

court may determine the kind of notice to be served on such owner or owners, and may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or nonappearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred. It shall be competent for the legal guardian of any infant, or any other person under guardianship, to agree with the said company as to damages sustained by reason of the taking of any lands of any such person under disability, as aforesaid, for the use as aforesaid; and upon such agreement being made, and approved by the court having supervision of the official acts of said guardian, and said guardian shall have full power to make and execute a conveyance thereof to the said company which shall vest the title thereto in the said company.

(July 2, 1864, ch. 216, § 3, 13 Stat. 357; May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

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Sections 687a and 687a-2 to 687a-5 of this title, referred to in text, were repealed by Pub.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

The first sentence of this section to the colon is from section 4 of act May 14, 1898, which, as originally enacted, provided that the condemnation might be made in accordance with section 3 of act July 2, 1864. The remainder of this section is from section 3 of act July 2, 1864, incorporated herein for convenience of reference. The proviso of section 4 of act May 14, 1898, is classified to section 942-4 of this title.

Section was formerly classified to section 413 of Title 48, Territories and Insular Possessions.

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Section repealed by Pub.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.

§ 942-4. Filing preliminary survey, map and profile of road

Any company mentioned in sections 687a, 687a-2 to 687a-5,¹ and 942-1 to 942-9 of this title and sections 607a and 615a of title 16, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter to file the map and profile of definite location and such preliminary survey and plat shall during the said period of one year from the time of filing the same have the effect to render all the lands on which said preliminary survey and plat shall pass subject to the right of way mentioned in section 942-3 of this title.

(May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

¹ See References in Text note below.

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 is comprised of the proviso of section 4 of act May 14, 1898. The remainder of section 4 of act May 14, 1898, is classified to section 942-3 of this title.

Section was formerly classified to section 414 of Title 48, Territories and Insular Possessions.

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.

EXTENSION OF TIME TO COMPLETE RAILROAD

The time of the Western Alaska Construction Company to comply with the provisions of this section and section 942-6 of this title, in acquiring and completing its railroad, was extended by act Apr. 9, 1904, ch. 1165, 33 Stat. 165.

§ 942-5. Filing map and profile of road section; forfeiture of rights; reversion of grant

Any company desiring to secure the benefits of sections 687a, 687a-2 to 687a-5,¹ and 942-1 to 942-9 of this title and sections 607a and 615a of title 16, shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with such officer as the Secretary of the Interior may designate of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed; and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to each right of way: *Provided*, That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action.

¹ See References in Text note below.

(May 14, 1898, ch. 299, § 5, 30 Stat. 410; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

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 415 of Title 48, Territories and Insular Possessions.

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.

TRANSFER OF FUNCTIONS

“Such officer as the Secretary of the Interior may designate” substituted in text for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

§ 942-6. Rights of way for Alaskan wagon roads, wire rope, aerial, or other tramways; reservations; filing preliminary survey and map of location; alteration, amendment, repeal, or grant of equal rights; forfeiture of rights; reversion of grant; liens

The Secretary of the Interior is authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in Alaska, not to exceed one hundred feet in width, and ground for station and other necessary purposes not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at \$1.25 per acre, such lands when located at or near tide water not to extend more than forty rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided*, That such lands may be located concurrently with the line of such road or tramway,

and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further*, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than \$500 per mile: *Provided*, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall decline to grant such right of way, if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in Alaska be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of \$500 per mile has been actually expended in constructing such road: and all persons are prohibited from collecting or attempting to collect toll over any wagon road in Alaska, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided*, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than \$50 nor more than \$500, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

Any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this section that may prior to May 14, 1898, have constructed not less than one mile of road, at a cost of not less than \$500 per mile, or one-half mile of tramway at a cost of not less than \$500, shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this section over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. If any party to whom license has been granted to construct such wagon road