

and lands in the National Forest System. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 942-8. Reservation of right of alteration, amendment, or repeal; assignment of right of way**

Congress reserves the right at any time to alter, amend, or repeal sections 687a, 687a-2 to 687a-5,<sup>1</sup> and 942-1 to 942-9 of this title and sections 607a and 615a of title 16 or any part thereof; and the right of way herein authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where within ninety days after May 14, 1898, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road, or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road, or tramway, prior to January 21, 1898, the rights to inure hereunder shall, if the terms of said sections are complied with as to such railroad, wagon road, or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right-of-way or other privilege of said sections the person, company, or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

(May 14, 1898, ch. 299, § 8, 30 Stat. 412.)

**Editorial Notes**

REFERENCES IN TEXT

Sections 687a and 687a-2 to 687a-5 of this title, referred to in text, were repealed by Pub. L. 94-579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section was formerly classified to section 418 of Title 48, Territories and Insular Possessions.

**Statutory Notes and Related Subsidiaries**

REPEAL; SAVINGS PROVISION

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 942-9. Map location of road**

The map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the lo-

cation of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

(May 14, 1898, ch. 299, § 9, 30 Stat. 413.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 419 of Title 48, Territories and Insular Possessions.

**Statutory Notes and Related Subsidiaries**

REPEAL; SAVINGS PROVISION

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 943. Right of way for railroads; reserved lands in Minnesota**

All lands in the State of Minnesota described in and withdrawn from sale by the proclamations of the President of the United States for the reason that said lands would be required for or subject to flowage in the construction of dams, reservoirs, and other works proposed to be erected for the improvement of the navigation of the Mississippi River and certain of its tributaries, are declared to be, and to have been at all times prior to February 27, 1901, subject to the provisions of sections 934 to 939 of this title as fully, effectually, and to the same extent as though said lands had not been described in said proclamations, or withdrawn from sale thereby, but had remained with the body of public lands subject to private entry and sale: *Provided, however*, That any and all parts of said lands acquired by any railroad company under said sections shall at all times be subject to the right of flowage which at any time may become necessary in the construction or maintenance of dams, reservoirs, or other works which may be constructed or erected by or under the authority of the United States for the improvement of the navigation of the Mississippi River and its tributaries: *Provided further*, That the railroad companies availing themselves of this section shall, in addition to filing the maps required by law on February 27, 1901, to be filed, also file maps of definite location with elevation of rail of their lines of railroad over said water-reserve lands in the office of the Secretary of the Army; and no location shall be permitted which takes for right of way or stations or interferes with submergence of lands needed for the use of the reservoir system, existing on February 27, 1901, or in the construction of dams or other works, or any proposed or probable extension of the same, or which will obstruct or increase the cost of the

<sup>1</sup> See References in Text note below.

present or prospective reservoir system: *Provided further*, That the plan for the location and construction of any such railway, or any part thereof, shall be first submitted to the Secretary of the Army and approved by him and by the Chief of Engineers of the United States Army.

(Feb. 27, 1901, ch. 614, 31 Stat. 815; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### Statutory Notes and Related Subsidiaries

##### 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 Department of the Army under administrative supervision of Secretary of the Army.

##### REPEAL; SAVINGS PROVISION

Section repealed by Pub. L. 94-579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 944. Right of way in Oklahoma and Arizona

Where, under sections 934 to 939 of this title, or under special Acts of Congress, or under the laws of the former Territories of Oklahoma and Arizona, railroads have been constructed and were on June 26, 1906, in operation in Oklahoma or Arizona which passed through any of the lands theretofore reserved for said Territories, such lands shall be disposed of subject to such railroad right or easement, but only to the extent of the right of way conferred by the said sections for such railroad purposes.

(June 26, 1906, ch. 3548, 34 Stat. 481.)

#### Statutory Notes and Related Subsidiaries

##### REPEAL; SAVINGS PROVISION

Section repealed by Pub. L. 94-579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 945. Reservation in patents of right of way for ditches or canals

In all patents for lands taken up after August 30, 1890, under any of the land laws of the United States or on entries or claims validated by this Act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

(Aug. 30, 1890, ch. 837, §1, 26 Stat. 391.)

#### Editorial Notes

##### REFERENCES IN TEXT

The land laws of the United States, referred to in text, are classified generally to this title.

This Act, referred to in text, is act Aug. 30, 1890, ch. 837, 26 Stat. 371, which enacted sections 212 and 945 of this title, section 861a of former Title 10, The Army, section 446 of Title 16, Conservation, sections 497, 601, and 651 of former Title 31, Money and Finance, section 887 of Title 33, Navigation and Navigable Waters, section 120 of former Title 40, Public Buildings, Property, and Works, and amended sections 321 and 662 of this title. For complete classification of this Act to the Code, see Tables.

#### § 945a. Compensation for rights-of-way for certain reclamation projects

Notwithstanding the existence of any reservation of right-of-way to the United States for canals under section 945 of this title, or any State statute, the Secretary of the Interior shall pay just compensation, including severance damages, to the owners of private land utilized for ditches or canals in connection with any reclamation project, or any unit or any division of a reclamation project, provided the construction of said ditches or canals commenced after January 1, 1961, and such compensation shall be paid notwithstanding the execution of any agreements or any judgments entered in any condemnation proceeding, prior to September 2, 1964.

(Pub. L. 88-561, §1, Sept. 2, 1964, 78 Stat. 808; Pub. L. 89-624, Oct. 4, 1966, 80 Stat. 873.)

#### Editorial Notes

##### AMENDMENTS

1966—Pub. L. 89-624 inserted "to the United States" and "or any State statute,".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 88-561, §3, as added by Pub. L. 89-624, Oct. 4, 1966, 80 Stat. 874, provided that: "The amendment made by this Act [enacting section 945b of this title and amending this section] shall apply to any condemnation action pending in any district court of the United States on the date of enactment of this Act [Oct. 4, 1966] and to any such action instituted after that date."

#### § 945b. Jurisdiction; procedure

Jurisdiction of an action brought by the United States or the landowner for the determination of just compensation pursuant to section 945a of this title is hereby conferred on the United States district court in the district in which any such land is situated, without limitation to the amount of compensation sought by such suit. The procedure for such an action shall be governed by the Federal Rules of Civil Procedure for the condemnation of real and personal property.

(Pub. L. 88-561, §2, as added Pub. L. 89-624, Oct. 4, 1966, 80 Stat. 874.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Federal Rules of Civil Procedure for the condemnation of real and personal property, referred to in