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THE WILDLIFE RESTORATION PROGRAM UNDER THE PITTMAN-ROBERTSON ACT OF 1937

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PURPOSE OF THE RESTORATION PROGRAM

One of the most beneficial measures adopted in recent years for wildlife conservation, and probably the most constructive one since the passage of the Migratory Bird Treaty Act of 1918, is the Pittman-Robertson Act (50 Stat. 917; 16 U. S. C. 669-669j), approved by the President on September 2, 1937. Known also as the Federal Aid to Wildlife Restoration Act, it well rewards the concerted efforts of wildlife-conservation organizations throughout the United States to develop a cooperative Federal-State program to check the rapid depletion of one of the Nation's most valuable natural resources.

Recognizing the fundamental principle that wildlife is inescapably linked with the land, the new act provides for the restoration of suitable environment in which wild birds and mammals may live and multiply. Although the expenditure of funds for carrying out the program thus authorized must be limited to bettering conditions for wild birds and mammals, fishes also will benefit incidentally through the conservation and improvement of water resources.

The theory behind this act is that the Federal Government can contribute materially in a national wildlife-restoration program. The

ing, water stabilization, or other activities necessary to accomplish the purpose.

(3) Research directed to the practical solution of problems in wildlife restoration. These problems involve unknown factors in management, in feeding habits, and in the relationships of the various species to each other and to livestock production and farming operations, and are concerned with the innumerable things that enter into a wildlife-management program. While almost any form of research into biological problems might have a general bearing upon management practices, the studies undertaken in accordance with this law must be limited strictly to those having practical application.

The development of public shooting grounds or controlled hunting as a means of harvesting game crops must be a secondary consideration—only incidental to the main purposes of any project. The obvious intent of the act is to use the equivalent of the tax on arms and ammunition collected from sportsmen to provide better sport for hunters, but this must be through harvesting the surplus and not merely providing a place where existing stocks of game can be further depleted.

MAINTENANCE OF PROJECTS

Maintenance of projects is specified by the act to be the duty of the States according to their respective laws. It is construed to include all routine upkeep, repair, and general expenses incurred in and about projects. Project areas may be improved over a period of years if so outlined in the approved plans, specifications, and estimates; but after these improvements have been completed, subsequent expenditures will be considered as maintenance and will not be chargeable to Federal apportionments.

OWNERSHIP AND ADMINISTRATION OF RESTORED UNITS

All areas acquired become the property of the respective States and are maintained and administered by them under State laws. All structures built and all equipment purchased with these cooperative funds incident to the necessary performance of approved work likewise become State property.

PROJECTS NOT CONTEMPLATED BY THE ACT

IMPROVEMENTS ON PRIVATE LANDS

Because of the uncertainty of tenure, no permanent improvements are authorized for privately owned lands. Temporary structures, fences, trees, shrubs, as well as live birds and other animals may be placed on lands under lease or otherwise controlled by the State game department, when control is for periods sufficient to insure that the improvements will be of material benefit to wildlife.

NURSERIES AND GAME FARMS

The establishment of nurseries and game farms as wildlife-restoration projects cannot be approved from Federal apportionments, since the purpose of the act is plainly to develop and improve specific units, whereas the output from such establishments may be used over wide areas not directly controlled or managed by the State for the benefit

of wildlife. It is possible, however, when the need of such development is evident, for the State game departments to purchase at prices established as fair and equitable, shrubs, trees, and other plants and seed stock of birds or other animals to place on project areas.

METHOD OF ALLOCATING FUNDS TO THE STATES

After making deductions for administering the act, apportionments of funds are made to the States half in the ratio that the area of each State bears to the total area of all the States and half in the ratio that the number of paid hunting-license holders of each State in the preceding fiscal year, as certified to the Secretary of Agriculture by the State fish and game department, bears to the total number of paid hunting-license holders of all the States. All licenses defined as hunting licenses by State laws may be counted, with the exception of special licenses issued only after a general license has been purchased, since the law specifies "the number of license holders" and not the number of individual licenses.

