

§ 52. Patents or homesteads subject to vested and accrued water rights

All patents granted, or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by section 51 of this title.

(R.S. § 2340; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

REPEALS

Provision of this section, “, or rights to ditches and reservoirs used in connection with such water rights,” was repealed by Pub.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.

CODIFICATION

R.S. § 2340 derived from act July 9, 1870, ch. 235, § 17, 16 Stat. 218.

Section is also set out as the second par. of section 661 of Title 43, Public Lands.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, 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 note set out under section 1701 of Title 43, Public Lands.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 102 of this title; title 16 section 460mm-1.

§ 53. Possessory actions for recovery of mining titles or for damages to such title

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

(R.S. § 910.)

CODIFICATION

R.S. § 910 derived from act Feb. 27, 1865, ch. 64, § 9, 13 Stat. 441.

Section was formerly classified to section 690 of Title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460mm-1.

§ 54. Liability for damages to stock raising and homestead entries by mining activities

Notwithstanding the provisions of any Act of Congress to the contrary, any person who on and after June 21, 1949 prospects for, mines, or removes by strip or open pit mining methods, any

minerals from any land included in a stock raising or other homestead entry or patent, and who had been liable under such an existing Act only for damages caused thereby to the crops or improvements of the entryman or patentee, shall also be liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals. Nothing in this section shall be considered to impair any vested right in existence on June 21, 1949.

(June 21, 1949, ch. 232, § 5, 63 Stat. 215.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in act June 17, 1949, ch. 221, § 2, 63 Stat. 201.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460mm-1.

CHAPTER 3—LANDS CONTAINING COAL, OIL, GAS, SALTS, ASPHALTIC MATERIALS, SODIUM, SULPHUR, AND BUILDING STONE

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104. Agreements with applicants for patents as to disposition of oil or gas, or proceeds thereof, pending determination of title; Navy Petroleum Fund.