

Appendix G: Compliance Requirements

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Rivers and Harbor Act (1899) (33 U.S.C. 403)

Section 10 of this Act requires the authorization by the U.S. Army Corps of Engineers prior to any work in, on, over, or under a navigable water of the United States.

Antiquities Act (1906)

Authorizes the scientific investigation of antiquities on Federal land and provides penalties for unauthorized removal of objects taken or collected without a permit.

Migratory Bird Treaty Act (1918)

Designates the protection of migratory birds as a Federal responsibility. This Act enables the setting of seasons, and other regulations including the closing of areas, Federal or non Federal, to the hunting of migratory birds.

Migratory Bird Conservation Act (1929)

Establishes procedures for acquisition by purchase, rental, or gift of areas approved by the Migratory Bird Conservation Commission.

Fish and Wildlife Coordination Act (1934), as amended

Requires that the Fish and Wildlife Service and State fish and wildlife agencies be consulted whenever water is to be impounded, diverted or modified under a Federal permit or license. The Service and State agency recommend measures to prevent the loss of biological resources, or to mitigate or compensate for the damage. The project proponent must take biological resource values into account and adopt justifiable protection measures to obtain maximum overall project benefits. A 1958 amendment added provisions to recognize the vital contribution of wildlife resources to the Nation and to require equal consideration and coordination of wildlife conservation with other water resources development programs. It also authorized the Secretary of Interior to provide public fishing areas and accept donations of lands and funds.

Migratory Bird Hunting and Conservation Stamp Act (1934)

Authorized the opening of part of a refuge to waterfowl hunting.

Historic Sites, Buildings and Antiquities Act (1935), as amended

Declares it a national policy to preserve historic sites and objects of national significance, including those located on refuges. Provides procedures for designation, acquisition, administration, and protection of such sites.

Refuge Revenue Sharing Act (1935), as amended

Requires revenue sharing provisions to all fee-title ownerships that are administered solely or primarily by the Secretary through the Service.

Transfer of Certain Real Property for Wildlife Conservation Purposes Act (1948)

Provides that upon a determination by the Administrator of the General Services Administration, real property no longer needed by a Federal agency can be transferred without reimbursement to the Secretary of Interior if the land has particular value for migratory birds, or to a State agency for other wildlife conservation purposes.

Federal Records Act (1950)

Directs the preservation of evidence of the government's organization, functions, policies, decisions, operations, and activities, as well as basic historical and other information.

Fish and Wildlife Act (1956)

Established a comprehensive national fish and wildlife policy and broadened the authority for acquisition and development of refuges.

Refuge Recreation Act (1962)

Allows the use of refuges for recreation when such uses are compatible with the refuge's primary purposes and when sufficient funds are available to manage the uses.

Wilderness Act (1964), as amended

Directed the Secretary of Interior, within 10 years, to review every roadless area of 5,000 or more acres and every roadless island (regardless of size) within National Wildlife Refuge and National Park Systems and to recommend to the President the suitability of each such area or island for inclusion in the National Wilderness Preservation System, with final decisions made by Congress. The Secretary of Agriculture was directed to study and recommend suitable areas in the National Forest System.

Land and Water Conservation Fund Act (1965)

Uses the receipts from the sale of surplus Federal land, outer continental shelf oil and gas sales, and other sources for land acquisition under several authorities.

National Wildlife Refuge System Administration Act (1966), as amended by the National Wildlife Refuge System Improvement Act (1997) 16 U.S.C. 668dd-668ee. (Refuge Administration Act)

Defines the National Wildlife Refuge System and authorizes the Secretary to permit any use of a refuge provided such use is compatible with the major purposes for which the refuge was established. The Refuge Improvement Act clearly defines a unifying mission for the Refuge System; establishes the legitimacy and appropriateness of the six priority public uses (hunting, fishing, wildlife observation and photography, or environmental education and interpretation); establishes a formal process for determining compatibility; established the responsibilities of the Secretary of Interior for managing and protecting the System; and requires a Comprehensive Conservation Plan for each refuge by the year 2012. This Act amended portions of the Refuge Recreation Act and National Wildlife Refuge System Administration Act of 1966.

National Historic Preservation Act (1966), as amended

Establishes as policy that the Federal Government is to provide leadership in the preservation of the nation's prehistoric and historic resources. Section 106 requires Federal agencies to consider impacts their undertakings could have on historic properties; Section 110 requires Federal agencies to manage historic properties, e.g., to document historic properties prior to destruction or damage; Section 101 requires Federal agencies to consider Indian tribal values in historic preserva-

tion programs, and requires each Federal agency to establish a program leading to inventory of all historic properties on its land.

