

(6) Brays Bayou, Texas

Flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to the diversion component of such element.

(7) Hunting Bayou, Texas

The Hunting Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by such section; except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(8) White Oak Bayou, Texas

The project for flood control, White Oak Bayou watershed, Texas.

(g) Treatment of flood damage prevention measures

For the purposes of this section, flood damage prevention measures at or in the vicinity of Morgan City and Berwick, Louisiana, shall be treated as an authorized separable element of the Atchafalaya Basin feature of the project for flood control, Mississippi River and Tributaries.

(Pub. L. 104-303, title II, §211, Oct. 12, 1996, 110 Stat. 3681; Pub. L. 106-53, title II, §223, Aug. 17, 1999, 113 Stat. 296; Pub. L. 106-60, title VI, §606, Sept. 29, 1999, 113 Stat. 501.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 101 of the Water Resources Development Act of 1990, referred to in subsec. (f)(1), (2), (6), is section 101 of Pub. L. 101-640, title I, Nov. 28, 1990, 104 Stat. 4605, which is not classified to the Code.

Section 101(13) of the Water Resources Development Act of 1992, referred to in subsec. (f)(5), is section 101(13) of Pub. L. 102-580, title I, Oct. 31, 1992, 106 Stat. 4803, which is not classified to the Code.

AMENDMENTS

1999—Subsec. (d)(1). Pub. L. 106-53, §223(a)(1), added subpar. (A), designated existing provisions as subpar. (B), inserted subpar. heading, and substituted “under subsection (c)” for “pursuant to subsection (b) or (c)”.

Subsec. (d)(2). Pub. L. 106-53, §223(a)(2), inserted “(other than paragraph (1)(A))” after “this subsection” in first sentence.

Subsec. (e)(1). Pub. L. 106-53, §223(b)(1), inserted “and provide credit for the non-Federal share of the project” after “constructed pursuant to this section” in introductory provisions, and added subpar. (C).

Subsec. (e)(2)(A). Pub. L. 106-60, which directed the amendment of subpar. (A) by striking out “in advance in appropriations Acts”, could not be executed because that phrase did not appear in text subsequent to the amendment by Pub. L. 106-53, §223(b)(2). See below.

Pub. L. 106-53, §223(b)(2), in subpar. heading, inserted “or credit” after “Reimbursement” and, in text, substituted “subject to the availability of appropriations”

for “subject to amounts being made available in advance in appropriations Acts” and inserted “, or provide credit (depending on the request of the non-Federal interest) for the non-Federal share of such work,” after “the cost of such work”.

Subsec. (e)(6). Pub. L. 106-53, §223(b)(3), added par. (6).

§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance

After June 22, 1936, no money appropriated under authority of section 701f of this title shall be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized herein, may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost thereof, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not

apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off and waterflow retardation and soil-erosion prevention;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, § 3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, § 4, 50 Stat. 877; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables. Portions of section 5 of act June 22, 1936, enumerating certain dams to be constructed, were not classified to the Code.

AMENDMENTS

1937—Act Aug. 28, 1937, added subsec. (d).

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.

APPLICABILITY OF SECTION TO FLOOD CONTROL WORKS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 201, Aug. 13, 1968, 82 Stat. 739, provided that: "Section 3 of the Act approved June 22, 1936 (Public Law Numbered 738, Seventy-fourth Congress) [this section], as amended by section 2 of the Act approved June 28, 1938 (Public Law Numbered 761, Seventy-fifth Congress) [section 701c-1 of this title], shall apply to all works authorized in this title except that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936 [this section], shall apply thereto, except as otherwise provided by law. The authorization for any flood control project herein authorized by this Act [Pub. L. 90-483] requiring local cooperation shall expire five years from the date on which local interests

are notified in writing by the Secretary of the Army or his designee of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished."

Similar provisions were contained in the following prior acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 201, 80 Stat. 1418.
Oct. 27, 1965, Pub. L. 89-298, title II, § 202, 79 Stat. 1074.
Sept. 3, 1954, ch. 1264, title II, § 201, 68 Stat. 1256.
May 17, 1950, ch. 188, title II, § 201, 64 Stat. 170.
June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175.
July 24, 1946, ch. 596, § 2, 60 Stat. 641.
Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889.

APPLICATION OF SECTION

Act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, provided that this section, as theretofore amended and therein further modified, should apply to all flood control projects, except as otherwise specifically provided by law. For modification of this section by that act, see section 701c-1 of this title.

MUSKINGUM RIVER VALLEY

Provisions of act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, referred to above, were extended to the Muskingum River Valley dams and reservoirs by section 4 of act Aug. 11, 1939, ch. 699, 53 Stat. 1414.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701b-2, 701b-7, 701b-11, 701c-1, 701e, 701s of this title.

§ 701c-1. **Acquirement of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies**

In case of any dam and reservoir project, or channel improvement or channel rectification project for flood control, herein authorized or heretofore authorized by the Act of June 22, 1936, as amended, and sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions of clauses (a), (b), and (c) of section 701c of this title shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other Act, the Secretary of the Army is authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed, from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of the Army and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are lo-