PERIOD OF AVAILABILITY OF FUNDS

So much of an appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof can be made available for expenditure in that State until the close of the succeeding year. For example, funds that became available for expenditure on July 1, 1938, could be obligated for work on projects as late as the close of June 1940, provided the State was eligible to participate and had complied with the requirement of notifying the Secretary of Agriculture of its desire to do so.

DISPOSITION OF UNUSED FUNDS

If a State is to avail itself of the benefits of the act, it must each year notify the Secretary of Agriculture of its desire to participate within 60 days after receiving the certification of apportionment of funds. If a State fails to make such notification, if it declines to participate, or if it fails to expend or obligate its entire apportionment within the period for which available, such entire apportionments or the unused balances are directed to be made available for expenditure by the Secretary in carrying out the provisions of the Migratory Bird Conservation Act. Unused funds cannot be apportioned to other participating States.

PAYMENTS TO STATES ONLY

Payments of Federal funds may be made only to the game department or other authority of the State invested under the laws of the State with wildlife-conservation functions. The State thus makes all payments for lands, labor, and other expenses and then receives the proper pro rata share from the Federal Treasury. No contracts can be made between the Department of Agriculture and any agency or party other than the State game department.

PROJECT INITIATION AND ACCOMPLISHMENT PROCEDURE

When a State desires to avail itself of the benefits of the act, it submits to the Secretary of Agriculture a full and detailed statement by

its game department of any wildlife-restoration project proposed. If, finding that such project meets with the adopted standards, the Secretary approves it, the State game department then furnishes such surveys, plans, specifications, and estimates therefor as may be required. When these are approved, a project agreement is entered into between the Secretary of Agriculture and the State game department.

As soon as the agreement is executed, the Secretary of the Treasury is requested to set aside the funds necessary to meet the Government's share of the project costs from the sum apportioned to the State. When the project is completed, or from time to time as work progresses, reimbursement is claimed by the State for work satisfactorily accomplished to the extent of 75 percent of the actual expenditures.

PRELIMINARY OR INCIDENTAL COSTS

The act authorizes the use of funds for meeting the proportionate share of the United States for preliminary or incidental costs of approved projects. It is, however, impossible for the Federal Government to participate in such costs unless the projects are finally approved and unless preliminary expenditures were anticipated and requested by the State at the time the project was submitted for consideration.

EMPLOYMENT OF COMPETENT PERSONNEL

It is anticipated that the Federal Aid to Wildlife Restoration Act will prove of great value to the State game departments in building a competent force of permanent employees to administer their game-restoration programs. The Secretary's regulations require that all personnel employed from funds apportioned to the States shall be selected on the basis of competency for services to be performed and that they shall conduct their duties in an acceptable manner. The substantial interest of the Federal Government in the program will encourage the development and maintenance in each State of a staff of permanent workers qualified by training and experience to carry each project forward in a high degree of efficiency.

TEXT OF FEDERAL LAW AND REGULATIONS

FEDERAL AID TO WILDLIFE RESTORATION ACT

[Approved September 2, 1937—50 Stat. 917; 16 U. S. C. 669-669j]

An Act To provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects as hereinafter set forth; but no money apportioned under this Act to any State shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of wildlife, shall have assented to the provision of this Act and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after the passage of this Act, the assent of the Governor of the State shall be sufficient. The Secretary of Agriculture and the

State fish and game department of each State accepting the benefits of this Act shall agree upon the wildlife-restoration projects to be aided in such State under the terms of this Act and all projects shall conform to the standards fixed by the Secretary of Agriculture.

SEC. 2. For the purposes of this Act the term "wildlife-restoration project" shall be construed to mean and include the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects; the term "State fish and game department" shall be construed to mean and include any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department.