Architectural Barriers Act (1968)

Requires federally owned, leased, or funded buildings and facilities to be accessible to persons with disabilities.

National Environmental Policy Act (1969)

Requires the disclosure of the environmental impacts of any major Federal action significantly affecting the quality of the human environment.

Uniform Relocation and Assistance and Real Property Acquisition Policies Act (1970), as amended

Provides for uniform and equitable treatment of persons who sell their homes, businesses, or farms to the Service. The Act requires that any purchase offer be no less than the fair market value of the property.

Endangered Species Act (1973)

Requires all Federal agencies to carry out programs for the conservation of endangered and threatened species.

Rehabilitation Act (1973)

Requires programmatic accessibility in addition to physical accessibility for all facilities and programs funded by the Federal government to ensure that anybody can participate in any program.

Archaeological and Historic Preservation Act (1974)

Directs the preservation of historic and archaeological data in Federal construction projects.

Clean Water Act (1977)

Requires consultation with the Corps of Engineers (404 permits) for major wetland modifications.

Surface Mining Control and Reclamation Act (1977) as amended (Public Law 95-87) (SMCRA)

Regulates surface mining activities and reclamation of coal-mined lands. Further regulates the coal industry by designating certain areas as unsuitable for coal mining operations.

Executive Order 11988 (1977)

Each Federal agency shall provide leadership and take action to reduce the risk of flood loss and minimize the impact of floods on human safety, and preserve the natural and beneficial values served by the floodplains.

Executive Order 11990

Executive Order 11990 directs Federal agencies to (1) minimize destruction, loss, or degradation of wetlands and (2) preserve and enhance the natural and beneficial values of wetlands when a practical alternative exists.

Executive Order 12372 (Intergovernmental Review of Federal Programs)

Directs the Service to send copies of the Environmental Assessment to State Planning Agencies for review.

American Indian Religious Freedom Act (1978)

Directs agencies to consult with native traditional religious leaders to determine appropriate policy changes necessary to protect and preserve American Indian religious cultural rights and practices.

Fish and Wildlife Improvement Act (1978)

Improves the administration of fish and wildlife programs and amends several earlier laws including the Refuge Recreation Act, the National Wildlife Refuge System Administration Act, and the Fish and Wildlife Act of 1956. It authorizes the Secretary to accept gifts and bequests of real and personal property on behalf of the United States. It also authorizes the use of volunteers on Service projects and appropriations to carry out a volunteer program.

Archaeological Resources Protection Act (1979), as amended

Protects materials of archaeological interest from unauthorized removal or destruction and requires Federal managers to develop plans and schedules to locate archaeological resources.

Federal Farmland Protection Policy Act (1981), as amended

Minimizes the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses.

Emergency Wetlands Resources Act (1986)

Promotes the conservation of migratory waterfowl and offsets or prevents the serious loss of wetlands by the acquisition of wetlands and other essential habitats.

Federal Noxious Weed Act (1990)

Requires the use of integrated management systems to control or contain undesirable plant species, and an interdisciplinary approach with the cooperation of other Federal and State agencies.

Native American Graves Protection and Repatriation Act (1990)

Requires Federal agencies and museums to inventory, determine ownership of, and repatriate cultural items under their control or possession.

Americans With Disabilities Act (1992)

Prohibits discrimination in public accommodations and services.

Executive Order 12898 (1994)

Establishes environmental justice as a Federal government priority and directs all Federal agencies to make environmental justice part of their mission. Environmental justice calls for fair distribution of environmental hazards.

Executive Order 12996 Management and General Public Use of the National Wildlife Refuge System (1996)

Defines the mission, purpose, and priority public uses of the National Wildlife Refuge System. It also presents four principles to guide management of the System.

Executive Order 13007 Indian Sacred Sites (1996)

Directs Federal land management agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, avoid adversely affecting the physical integrity of such sacred sites, and where appropriate, maintain the confidentiality of sacred sites.

National Wildlife Refuge System Improvement Act (1997)

Considered the "Organic Act of the National Wildlife Refuge System. Defines the mission of the System, designates priority wildlife-dependent public uses, and calls for comprehensive refuge planning. Section 6 requires the Service to make a determination of compatibility of existing, new and changing uses of Refuge land; and Sec-

tion 7 requires the Service to identify and describe the archaeological and cultural values of the refuge.

