

its orders, shall, whenever deemed necessary, visit said territory and all mines operating under the provisions of this chapter. A report of such examination shall be placed on file.

(Mar. 1, 1893, ch. 183, §20, 27 Stat. 510.)

#### TRANSFER OF FUNCTIONS

California Debris Commission abolished and functions transferred to Secretary of the Army by Pub. L. 99-662, title XI, §1106, Nov. 17, 1986, 100 Stat. 4229, set out as a note under section 661 of this title.

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 Repealed.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

Section, act Mar. 1, 1893, ch. 183, §21, 27 Stat. 510; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized the commission to use any of the public lands, etc., of the United States, and the withdrawal of lands, etc., required from sale or entry.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 94-579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, provided that the repeal 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(a) of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

#### § 682. Malicious injury to works; injury to navigable waters by hydraulic mining; penalty

Any person or persons who willfully or maliciously injure, damage, or destroy, or attempt to injure, damage, or destroy, any dam or other work erected under the provisions of this chapter for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of \$5,000 or be imprisoned not to exceed five years, or by both such fine and imprisonment, in the discretion of the court. And any person or persons, company or corporation, their agents or employees, who shall mine by the hydraulic process directly or indirectly injuring the navigable waters of the United States, in violation of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(Mar. 1, 1893, ch. 183, §22, 27 Stat. 510.)

#### § 683. Tax on operation of hydraulic mines; "debris fund"; advances by mine owners; storage for water and use of outlet facilities

Upon the construction by the said commission of dams or other works for the detention of debris from hydraulic mines and the issuing of the order provided for by this chapter to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the debris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay for each cubic yard mined from the natural

bank a tax equal to the total capital cost of the dam, reservoir, and rights-of-way divided by the total capacity of the reservoir for the restraint of debris, as determined in each case by the California Debris Commission, which tax shall be paid annually on a date fixed by said commission and in accordance with regulations to be adopted by the Secretary of the Treasury, and the Treasurer of the United States is authorized to receive the same. All sums of money paid into the Treasury under this section shall be set apart and credited to a fund to be known as the "debris fund", and shall be expended by said commission under the supervision of the Chief of Engineers and direction of the Secretary of the Army, for repayment of any funds advanced by the Federal Government or other agency for the construction of restraining works and settling reservoirs, and for maintenance: *Provided*, That said commission is authorized to receive and pay into the Treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advances as may be offered to aid in the construction of such impounding dams, or other restraining works, or settling reservoirs, or sites thereof, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said debris fund: *And provided further*, That in no event shall the Government of the United States be held liable to refund same except as directed by this section. The Secretary of the Army is authorized to enter into contracts to supply storage for water and use of outlet facilities from debris storage reservoirs, for domestic and irrigation purposes and power development upon such conditions of delivery, use, and payment as he may approve: *Provided*, That the moneys received from such contracts shall be deposited to the credit of the reservoir project from which the water is supplied, and the total capital cost of said reservoir, which is to be repaid by tax on mining operations as provided in this section, shall be reduced in the amount so received.

(Mar. 1, 1893, ch. 183, §23, 27 Stat. 510; June 19, 1934, ch. 661, §2, 48 Stat. 1118; June 25, 1938, ch. 653, 52 Stat. 1040; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### AMENDMENTS

1938—Act June 25, 1938, inserted provisions relating to storage for water and use of outlet facilities.

1934—Act June 19, 1934, substituted an annual tax for each cubic yard mined from the natural bank, based on total capital cost divided by total capacity, for the 3 per centum gross proceeds tax, and required money from debris fund to be expended in repayment of Government advances for construction and maintenance, instead of authorizing the expenditure of such money in addition to appropriations for construction and maintenance.

#### 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.

#### TRANSFER OF FUNCTIONS

California Debris Commission abolished and functions transferred to Secretary of the Army by Pub. L. 99-662, title XI, §1106, Nov. 17, 1986, 100 Stat. 4229, set out as a note under section 661 of this title.

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40, July 22, 1949.

