

§ 702a-10. Flowage rights and rights-of-way; reimbursement of local authorities; highway crossings; use of properties for national forests or wildlife refuges

In order to facilitate the United States in the acquisition of flowage rights and rights-of-way for levee foundations, the Secretary of the Army is authorized to enter into agreements with the States or with local levee districts, boards, commissions, or other agencies for the acquisition and transfer to the United States of such flowage rights and levee rights-of-way, and for the reimbursement of such States or local levee districts, boards, commissions, or other agencies, for the cost thereof at prices previously agreed upon between the Secretary of the Army and the governing authority of such agencies, within the maximum limitations hereinafter prescribed: *Provided*, That no money appropriated under the authority of sections 702g-1 and 702k-1 of this title shall be expended upon the construction of the Eudora Floodway, the Morganza Floodway, the back protection levee extending north from the Eudora Floodway, or the levees extending from the head of the Morganza Floodway to the head of and down the east bank of the Atchafalaya River to the intersection of said Morganza Floodway until 75 per centum of the value of the flowage rights and rights-of-way for levee foundations, as estimated by the Chief of Engineers, shall have been acquired or options or assurances satisfactory to the Chief of Engineers shall have been obtained for the Eudora Floodway, the Morganza Floodway, and the area lying between said back protection levee and the present front line levees: *Provided further*, That easements required in said areas in connection with roads and other public utilities owned by States or political subdivisions thereof shall be provided without cost to the United States upon the condition, that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees in said areas for all improved roads now constituting a part of the State highway system, and shall repair all damage done to said highways within the said floodways by the actual use of such floodways for diversion: *Provided further*, That when such portion of said rights as to all of said areas shall have been acquired or obtained and when said easements required in connection with roads and other public utilities owned by States or political subdivisions thereof have been provided as hereinabove set forth, construction of said flood-control works in said areas shall be undertaken according to the engineering recommendations of the Report of the Chief of Engineers dated February 12, 1935 (House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session), and the Secretary of the Army shall cause proceedings to be instituted for the condemnation of the remainder of said rights and easements, as are needed and cannot be secured by agreement, in accordance with section 702d of this title: *Provided further*, That in no event and under no circumstances shall any of the additional money appropriated under the authority of sections 702g-1 and 702k-1 be expended for the acquisition of said 75 per centum of the flowage

rights and rights-of-way hereinabove contemplated in excess of \$20,000,000: *Provided further*, That the Chief of Engineers is authorized, out of the funds herein authorized to be appropriated, to purchase flowage easements over lands and properties in the floodway west of the Atchafalaya River and lying above the approximate latitude of Krotz Springs: *Provided further*, That none of such easements in said West Atchafalaya Floodway shall be purchased until options covering at least 75 per centum of the total value of such easements as estimated by the Chief of Engineers shall have been obtained at prices deemed reasonable by the Chief of Engineers and not exceeding in the aggregate \$2,250,000 for said 75 per centum of said easements with respect to the floodway west of the Atchafalaya River: *Provided further*, That easements required in said West Atchafalaya Floodway in connection with roads and other public utilities owned by States or other political subdivisions shall be provided without cost to the United States upon condition that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees for all improved roads in said West Atchafalaya Floodway now constituting a part of the State highway system and shall repair all damage done to said highways within said West Atchafalaya Floodway by the actual use of such floodway for diversion: *Provided further*, That no flowage easements shall be paid for by the United States over properties subject to frequent overflow in the Atchafalaya Basin below the approximate latitude of Krotz Springs: *Provided further*, That payment for rights-of-way, easements, and flowage rights acquired under this section, or reimbursement to the States or local interests furnishing them, shall be made as soon as the Chief of Engineers is satisfied that such rights-of-way, easements, or flowage rights have been acquired in conformity with local custom or legal procedure in such matters; and, thereafter, no liability of any kind shall attach to or rest upon the United States for any further damage by reason of diversions or flood waters: *And provided further*, That if the Secretary of Agriculture shall determine to acquire any of the properties within the floodways herein referred to, for national forests, wildlife refuges, or other purposes of his Department, the Secretary of the Army may, upon recommendation by the Chief of Engineers, in lieu of acquiring flowage rights, advance to or reimburse the said Secretary of Agriculture sums equal to those that would otherwise be used for the purchase of easements desired by the Department of the Army and the Secretary of Agriculture is authorized to use these sums for the purpose of acquiring properties in the floodways in question.

