conservation Trust” (referred to in this section as the “Trust”).

(b) PURPOSE.—The purpose of the Trust shall be to provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—

(1) restore and conserve fisheries habitat, including riparian habitat;

(2) restore and conserve wildlife habitat;

(3) enhance public hunting, fishing, and recreational opportunities; and

(4) improve public access to public land.

(c) ADMINISTRATION.—

(1) TRUST MANAGER.—The Trust shall be managed by a trust manager, who—

(A) shall be responsible for investing the corpus of the Trust; and

(B) shall disburse funds from the Trust on receiving a request for disbursement from a majority of the members of the Joint State-Federal Agency Board established under paragraph (2) and after determining, in consultation with the Citizen Advisory Board established under paragraph (3) and after consideration of any comments submitted by members of the public, that the request meets the purpose of the Trust under subsection (b) and the requirements of subsections (d) and (e).

(2) JOINT STATE-FEDERAL AGENCY BOARD.—

(A) ESTABLISHMENT.—There is established a Joint State-Federal agency Board, which shall consist of—

(i) 1 Forest Service employee employed in the State designated by the Forest Service;

(ii) 1 Bureau of Land Management employee employed in the State designated by the Bureau of Land Management;

(iii) 1 Bureau of Reclamation employee employed in the State designated by the Bureau of Reclamation;

(iv) 1 United States Fish and Wildlife Service employee employed in the State designated by the United States Fish and Wildlife Service; and

(v) 1 Montana Department of Fish, Wildlife and Parks employee designated by the Department.

(B) REQUESTS FOR DISBURSEMENT.—After consulting with the Citizen Advisory Board established under paragraph (3) and after consideration of the Trust plan prepared under paragraph (3)(C) and of any comments or requests submitted by members of the public, the Joint State-Federal Agency Board, by a vote of a majority of its members, may submit to the Trust Manager a request for disbursement if the Board determines that the request meets the purpose of the Trust.

(3) CITIZEN ADVISORY BOARD.—

(A) IN GENERAL.—The Secretary shall nominate, and the Joint State-Federal Agency Board shall approve by a majority vote, a Citizen Advisory Board.

(B) MEMBERSHIP.—The Citizen Advisory Board shall consist of 4 members, including 1 with a demonstrated commitment to improving public access to public land and to fish and wildlife conservation, from each of—

(i) a Montana organization representing agricultural landowners;

(ii) a Montana organization representing hunters;

(iii) a Montana organization representing fishermen; and

(iv) a Montana nonprofit land trust or environmental organization.

(C) DUTIES.—The Citizen Advisory Board, in consultation with the Joint State-Federal Agency Board and the Montana Association of Counties, shall prepare and periodically update a Trust plan including recommendations for requests for disbursement by the Joint State-Federal Agency Board.

(D) OBJECTIVES OF PLAN.—The Trust plan shall be designed to maximize the effectiveness of Montana Fish and Wildlife Conservation Trust expenditures considering—

- (i) public needs and requests;
- (ii) availability of property;
- (iii) alternative sources of funding; and
- (iv) availability of matching funds.

(4) PUBLIC NOTICE AND COMMENT.—Before requesting any disbursements under paragraph (2), the Joint State-Federal Agency Board shall—

- (A) notify members of the public, including local governments; and
- (B) provide opportunity for public comment.

(d) USE.—

(1) PRINCIPAL.—The principal of the Trust shall be inviolate.

(2) EARNINGS.—Earnings on amounts in the Trust shall be used to carry out subsection (b) and to administer the Trust and Citizen Advisory Board.

(3) LOCAL PURPOSES.—Not more than 50 percent of the income from the Trust in any year shall be used outside the watershed of the Missouri River in the State, from Holter Dam upstream to the confluence of the Jefferson River, Gallatin River, and Madison River.

(e) MANAGEMENT.—Land and interests in land acquired under this section shall be managed for the purpose described in subsection (b).

SEC. 1008. CANYON FERRY-BROADWATER COUNTY TRUST.

(a) ESTABLISHMENT.—The Commissioners shall establish a non-profit charitable permanent perpetual public trust to be known as the “Canyon Ferry-Broadwater County Trust” (referred to in this section as the “Trust”).

(b) PRIORITY OF TRUST ESTABLISHMENT.—

(1) CONDITION TO SALE.—No sale of property under section 4 shall be made until at least \$3,000,000, or a lesser amount as offset by in-kind contributions made before full funding of the trust, is deposited as the initial corpus of the Trust.

(2) IN-KIND CONTRIBUTIONS.—

(A) IN GENERAL.—In-kind contributions—

(i) shall be approved in advance by the Commissioners;

(ii) shall be made in Broadwater County;

(iii) shall be related to the improvement of access to the portions of the Reservoir lying within Broadwater County or to the creation and improvement of new and existing recreational areas within Broadwater County; and

(iv) shall not include any contribution made by Broadwater County.

(B) APPROVAL.—Approval by the Commissioners of an in-kind contribution under subparagraph (A) shall include approval of the value, nature, and type of the contribution and of the entity that makes the contribution.

(3) INTEREST.—Notwithstanding any other provision of this Act, all interest earned on the principal of the Trust shall

be reinvested and considered part of its corpus until the condition stated in paragraph (1) is met.

(c) TRUST MANAGEMENT.—

(1) TRUST MANAGER.—The Trust shall be managed by a nonprofit foundation or other independent trustee to be selected by the Commissioners.

(2) USE.—The Trust manager shall invest the corpus of the Trust and disburse funds as follows:

(A) PRINCIPAL.—A sum not to exceed \$500,000 may be expended from the corpus to pay for the planning and construction of a harbor at the Silo's recreation area.

(B) INTEREST.—The balance of the Trust shall be held and the income shall be expended annually for the improvement of access to the portions of the Reservoir lying within Broadwater County, Montana, and for the creation and improvement of new and existing recreational areas within Broadwater County.

(3) DISBURSEMENT.—The Trust manager—

(A) shall approve or reject any request for disbursement; and

(B) shall not make any expenditure except on the recommendation of the advisory committee established under subsection (d).

(d) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Commissioners shall appoint an advisory committee consisting of not fewer than 3 nor more than 5 persons.

(2) DUTIES.—The advisory committee shall meet on a regular basis to establish priorities and make requests for the disbursement of funds to the Trust manager.

(3) APPROVAL BY THE COMMISSIONERS.—The advisory committee shall recommend only such expenditures as are approved by the Commissioners.

(e) NO OFFSET.—Neither the corpus nor the income of the Trust shall be used to reduce or replace the regular operating expenses of the Secretary at the Reservoir, unless approved by the Commissioners.

SEC. 1009. AUTHORIZATION.

(a) IN GENERAL.—The Secretary is authorized to—

(1) investigate, plan, construct, operate, and maintain public recreational facilities on land withdrawn or acquired for the development of the project;

(2) conserve the scenery, the natural historic, paleontologic, and archaeologic objects, and the wildlife on the land;

(3) provide for public use and enjoyment of the land and of the water areas created by the project by such means as are consistent with but subordinate to the purposes of the project; and

(4) investigate, plan, construct, operate, and maintain facilities for the conservation of fish and wildlife resources.

(b) COSTS.—The costs (including operation and maintenance costs) of carrying out subsection (a) shall be nonreimbursable and nonreturnable under Federal reclamation law.