National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act (1998)

Amends the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refuges, and for other purposes.

National Trails System Act

Assigns responsibility to the Secretary of Interior and thus the Service to protect the historic and recreational values of congressionally designated National Historic Trail sites.

Treasury and General Government Appropriations Act of 2001 (Public Law 106-554)

In December 2002, Congress required federal agencies to publish their own guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information that they disseminate to the public (44 U.S.C. 3502). The amended language is included in Section 515(a). The Office of Budget and Management (OMB) directed agencies to develop their own guidelines to address the requirements of the law. The Department of the Interior instructed bureaus to prepare separate guidelines on how they would apply the Act. The U.S. Fish and Wildlife Service has developed "Information Quality Guidelines" to address the law.

Cultural Resources and Historic Preservation

The National Wildlife Refuge System Improvement Act of 1997, Section 6, requires the Service to make a determination of compatibility of existing, new and changing uses of Refuge land; and Section 7 requires the Service to identify and describe the archaeological and cultural values of the refuge.

The National Historic Preservation Act (NHPA), Section 106, requires Federal agencies to consider impacts their undertakings could have on historic properties; Section 110 requires Federal agencies to manage historic properties, e.g., to document historic properties prior to destruction or damage; Section 101 requires Federal agencies consider Indian tribal values in historic preservation programs, and requires each Federal agency to establish a program leading to inventory of all historic properties on its land.

The Archaeological Resources Protection Act of 1979 (ARPA) prohibits unauthorized disturbance of archeological resources on Federal and Indian land; and other matters. Section 10 requires establishing "a program to increase public awareness" of archeological resources. Section 14 requires plans to survey lands and a schedule for surveying lands with "the most scientifically valuable archeological resources." This Act requires protection of all archeological sites more than 100 years old (not just sites meeting the criteria for the National Register) on Federal land, and requires archeological investigations on Federal land be performed in the public interest by qualified persons.

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) imposes serious delays on a project when human remains or other cultural items are encountered in the absence of a plan.

The American Indian Religious Freedom Act (AIRFA) iterates the right of Native Americans to free exercise of traditional religions and use of sacred places.

EO 13007, Indian Sacred Sites (1996), directs Federal agencies to accommodate access to and ceremonial use, to avoid adverse effects and avoid blocking access, and to enter into early consultation.

Collier Agreement

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Collier Agreement

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June 4, 1935

Mr. John Collier, Commissioner,
Bureau of Indian Affairs,
Department of the Interior,
Washington, D. C.

Attention: Mr. Ward Shepard.

Dear Sir:

Subject: Cooperative solution of the conflict between the interests of the Indian Service and the Bureau of Biological Survey in the Egg Lake region of Becker County, Minnesota, with reference to their respective projects.

As agreed at the informal conference in Mr. Shepard's office between Mr. Shepard and Mr. Burns of the Indian Service and Mr. Salyer and Mr. Dieffenbach of the Biological Survey, I am presenting herewith the basis for a cooperative agreement to the interests of both parties in the development of their respective projects which overlap in one instance.

There is attached an outline map of Becker County upon which has been indicated in red the boundaries of the White Earth Indian Reservation. In green are shown the maximum boundaries of the area in which the Biological Survey is interested in developing as a migratory waterfowl sanctuary; the lands colored yellow are the lands in which the State Conservation Department of Minnesota is interested in maintaining as a State forest and which they prescribed to the Indian Service but relinquish to the Biological Survey inasmuch as the Survey has agreed to permit them to extend their reforestation operations onto these lands when they are acquired by the Biological Survey.

On this same map, the lands of J. E. Hamilton, which form the nucleus of our proposed project in the north, are outlined in blue. Mr. Hamilton has indicated that he will relinquish these lands to the survey only, because the Survey will continue the area as a wildlife refuge, which constitutes Mr. Hamilton's original interest in the property.

The area shaded pink on the same map shows the extent of the area already optioned by the Indian Service and on which the

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Biological Survey wishes to secure a release from the Indian Service in order to develop the project to its greatest scientific capacity for migratory waterfowl which development, incidentally, will also be of the greatest benefit to the resident Indians of the vicinity.