#### § 684. Cooperation by commission with State authorities

For the purpose of securing harmony of action and economy in expenditures in the work to be done by the United States and the State of California, respectively, the former in its plans for the improvement and protection of the navigable streams and to prevent the depositing of mining debris or other materials within the same, and the latter in its plans authorized by law for the reclamation, drainage, and protection of its lands, or relating to the working of hydraulic mines, the said commission is empowered to consult thereon with a commission of engineers of said State, if authorized by said State for said purpose, the result of such conference to be reported to the Chief of Engineers of the United States Army, and if by him approved shall be followed by said commission.

(Mar. 1, 1893, ch. 183, §24, 27 Stat. 511.)

#### TRANSFER OF FUNCTIONS

California Debris Commission abolished and functions transferred to Secretary of the Army by Pub. L. 99-662, title XI, §1106, Nov. 17, 1986, 100 Stat. 4229, set out as a note under section 661 of this title.

#### § 685. Construction by commission of restraining works, etc.; use of debris fund

Said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin River systems resulting from mining operations, natural erosion, or other causes, shall be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable and the land adjacent thereto, is directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said debris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or any place adjacent to the same, which in the judgment of said commission, will effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in Executive Document Numbered 267, Fifty-first Congress, second session, and Executive Document Numbered 98, Forty-seventh Congress, first session, as far as they refer to impounding dams, or other restraining works, are adopted, and the

same are directed to be made the basis of operations.

(Mar. 1, 1893, ch. 183, §25, 27 Stat. 511.)

#### REFERENCES IN TEXT

Executive Document Numbered 267, referred to in text, contained a report of Lieut. Col. G. H. Mendell, Corps of Engineers, U.S.A., dated Jan. 26, 1882, prepared pursuant to a provision in act June 14, 1880, ch. 211, 21 Stat. 196. Executive Document Numbered 98, also referred to in text, contained a report by a board of engineers created by act Oct. 1, 1888, ch. 1057, 25 Stat. 498.

#### TRANSFER OF FUNCTIONS

California Debris Commission abolished and functions transferred to Secretary of the Army by Pub. L. 99-662, title XI, §1106, Nov. 17, 1986, 100 Stat. 4229, set out as a note under section 661 of this title.

#### § 686. Construction of restraining works in conjunction with State

The Secretary of the Army, in expending appropriations in the preparation for and construction of works for the restraining or impounding of mining debris in the State of California, is authorized to enter into an agreement that the contractor shall look solely to the State of California for one-half of such expense, to be paid out of said State's appropriation, and the United States shall in no wise be liable for said one-half.

The Secretary of the Army, in carrying out the provisions of any Act of Congress, providing for the restraining or impounding of mining debris in California, may, in his discretion, when in his judgment the aggregate of appropriations already made by said State and Congress and available therefor are sufficient to complete the same, undertake the works necessary thereto by hired labor and by purchase of supplies and materials therefor, and may accept payments on account thereof as the work progresses under and according to the provisions of the acts of the legislature of said State for such purposes.

(July 1, 1898, ch. 546, §1, 30 Stat. 631; Mar. 3, 1899, ch. 425, §1, 30 Stat. 1148; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section was enacted as part of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899", and not as part of act Mar. 1, 1893, ch. 183, 27 Stat. 507, which comprises this chapter.

As originally enacted the first paragraph read as follows: "The provisions of an Act of Congress, entitled 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-nine, and for other purposes,' approved July first, eighteen hundred and ninety-eight, authorizing the Secretary of War, in expending certain specified appropriations in the preparation for and construction of certain works for the restraining or impounding of mining debris in the State of California, to enter into a contract or contracts wherein the contractor or contractors shall look solely to that State for one-half of such expense, and that the United States shall in no wise be liable for said one-half, are hereby extended to any appropriations, when made, that may hereafter be made for said purposes."

Act July 1, 1898 authorized Secretary of War, in contracting for construction of certain proposed works, to enter into an agreement that contractor should look solely to California for half of expenses.