

settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such State without regard to settlement or cultivation: *Provided*, That in no event, in no contingency, and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liability, in whole or in part.

(June 11, 1896, ch. 420, 29 Stat. 434.)

§ 643. Repealed. Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Mar. 15, 1910, ch. 96, 36 Stat. 237, authorized temporary withdrawal from settlement or entry of desert lands.

EFFECTIVE DATE OF REPEAL

Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792, provided that the repeal made by section 704(a) is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 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.

§ 644. Preference right to entryman under State laws

The Secretary of the Interior, when restoring to the public domain lands that have been segregated to a State under sections 641, 642 and 643¹ of this title is authorized, in his discretion and under such rules and regulations as he may establish to allow for not exceeding ninety days to any entryman under section 641 of this title a preference right of entry under applicable land laws of any of such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant under section 641 of this title and upon which such person had established actual bona fide residence or had made substantial and permanent improvements: *Provided*, That each entryman shall be entitled to a credit as residence upon his new homestead entry allowed hereunder of the time that he has actually lived upon the claim as a bona fide resident thereof.

(Feb. 14, 1920, ch. 74, 41 Stat. 407.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

§ 645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation

An additional one million acres of arid lands within each of the States of Colorado, Idaho, Nevada, and Wyoming is made available and subject to the terms of section 641 of this title, and the States of Colorado, Nevada, Idaho, and Wyoming are allowed under the provisions of said section said additional area or so much thereof

as may be necessary for the purposes and under the provisions of said section.

(May 27, 1908, ch. 200, 35 Stat. 347; Mar. 4, 1911, ch. 285, 36 Stat. 1417; Aug. 21, 1911, No. 7, 37 Stat. 38.)

§ 646. Grant extended to New Mexico and Arizona

All the provisions of sections 641, 642 and 643¹ of this title are extended to the States of New Mexico and Arizona, and the said States upon complying with the provisions of said sections shall be entitled to have and receive all of the benefits therein conferred upon the States.

(Feb. 18, 1909, ch. 150, § 1, 35 Stat. 638.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

EFFECTIVE DATE

Act Feb. 18, 1909, ch. 150, § 2, 35 Stat. 639, provided: "That this Act [enacting this section] shall be in full force and effect from and after its passage."

§ 647. Grant extended to desert lands within part of former Ute Indian Reservation in Colorado

The provisions of sections 641, 642 and 643¹ of this title are extended over and shall apply to the desert lands within the limits of all that portion of the former Ute Indian Reservation, not included in any national forest, in the State of Colorado, described and embraced in the Act entitled "An Act relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians," approved July 28, 1882: *Provided*, That before a patent shall issue for any of the lands aforesaid under the terms of the said sections the State of Colorado shall pay into the Treasury of the United States the sum of \$1.25 per acre for the lands so patented, and the money so paid shall be subject to the provisions of section 3 of the Act of June 15, 1880, entitled "An Act to accept and ratify the agreements submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same."

No lands shall be included in any tract to be segregated under the provisions of this section on which the United States Government has valuable improvements, or which have been reserved for any Indian schools or farm purposes.

(Feb. 24, 1909, ch. 178, §§ 1, 2, 35 Stat. 644, 645.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

Act approved July 28, 1882, referred to in text, is act July 28, 1882, ch. 357, 22 Stat. 178, which is not classified to the Code.

Section 3 of the Act of June 15, 1880, referred to in text, is section 3 of act June 15, 1880, ch. 223, 21 Stat. 199, which is not classified to the Code.

¹ See References in Text note below.

¹ See References in Text note below.

¹ See References in Text note below.

§ 648. Omitted

CODIFICATION

Section, acts Feb. 26, 1917, ch. 124, 39 Stat. 942; Mar. 3, 1919, ch. 114, 40 Stat. 1322; June 5, 1920, ch. 249, 41 Stat. 987, provided for extension of time of segregation and reclamation in Oregon segregation lists for period of not exceeding ten years and not beyond January 12, 1929.

**CHAPTER 15—APPROPRIATION OF WATERS;
RESERVOIR SITES**

Sec.	
661.	Appropriation of waters on public lands; rights of way for canals and ditches.
662.	Reservation of reservoir sites generally.
663.	Restriction of sites to inclusion of necessary lands.
664.	Rights of way over reservoir sites generally.
665.	Rights of way over reservoir sites for wagon road, railroad, or other highway.
666.	Suits for adjudication of water rights.

**§ 661. Appropriation of waters on public lands;
rights of way for canals and ditches**

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by this section.

(R.S. §§ 2339, 2340.)

AMENDMENT OF SECTION

Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, provided that 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 this section is amended to read as follows:

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights as may have been acquired under or recognized by this section.

CODIFICATION

R.S. § 2339 derived from act July 26, 1866, ch. 262, § 9, 14 Stat. 253.

R.S. § 2340 derived from act July 9, 1870, ch. 235, § 17, 16 Stat. 218.

This section is also classified to sections 51 and 52 of Title 30, Mineral Lands and Mining.

SAVINGS PROVISION

Amendment by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, 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.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 662. Reservation of reservoir sites generally

Sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, located or selected prior to August 30, 1890, shall remain segregated and reserved from entry, or settlement, until otherwise provided by law, and reservoir sites thereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof.

(Oct. 2, 1888, ch. 1069, 25 Stat. 526, 527; Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

CODIFICATION

Section is based on provisions contained in acts Oct. 2, 1888, and Aug. 30, 1890, affected by act Oct. 21, 1976.

AMENDMENTS

1976—Pub. L. 94-579 struck out provision authorizing the President, in his discretion, to open by proclamation any portion or all of the lands reserved by this section to settlement under the homestead laws.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792, provided that the amendment made by section 704(a) is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 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.

§ 663. Restriction of sites to inclusion of necessary lands

Reservoir sites located or selected and to be located and selected shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs.

(Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

§ 664. Rights of way over reservoir sites generally

All reservoir sites reserved or to be reserved shall be open to use and occupation under sections 946 to 949¹ of this title, and any State is authorized to improve and occupy such reservoir sites to the same extent as an individual or pri-

¹ See References in Text note below.