

without cost to the United States, all rights-of-way for levee foundations and levees on the main stem of the Mississippi River between Cape Girardeau, Missouri, and the Head of Passes.

No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however,* That if in carrying out the purposes of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of the Army and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands.

(May 15, 1928, ch. 569, § 3, 45 Stat. 535; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

§ 702d. Flowage rights; condemnation proceedings; benefits to property

The United States shall provide flowage rights for additional destructive flood waters that will pass by reason of diversions from the main channel of the Mississippi River: *Provided,* That in all cases where the execution of the flood control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid.

The Secretary of the Army may cause proceedings to be instituted for the acquirement by condemnation of any lands, easements, or rights of way which, in the opinion of the Secretary of the Army and the Chief of Engineers, are needed in carrying out this project, the said proceedings to be instituted in the United States district court for the district in which the land, easement, or right of way is located. In all such proceedings the practice, pleadings, forms, and modes of proceedings shall conform as near as may be to the practice, pleadings, forms, and proceedings existing at the time in like causes in the courts of record of the State within which such district court is held, any rule of the court to the contrary notwithstanding. When the owner of any land, easement, or right of way shall fix a price for the same which, in the opinion of the Secretary of the Army is reasonable, he may purchase the same at such price; and the

Secretary of the Army is also authorized to accept donations of lands, easements, and rights of way required for this project. The provisions of sections 594 and 595 of this title are made applicable to the acquisition of lands, easements, or rights of way needed for works of flood control: *Provided,* That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests.

(May 15, 1928, ch. 569, § 4, 45 Stat. 536; Nov. 30, 1945, ch. 496, 59 Stat. 587; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

AMENDMENTS

1945—Act Nov. 30, 1945, substituted second sentence of second par. for a sentence which read "In all such proceedings the court, for the purpose of ascertaining the value of the property and assessing the compensation to be paid, shall appoint three commissioners, whose award, when confirmed by the court, shall be final."

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.

§ 702d-1. Bonnet Carre Spillway and Floodway; rights-of-way, etc., over lands

The proviso in section 702d of this title "That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests," shall not apply to the lands heretofore acquired or that may be hereafter acquired in connection with the construction, maintenance, or operation of the Bonnet Carre Spillway and Floodway. The Secretary of the Army is authorized to grant to any citizen, association, railroad, or other corporation, State or public agency thereof, rights-of-way, easements, and permits, over, across, in, and upon said lands for railway, highway, telephone, telegraph, and pipe-line crossings, and other purposes. The grants issued in pursuance of this authority shall be under such terms and conditions as the Secretary of the Army may deem advisable for the protection of the public interests, and may be perpetual or temporary in his discretion.

(Feb. 15, 1933, ch. 76, 47 Stat. 810; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

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.

§ 702e. Maps for project; preparation

Subject to the approval of the heads of the several executive departments concerned, the

Secretary of the Army, on the recommendation of the Chief of Engineers, may engage the services and assistance of the National Ocean Survey, the United States Geological Survey, or other mapping agencies of the Government, in the preparation of maps required in furtherance of this project, and funds to pay for such services may be allotted from appropriations made under authority of sections 702a and 702g of this title.

(May 15, 1928, ch. 569, § 5, 45 Stat. 536; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

“United States Geological Survey” substituted in text for “Geological Survey” pursuant to provision of title I of Pub. L. 102-154, set out as a note under section 31 of Title 43, Public Lands.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970, and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

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

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, § 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees. The Geological Survey, referred to in text, is an agency of Department of the Interior.

§ 702f. Expenditures for earlier projects

Funds appropriated under authority of section 702a of this title may be expended for the prosecution of such works for the control of the floods of the Mississippi River as have, prior to May 15, 1928, been authorized and are not included in the present project, including levee work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on the outlets and tributaries of the Mississippi River between Rock Island and Head of Passes insofar as such outlets or tributaries are affected by the backwaters of the Mississippi: *Provided*, That for such work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on such tributaries, the States or levee districts shall provide right-of-way without cost to the United States, contribute 33½ per centum of the costs of the works, and maintain them after completion: *And provided further*, That not more than

\$10,000,000 of the sums authorized in section 702a of this title, shall be expended under the provisions of this section. In an emergency, funds appropriated under authority of section 702a of this title may be expended for the maintenance of any levee when it is demonstrated to the satisfaction of the Secretary of the Army that the levee cannot be adequately maintained by the State or levee district.

(May 15, 1928, ch. 569, § 6, 45 Stat. 536; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

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.

§ 702g. Appropriation for emergency fund

The sum of \$5,000,000 is authorized to be appropriated as an emergency fund to be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers, in rescue work or in the repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood including the flood of 1927: *Provided*, That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers in the reimbursement of levee districts or others for expenditures heretofore incurred or made for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood or that have been impaired, damaged, or destroyed by flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and/or authorized.

(May 15, 1928, ch. 569, § 7, 45 Stat. 537; June 19, 1930, ch. 542, 46 Stat. 787; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

AMENDMENTS

1930—Act June 19, 1930, inserted provisos.

CHANGE OF NAME

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