

CHAPTER 46A-15

MISSOURI RIVER DEVELOPMENT

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46A-15-1. Cooperation with other governmental agencies in promotion and development--Authority of Governor. The Governor is authorized to cooperate in behalf of the state with other states and with the federal government in the promotion of and development of the Missouri River as an agency to produce cheap power, create irrigational opportunity, lessen the cost of transportation by navigation thereof, and curtail the destructive effects of erosion and the carrying forward of silt and aid in the control of flood waters thereof.

Source: SDC 1939, § 55.4801; SDCL, § 46-27-1.

46A-15-2. Disbursement of funds. The Governor may use funds appropriated by the Legislature or which may be received from any other source for such specific purpose in carrying out the provisions and intent of § 46A-15-1. The funds shall be disbursed by warrant of the state auditor upon the state treasurer upon vouchers approved by the Governor.

Source: SDC 1939, § 55.4802; SDCL § 46-27-2; SL 2011, ch 165, § 535.

46A-15-3. Repealed by SL 1988, ch 368

46A-15-4. Improving navigation on Missouri river--Expenditure of funds by counties upon voter approval--Appropriations. The county commissioners of any county bordering the Missouri River may, upon an affirmative vote of the qualified voters of the county, expend money for the purpose of improving navigation on the river where the river borders the county. The funds shall be expended in conjunction with appropriations made by the United States government in proportionate amounts as may be agreed upon by the county board of commissioners and the chief of engineers of the United States Army for the purpose of aiding in the securing of a permanent navigable channel in the river. The funds shall be expended in accordance with plans conforming to the character and approved methods of improvement of the river as determined by the chief of engineers of the United States Army.

The county commissioners may appropriate moneys out of the general funds of the county available for county purposes to meet the expense of any such improvements.

Source: SDC 1939, § 12.2902; SDCL § 46-27-4; SL 2011, ch 165, § 536.

46A-15-5. Settlement of state claim relating to Pick-Sloan Missouri Basin Program authorized--Damages and obligations enumerated. The state shall proceed as quickly as possible to enact and implement at the state and federal levels a settlement, pursuant to §§ 46A-15-5 to 46A-15-14, inclusive, of South Dakota's claims resulting from damages and unfulfilled federal obligations to South Dakota relating to the Pick-Sloan Missouri Basin Program created by the Congress of the United States in the 1944 Flood Control Act. The damages and obligations include, but are not limited to, the loss of nearly five hundred thirty thousand acres of land inundated in South Dakota by four Pick-Sloan dams constructed in South Dakota, failure of the federal government to honor its commitment to develop nine hundred seventy-two thousand acres of Pick-Sloan irrigation in South Dakota, a grossly inequitable distribution of Pick-Sloan benefits and costs among the states of the Missouri Basin, significant environmental and bank erosion damages caused by the construction and operation of the Pick-Sloan dams, the loss to South Dakota's economy of more than one billion one hundred million dollars in foregone economic activity because of the removal from production of inundated lands, and the loss of future opportunity for development by the state of the resources of the Missouri River.

Source: SL 1988, ch 369, § 1.

46A-15-6. Settlement framework--Short-term objectives. South Dakota's Pick-Sloan settlement framework shall consist of short-term objectives enumerated in this section, long-term objectives pursuant to § 46A-15-7, and the Missouri River cost recovery program pursuant to § 46A-15-9. The short-term objectives shall include, at federal expense, the projects and total project costs enumerated in this section, subject to nonfederal cost-sharing requirements established by Congress and agreed to by the Governor or his designated agents and the appropriate local project sponsors. The short-term objectives and the estimated 1986 costs, subject to adjustments as needed, to achieve such objectives are as follows:

- (1) Completion of the following projects already under construction:
 - (a) The Belle Fourche Irrigation Rehabilitation Project at forty-two million two hundred thousand dollars remaining total cost;
 - (b) The WEB Rural Water Development Project at twenty-five million dollars remaining total cost;
- (2) Development of the following projects proposed for construction, for which planning has been completed:
 - (a) The Lake Andes-Wagner/Yankton Sioux (Marty II) Irrigation Project at one hundred sixty-five million dollars total cost;
 - (b) The Mni Wiconi Rural Water System at one hundred million dollars total cost;
- (3) Development of the following projects proposed for construction for which further planning is required:
 - (a) Multipurpose water supply and irrigation features of the Gregory County Hydroelectric Pumped Storage Facility at one hundred million dollars total cost;
 - (b) James River Flood Control at twenty million dollars total cost;
 - (c) The Mid-Dakota Rural Water System at one hundred million dollars total cost;
 - (d) Missouri River Fish and Wildlife Mitigation at thirty-five million dollars total cost;
 - (e) Missouri River Streambank Erosion Control at seventy-five million dollars total cost;
 - (f) Integration into the Pick-Sloan program for Missouri River Riverside Irrigation Projects at five million dollars for federal study purposes, subject to recommendation by the Missouri River Cost Recovery Authority;
 - (g) Rural and municipal water systems at one hundred million dollars total cost; and
 - (h) Lewis and Clark Rural Water System at one hundred million dollars total cost.