From the standpoint of the Biological Survey, the proposed project forms a very definite link in the series of migratory waterfowl refuges being established by the Biological Survey throughout the great flight lane known as the Mississippi Flyway. Tracts suitable for such refuges are not readily found because of the need for adequate food and dependable water supply. No one, we believe, will question the outstanding value of the Egg Lake region from that standpoint.

In order to properly develop the lakes and establish ideal conditions suitable for migratory birds, it is necessary that the Biological Survey control the Egg Lake River Valley. It is planned to construct some small dams stabilizing the water in the many lakes of the area and thus insure better growing conditions, especially for the wild rice. The Indian Service is mainly interested in this same area in view of the excellent rice bed found on Little Rise Lake.

In the aforementioned conference, it was the thought of Mr. Shepard and Mr. Burns that the Indian Service could well afford to release their options in this area to the Biological Survey, in return for the specific privileges to be granted to the Indians of this agency by the Biological Survey and herewith enumerated:

1. That the Indians be given priority in ricing privileges not only in the area where the interests of the two agencies overlap, but also on the much greater area which the Biological Survey is taking over in this region; namely, Flat Lake, Tamarac Lake, Pine Lake, Big Rice Lake, Height of Land Lake, Black Bird Lake, and smaller lakes too numerous to mention.

2. The Biological Survey further agrees to give the resident Indians of the agency priority in the matter of trapping rights in its entire project. The Biological Survey reserves the right at all times to preserve a minimum breeding stock of fur-bearing animals on the area. It is suggested that the Biological Survey set up a number of trapping units over these prolific fur-producing waters, and that the Indian Service assign certain Indian families or groups the right to trap specific units.

3. The Biological Survey further agrees to train in rotation a series of young Indian men of high character along the most

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modern lines of game management. The Indian Service agrees to pay their salaries, and the Biological Survey will, through its resident biologists on the tract, give them specific practical training along modern game management lines. The philosophy is that these men will be transferred to other Indian projects as soon as they become proficient, and others will take their place.

4. The Biological Survey further agrees to use Indian CCC labor in the development of the project.

5. The Biological Survey further agrees to protect and guarantee to the Indian Service the ricing privileges on the Biological Survey's purchase unit in Aitkin County known as the Rice Lake Migratory Waterfowl Refuge unit. This lake produces annually from 90 to 100 tons of wild rice, and the granting of priority to the Indians for harvesting this will be decidedly to the advantage of this people. At this time, the Biological Survey is engaged in constructing two small dams to stabilize the water levels in this lake, with a view of perpetuating this great rice bed. It is feared that if another year goes by, with the attendant lowering of water levels before the rice matures, this great bed may be permanently and seriously injured.

At present, there exists an arbitrary agreement between the Indian Service and the Minnesota State Conservation Department adopting a boundary line between the two projects separating the eastern halves of the two townships, T142N, Range 39W, and T141N, Range 39W, from the original established civic township governments. The Sugar Bush Township is all but annihilated by the present Indian boundaries. The entrance of the Biological Survey into the picture would permit this area to be closed out entirely. This is most important in view of the fact that the County Boards of both Becker and Mahanoma Counties have made their delinquent tax abatement resolutions dependent upon the Government's buying all of Townships 141N and 142N.

Considered from all angles and the mutual interests of both parties to this agreement, it seems certain that the entrance of the Biological Survey into the picture and the consummation of the Survey migratory waterfowl project here will serve to round out the unfulfilled situations in the whole set-up, and that it is to the mutual advantage of both parties to enter into this agreement.

It is a recognized fact that the harvesting of wild rice by the Indian method does not destroy the annual yield of this plant, and the annual yield of this harvest to the Indians of the Egg Lake region will be greatly enhanced not only because all of the water area of the entire refuge unit will become available to

Collier Agreement (continued)

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the Indians for riceing purposes after it has been acquired by the Biological Survey, but also because the engineering development by the Survey will establish permanent water levels which are most beneficial to the natural production of wild rice. Properly-designed dams will also bring into rice production the present rather dry savanna type of meadow valley of the Egg and Otter Tail Rivers.

In the development of the area to its best condition, there will be a continuous demand for Indian labor, and the area will at the same time serve as a training school for Indian game managers. As stated before, the rich fur harvest of this region will be made available to the Indians.

Enclosure.

(Signed) W. C. Henderson
Acting Chief,
Bureau of Biological Survey.

(Signed) John Collier
John Collier, Commissioner,
Bureau of Indian Affairs.