(June 15, 1936, ch. 548, §12, 49 Stat. 1512; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

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.

§ 702a-11. Morganza Floodway; Eudora Floodway

The United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to acquire all easements needed and of the character considered advisable in the Morganza floodway and to construct said Morganza floodway. Said Morganza floodway may, within the discretion of the Chief of Engineers, be modified as to its design and inflow.

The said Morganza floodway may be initiated and constructed without delay; and the United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to the acquisition of flowage rights and flowage easements in the Eudora floodway, and to its construction as authorized by existing law: *Provided*, That the intakes of such Eudora floodway shall include an automatic masonry weir with its sill at such an elevation that it will not be overtopped by stages other than those capable of producing a stage of fifty-one feet or over on the Vicksburg gage: *Provided further*, That a fuseplug levee loop may be constructed behind said sill to prevent flow into the floodway until the predicted flood exceeds the safe capacity of the main river leveed channel, with a free-board of at least three feet, but said fuseplug levee may be artificially breached when in the opinion of the Chief of Engineers such breaching is advisable to insure the safety of the main river controlling levee line: *Provided further*, That the authority to acquire lands, flowage rights, and easements for floodways shall be confined to the floodways proper and to the northward extension of Eudora: *Provided further*, That within the discretion of the Chief of Engineers, the guide line levees of the Eudora floodway may be extended south toward Old River: *Provided further*, That the Chief of Engineers is authorized to construct the said Eudora floodway at such location as he may determine, in the vicinity of Eudora. The United States may, within the discretion of the Chief of Engineers irrespective of other provisions of law, proceed to acquire flowage rights and flowage easements in the northward extension of the Eudora floodway, as authorized by existing law, provided that pending the completion of such northward extension all the Riverside fuseplug levee extending south from the vicinity of Yancopin to the vicinity of Vau Cluse, Arkansas, and so as to connect with the existing levee of 1928 grade and section, shall be reconstructed to the 1914 grade and 1928 section: *Provided further*, That if the back protection levee is constructed prior to the construction of Eudora floodway, it shall be connected with the main Mississippi River levee and subsequently connected with the Eudora floodway when constructed: *Provided further*,

That the Chief of Engineers is authorized, in his discretion, to negotiate options, make agreements and offers with respect to lands, flowage rights, easements, and rights-of-way involved, as provided by law, at prices deemed reasonable by him.

The United States, irrespective of other provisions of law, may, within the discretion of the Chief of Engineers, acquire flowage easements over all lands not subject to frequent overflow in the Atchafalaya Basin below the latitude of Krotz Springs.

Said Morganza floodway shall not be operated until the Wax Lake outlet has been put into operative condition.

The fuseplug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be reconstructed to the 1928 grade and section.

The United States may, in the discretion of the Chief of Engineers, acquire all flowage rights, flowage easements, rights-of-way for levee foundations, and titles in fee simple as herein provided, either by voluntary acquisition or in accordance with the condemnation proceedings by the Secretary of the Army as provided for in section 702d of this title.

In the event the United States acquires or owns title to any lands in fee simple under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, as amended and supplemented, the United States may retain the ownership thereof, or any part thereof instead of turning over such lands to the ownership of States or local interests as provided in section 702d of this title, and may lease such lands: *Provided*, That 25 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of such leases shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such property is situated: *Provided further*, That when such property is situated in more than one State or county the distributive share to each from the proceeds of such property shall be proportional to its area therein: *Provided further*, That no part of the appropriations herein or heretofore authorized for said Morganza and Eudora floodways and extension shall be used for any other purpose.

(June 15, 1936, ch. 548 (pt.), as added June 28, 1938, ch. 795, § 4, 52 Stat. 1220; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

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