SEC. 3. An amount equal to the revenue accruing during the fiscal year ending June 30, 1939, and each fiscal year thereafter, from the tax imposed by section 610, title IV, of the Revenue Act of 1932 (47 Stat. 169), as heretofore or hereafter extended and amended, on firearms, shells, and cartridges, is hereby authorized to be set apart in the Treasury as a special fund to be known as "The Federal aid to wildlife-restoration fund" and is hereby authorized to be appropriated and made available until expended for the purposes of this Act. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this Act which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of Agriculture in carrying out the provisions of the Migratory Bird Conservation Act.

SEC. 4. So much, not to exceed 8 per centum, of the revenue covered into said fund in each fiscal year as the Secretary of Agriculture may estimate to be necessary for his expenses in the administration and execution of this Act and the Migratory Bird Conservation Act shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within sixty days after the close of such fiscal year the Secretary of Agriculture shall apportion such part thereof as remains unexpended by him, if any, and make certificate thereof to the Secretary of the Treasury and to the State fish and game departments on the same basis and in the same manner as is provided as to other amounts authorized by this Act to be apportioned among the States for such current fiscal year. The Secretary of Agriculture, after making the aforesaid deduction, shall apportion the remainder of the revenues in said fund for each fiscal year among the several States in the following manner, that is to say, one-half in the ratio which the area of each State bears to the total area of all the States and one-half in the ratio which the number of paid hunting-license holders of each State in the preceding fiscal year, as certified to said Secretary by the State fish and game departments, bears to the total number of paid hunting-license holders of all the States: *Provided*, That the apportionment for any one State shall not exceed the sum of \$150,000 annually: *Provided further*, That where the apportionment to any State under this section is less than \$15,000 annually, the Secretary of Agriculture may allocate not more than \$15,000 of said fund to said State to carry out the purposes of this Act when said State certifies to the Secretary of Agriculture that it has set aside not less than \$5,000 from its fish and game funds or has made, through its legislature, an appropriation in this amount, for said purposes.

SEC. 5. Within sixty days after the approval of this Act the Secretary of Agriculture shall certify to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be deducted for administering and executing this Act and the Migratory Bird Conservation Act and the sum which he has apportioned to each State for the fiscal year ending June 30, 1939, and on or before February 20 next preceding the commencement of each succeeding fiscal year shall make like certificates for such fiscal year.

Any State desiring to avail itself of the benefits of this Act shall notify the Secretary of Agriculture to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of Agriculture as herein provided is authorized to be made available for expenditure by the Secretary of Agriculture in carrying out the provisions of the Migratory Bird Conservation Act.

Sec. 6. Any State desiring to avail itself of the benefits of this Act shall by its State fish and game department submit to the Secretary of Agriculture full and detailed statements of any wildlife-restoration project proposed for that State. If the Secretary of Agriculture finds that such project meets with the standards set up by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require: *Provided, however,* That the Secretary of Agriculture shall approve only such projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act. Items included for engineering, inspection, and unforeseen contingencies in connection with any works to be constructed shall not exceed 10 per centum of the cost of such works and shall be paid by the State as a part of its contribution to the total cost of such works. If the Secretary of Agriculture approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately certify the fact to the Secretary of the Treasury. The Secretary of the Treasury shall thereupon set aside so much of said fund as represents the share of the United States payable under this Act on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof. No payment of any money apportioned under this Act shall be made on any project until such statement of the project and the plans, specifications, and estimates thereof shall have been submitted to and approved by the Secretary of Agriculture.

Sec. 7. When the Secretary of Agriculture shall find that any project approved by him has been completed or, if involving research relating to wildlife, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project: *Provided,* That the Secretary of Agriculture may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States' pro-rata share of the project in conformity with said plans and specifications. Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of Agriculture and in accordance with rules and regulations made pursuant to this Act. The Secretary of Agriculture and the State fish and game department of each State may jointly determine at what times and in what amounts payments, as work progresses, shall be made under this Act. Such payments shall be made by the Secretary of the Treasury, on warrants drawn by the Secretary of Agriculture against the said fund to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

Sec. 8. To maintain wildlife-restoration projects established under the provisions of this Act shall be the duty of the States according to their respective laws.

