

§ 315q. Withdrawal of lands for war or national defense purposes; payment for cancellation of permits or licenses

Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing contained in this section shall be construed to create any liability not now existing against the United States. July 9, 1942, c. 500, 56 Stat. 654; May 28, 1948, c. 353, § 1, 62 Stat. 277.

Historical Note

Codification. Section was not enacted as a part of the Taylor Grazing Act which comprises this chapter.

1948 Amendment. Act May 28, 1948, inserted "or national defense" between "war" and "purposes" wherever appearing.

Effective Date of 1948 Amendment. Section 2 of Act May 28, 1948, provided that the amendment of this section by section 1 of Act May 28, 1948, shall be effective as of July 25, 1947.

Termination of War and Emergencies. Joint Res. July 25, 1947, c. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Legislative History: For legislative history and purpose of Act May 28, 1948, see 1948 U.S. Code Cong. Service, p. 1614.

Cross References

Rental payments in advance, see section 315r of this title.

Notes of Decisions

Compensation, right to 2
Permits or licenses 4
Purpose 1
Rentals 5
Valuation of property 3

ter to provide for administrative determination and payment for losses suffered from cancellation of grazing permits for war purposes. *U. S. v. Cox*, C.A.N.M.1951, 190 F.2d 293, certiorari denied 72 S.Ct. 107, 342 U.S. 867, 96 L.Ed. 652.

2. Compensation, right to

Holders of grazing permits in National Forest were not entitled to compensation for revocation of permits incident to taking over of National Forest by Secretary of War for military purposes, but only recourse of permittees was to apply to Secretary of War for relief under this section. *Osborne v. U. S.*, C.C.A.Ariz.1944, 145 F.2d 892.

Library references

Public Lands ↪ 50.
C.J.S. Public Lands § 73 et seq.

1. Purpose

Noncompensable hardships of the kind involved where the United States owns land covered by grazing permits. Suggested Congress to amend this chap-

3. Valuation of property

Where Government condemned fee land owned by rancher and lands leased from state for war purposes but did not revoke or condemn forest grazing permit affecting public lands adjoining leased land, it was improper to value separately the permit land and add value to estimated value of the fee and leased land in arriving at just compensation for that which was taken even though it was proper to take available and accessible permit lands into consideration in arriving at compensation for fee lands taken. U. S. v. Jaramillo, C.A.N.M.1951, 190 F.2d 300.

In judicial determination of fair value as just compensation for land taken, highest and most profitable use for which it is reasonably adaptable may be considered, not necessarily as measure of value, but to full extent that prospect of demand for such use affects market value while property is privately held. Id.

Where federal government condemned fee owned by rancher and land leased from state but did not condemn forest grazing land of public domain adjoining leased land, and grazing permit was not revoked by taking and forest service issued amended permit, jury could consider in determining value of fee taken the availability and accessibility of permit land as an appurtenant element of value for ranching purposes provided consideration was also given to possibility that grazing permits could be withdrawn or cancelled by the Government at any time without constitutional obligation to pay compensation therefor. Id.

All rights, easements and privileges appurtenant thereto should be considered in estimating fair value or compensation to be paid for land taken by the Government, taking into account also the possibility of their being discontinued without resulting obligation. Id.

Where federal Government condemned cattle ranches consisting of land owned in fee by ranchers, land leased from state, and public domain on which ranchers held permits granted exclusive or preferential right to graze stipulated number of cattle, but permits were withdrawn or cancelled coincidental with taking, accessibility and availability of lands covered by grazing permits could not be taken into consideration as element of value in arriving at value of fee land taken. U. S. v. Cox, C.A.N.M.1951, 190 F.2d 293, certiorari denied 72 S.Ct. 107, 121 U.S. 907, 96 L.Ed. 632.

Where cattle ranches consisting of land owned in fee by ranchers, land leased from state, and public domain on which ranchers held permits granting exclusive or preferential right to graze stipulated number of cattle were condemned by the federal Government, fair value of permit land as base land for cattle ranch in connection with grazing permit land was competent evidence of just compensation only if permit lands were accessible and available for that purpose. Id.

Under this chapter, government, in withdrawing the federal domain, can cancel existing permits, paying for the losses suffered, or in lieu thereof can pay rentals, and in effect lease back the government's own permit. McDonald v. McDonald, 1956, 302 P.2d 726, 61 N.M. 458.

4. Permits or licenses

In action to determine how rentals paid by government under lease and suspension agreement for use of ranch as bombing range should be divided between brother who owned two-thirds of ranch and brother who owned one-third when brothers used premises equally and conducted cattle business on fifty-fifty basis, evidence did not support inference that nothing except annual carrying capacity set by Taylor grazing permit was used in arriving at extent of usage and conclusion that brother who owned one-third interest was entitled to share equally in rentals. McDonald v. McDonald, 1956 302 P.2d 726, 61 N.M. 458.

5. Rentals

In action to determine how rentals paid by government under lease and suspension agreement for use of ranch as bombing range should be divided between brothers who owned ranch and had each received a part of moneys in dispute, court erred in failing to order an accounting. Id.

In action to determine how rentals paid by government under lease and suspension agreement for use of ranch as bombing range should be divided between brothers who owned ranch and had each received a part of moneys in dispute, court erred in failing to order an accounting. Id.

§ 315r. Same; rental payments in advance

In administering the provisions of section 315q of this title, payments of rentals may be made in advance. Oct. 29, 1949, c. 787, Title III, § 301, 63 Stat. 996.

Historical Note

Codification. Section was not enacted as a part of the Taylor Grazing Act which comprises this chapter.

sha
of r
has
cents
gnat
ch at