

mergence 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 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.)

#### REPEAL OF SECTION

*Section repealed by Pub.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.*

#### 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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

#### SAVINGS PROVISION

Repeal 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.

### § 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.)

#### REPEAL OF SECTION

*Section repealed by Pub.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.*

#### SAVINGS PROVISION

Repeal 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.

### § 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.)

#### 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 claims 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.)

#### AMENDMENTS

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

#### 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.)

#### REFERENCES IN TEXT

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