Sec. 9. Out of the deductions set aside for administering and executing this Act and the Migratory Bird Conservation Act, the Secretary of Agriculture is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service; to rent or construct buildings outside of the city of Washington; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the purposes of this Act.

Sec. 10. The Secretary of Agriculture is authorized to make rules and regulations for carrying out the provisions of this Act.

Sec. 11. The Secretary of Agriculture shall make an annual report to the Congress of the sum set apart in "The Federal aid to wildlife-restoration fund," giving detailed information as to the projects and expenditures therefor.

REGULATIONS FOR CARRYING OUT THE FEDERAL AID TO WILDLIFE RESTORATION ACT

[Approved by the Secretary of Agriculture, July 12, 1938-3 F. R. 1713]

REGULATION 1.—DEFINITIONS

SECTION 1. For the purposes of these regulations, the following terms shall be construed, respectively, to mean:

Act.—The act of Congress approved September 2, 1937, entitled, "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes" (50 Stat. 917), commonly referred to as the Pittman-Robertson Act.

Secretary.—The Secretary of Agriculture of the United States.

Biological Survey.—The Bureau of Biological Survey of the United States Department of Agriculture.

Authorized representatives of the Secretary.—The Chief of the Bureau of Biological Survey, or such other officials and employees thereof as he may designate from time to time.

State fish and game department.—Any department or division of the department of another name or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department.

Wildlife restoration project.—The selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including research into problems of wildlife management.

Ten-percent fund.—Items for engineering, inspection, and unforeseen contingencies not exceeding 10 percent of the total estimated cost of any works to be constructed under the provisions of this act.

Preliminary and incidental costs.—Necessary expenses incurred in and about approved projects covered by project agreements, including salaries, subsistence, and travel of personnel; preparation of plans, specifications, and estimates; surveys and conduct of examinations and negotiations for lands.

REGULATION 2.—INFORMATION FOR THE SECRETARY

SECTION 1. Before any agreement is made covering any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, by or on behalf of the State, general information regarding the laws affecting wildlife conservation and the authority of the State and of local officials in reference to the establishment and maintenance of wildlife projects; the existing provisions of the State constitution or laws relative to revenues for the protection and restoration of wildlife; the funds that will be available to meet the State's share of the cost of work to be performed and the general source of such funds; and provisions made or to be made for maintaining wildlife-restoration projects upon which Federal aid funds will be expended.

SEC. 2. The Secretary or his authorized representatives will, from time to time, request information from the State fish and game departments relative to the maintenance of wildlife-restoration projects initiated under the provisions of the act.

SEC. 3. Data furnished by or on behalf of a State shall be supplemented by such reports of the Biological Survey as the Secretary may from time to time require.

REGULATION 3.—PROJECT STATEMENT

SECTION 1. A project statement shall be submitted for each project to be undertaken, which shall contain such fundamental information as the Secretary may require, to be submitted on a form supplied by the Biological Survey, to determine its suitability for wildlife-restoration purposes.

REGULATION 4.—SURVEYS, PLANS, SPECIFICATIONS, AND ESTIMATES

SECTION 1. The surveys, plans, specifications, and estimates shall show in convenient form and detail the work to be performed and its probable cost, in conformity with standards governing form and arrangement prescribed by the Secretary.

SEC. 2. When any part of the cost of a project is to be furnished by a county or any other subdivision of a State, the surveys, plans, specifications, and estimates shall be accompanied by a certified copy of each resolution or order, if any, of the appropriate local officials, or such other showing as the Secretary may require respecting the funds that are made available, indicating the control of the money provided for paying such costs; clearly defining whether the State, county, or other local subdivision will own the lands and/or improvements; and which agency will be responsible for administration and maintenance after the project's completion.