Source: SL 1988, ch 369, § 2; SL 1990, ch 365; SL 1992, ch 254, § 15.

46A-15-7. Long-term objectives. The long-term objectives of the Pick-Sloan settlement shall include the future development of irrigation and hydroelectric power projects when conditions are appropriate for such development. Any final settlement of South Dakota's Pick-Sloan claims shall fulfill the long-term objectives as recommended by the Board of Water and Natural Resources in its report to the Governor entitled "South Dakota Missouri River Pick-Sloan Water Initiative", December 1987.

Source: SL 1988, ch 369, § 3; SL 1991, ch 17 (Ex. Ord. 91-4), § 17.

46A-15-8. Authorization of additional future projects not precluded. Nothing in §§ 46A-15-5 to 46A-15-14, inclusive, is intended, nor may be construed, to preclude the state, any Indian tribes or any other eligible entity from seeking Congressional authorization and appropriation to plan, design, and construct additional projects in the future. Nothing in §§ 46A-15-5 to 46A-15-14, inclusive, prevents the authorization of other projects as units of the Pick-Sloan Missouri Basin Program.

Source: SL 1988, ch 369, § 4.

46A-15-9. Missouri River cost recovery program established as part of settlement--Use of revenue. There is hereby established as a part of South Dakota's Pick-Sloan settlement the Missouri River cost recovery program to provide revenues to the state using the resources of the Pick-Sloan system. Such revenues shall be deposited in the water and environment fund established pursuant to § 46A-1-60 and shall be used to meet water project cost-sharing requirements and for contemporary and future state and local water projects and resource management activities in South Dakota.

Source: SL 1988, ch 369, § 5; SL 1992, ch 254, § 8.

46A-15-10. Legislative finding as to Missouri River cost recovery program--Authorized as preferred, priority state objective. The Legislature finds that the following water resources project is necessary for the general welfare of the people of the state and authorizes the project pursuant to § 46A-1-2 to be included in the state water resources management system to serve as a preferred, priority objective of the state: Missouri River cost recovery program.

Source: SL 1988, ch 369, § 6.

46A-15-11. Missouri River cost recovery authority established--Recommendation of options by authority--Limits on recommended options. There is hereby established the Missouri River cost recovery authority to evaluate, analyze, and recommend options, including, but not limited to, state-financed upgrading of Pick-Sloan hydroelectric power generation facilities, integration into the Pick-Sloan program of Missouri River riverside irrigation projects and state-financed development of hydroelectric pumped storage facilities, such as the Gregory County hydroelectric pumped storage facility, under the Missouri River cost recovery program for providing revenues to the state. However, any option recommended by the authority may not result in increased rates for consumers of existing federal hydropower, may not affect the eligibility under federal law for existing hydropower, and may not impair long-term wholesale power supply contracts.

Source: SL 1988, ch 369, § 7.

46A-15-12. Composition of authority--Chairman--Submission of recommendations--Dissolution. The Missouri River cost recovery authority shall be composed of nine members: two at-large members appointed by the Governor, two members of the Board of Water and Natural Resources appointed by the Governor, two members of the Legislature appointed by the Governor, one member appointed by the South Dakota Rural Electric Association, one member appointed by the South Dakota Municipal Electric Association, and one member appointed by the investor owned electric companies of South Dakota. The Governor shall appoint the chairman of the authority from among its membership. The authority shall submit its recommendations to the

Governor and the Legislature during the 1989 Legislative Session, at which time the authority shall be dissolved, unless otherwise directed by the Legislature.

Source: SL 1988, ch 369, § 8; SL 1991, ch 17 (Ex. Ord. 91-4), § 17.

46A-15-13. Expenses of members--Staff services--Payment of expenses incurred. No member of the Missouri River cost recovery authority may receive any compensation for services rendered under §§ 46A-15-5 to 46A-15-14, inclusive. Members shall be reimbursed for per diem and necessary expenses incurred in connection with the duties and powers of the Missouri River cost recovery authority. All staff services required by the authority shall be provided by the Department of Environment and Natural Resources. All expenses incurred in carrying out the work of the authority, including the per diem and travel expenses of the authority members and staff, shall be paid out of funds appropriated or otherwise made available to the authority.

Source: SL 1988, ch 369, § 9; SL 1991, ch 17 (Ex. Ord. 91-4), § 17.

46A-15-14. Governor authorized to negotiate, make agreements, with federal government. The Governor may enter into negotiations and subsequent agreements with Congress and the federal government for resolution of South Dakota's Pick-Sloan entitlements.

Source: SL 1988, ch 369, § 10.