SEC. 3. No payment of any money apportioned under this act, including preliminary or incidental costs and expenses as may be incurred in and about such projects, shall be made on any project unless the statement of the project and plans, specifications, and estimates thereof have been submitted to and approved by the Secretary of Agriculture.

REGULATION 5.—PROJECT AGREEMENTS

SECTION 1. A project agreement between the State fish and game department and the Secretary shall be executed for each project approved by the Secretary.

REGULATION 6.—CONTRACTS

SECTION 1. All contracts, except for the purchase and leasing of lands, shall be based upon free and open competitive bids.

SEC. 2. If a contract be awarded to any other than the lowest responsible bidder, the Federal Government shall not pay more than its pro rata share of the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the work to accept the higher bid.

SEC. 3. A copy of each contract as executed shall be promptly certified by the State fish and game department and furnished to the Secretary, and no alteration or modification which changes the character or extent of the work from that indicated in the plans, specifications, and estimates as approved by the Secretary or which increases the amounts to be paid from the lowest competitive bid, shall be subsequently made without the approval of the Secretary or his authorized representatives.

REGULATION 7.—PROSECUTION

SECTION 1. The State fish and game department shall carry all approved projects through with reasonable promptness.

SEC. 2. The supervision of each project by the State fish and game department shall include adequate and continuous inspection throughout.

SEC. 3. Written notice of commencement and completion of work on any project shall be given promptly by the State fish and game department to the Biological Survey.

SEC. 4. Progress reports showing force employed and work done, shall be furnished as requested by the Secretary or his authorized representatives.

SEC. 5. Suitable samples of materials to be used in construction work shall be submitted by or on behalf of the State fish and game department to the Biological Survey whenever requested, to be tested for suitability and conformity with standard specifications.

REGULATION 8.—RECORDS AND COST ACCOUNTING

SECTION 1. Such records of the cost of lands acquired, improvements made thereon, construction work, overhead costs, and of maintenance done by or on behalf of the State shall be kept separately for each project by or under the direction of the State fish and game department who shall report the amount and nature of the expenditure for these purposes, upon the request of the Secretary or his authorized representatives.

SEC. 2. The accounts and records, together with all supporting documents, shall be open at all times to the inspection of the Secretary or his authorized representatives, and copies thereof shall be furnished when requested.

REGULATION 9.—PAYMENTS

SECTION 1. No part of the Federal funds set aside on account of any project shall be paid until it has been shown to the satisfaction of the Secretary or his authorized representatives that adequate means, either advertising or other devices appropriate for the purpose, were employed to insure economy and efficiency in the expenditure of such money.

SEC. 2. Vouchers in the form provided by the Secretary and certified as therein prescribed, showing amounts expended on any project and the amount claimed to be due from the Federal Government on account thereof, shall be submitted by the State fish and game department to the Biological Survey, either after completion of the project, or, if the Secretary has determined to make payments as the work progresses, at intervals of not less than 1 month.

REGULATION 10.—SUBMISSION

SECTION 1. Papers and documents required by the act or these regulations to be submitted to the Secretary may be delivered to the Chief of the Bureau of Biological Survey or his authorized representatives, and from the date of such delivery shall be deemed submitted.

REGULATION 11.—PERSONNEL

SECTION 1. The State fish and game department shall maintain an adequate and competent force of employees to initiate and carry projects through to satisfactory completion.

SEC. 2. Personnel employed by the States from funds apportioned under this act shall be selected on the basis of competency for services to be performed and shall conduct their duties in a manner acceptable to the Secretary.

REGULATION 12.—DELEGATION OF AUTHORITY

SECTION 1. The Chief, or Acting Chief, of the Bureau of Biological Survey is hereby designated as the representative of the Secretary, to execute, approve and/or accept in his behalf, preliminary project statements, project agreements, certificates of approval of plans, specifications and estimates, and all other documents which may be necessary or required in the administration of these regulations.

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