

APPENDIX A

**AN ACT TO CREATE THE CALIFORNIA DEBRIS COMMISSION
AND REGULATE HYDRAULIC MINING IN THE
STATE OF CALIFORNIA,
AS AMENDED TO JANUARY 1, 1938**

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| California Debris Commission created. | Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created, to be known as the California Debris Commission, consisting of three members. The President of the United States shall, by and with the advice and consent of the Senate, appoint the commission from officers of the Corps of Engineers, United States Army. Vacancies occurring therein shall be filled in like manner. It shall have the authority, and exercise the powers hereinafter set forth, under the supervision of the Chief of Engineers and direction of the Secretary of War. |
| Appointment. | |
| Authority and power. | |
| Organization. | SEC. 2. That said commission shall organize within thirty days after its appointment by the selection of such officers as may be required in the performance of its duties, the same to be selected from the members thereof. The members of said commission shall receive no greater compensation than is now allowed by law to each, respectively, as an officer of said Corps of Engineers. It shall also adopt rules and regulations, not inconsistent with law, to govern its deliberations and prescribe the method of procedure under the provisions of this act. |
| Compensation. | |
| Rules, etc., of procedure. | |
| Jurisdiction. | SEC. 3. That the jurisdiction of said commission, in so far as the same affects mining carried on by the hydraulic process shall extend to all such mining in the territory drained by the Sacramento and San Joaquin river systems in the State of California. Hydraulic mining, as defined in section eight hereof, directly or indirectly injuring the navigability of said river systems, carried on in said territory other than as permitted under the provisions of this act is hereby prohibited and declared unlawful. |
| Injurious hydraulic mining prohibited. | |
| Duty of commission. | SEC. 4. That it shall be the duty of said commission to mature and adopt such plan or plans, from examinations and surveys already made and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, deepen their channels, and protect their banks. Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from debris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand the navigability of said rivers to the condition existing in eighteen hundred and sixty, and permitting mining by the hydraulic process, as the term is understood in said state, to be carried on, provided the same can be accomplished without injury to the navigability of said rivers and the lands adjacent thereto. |
| Plans. Improving navigability of rivers, etc. | |
| Certain hydraulic mining permitted. | |
| Surveys of storage sites for debris, reservoirs, etc. | SEC. 5. That it shall further examine, survey and determine the utility and practicability, for the purposes hereinafter indicated, of storage sites in the tributaries of said rivers and in the respective branches of said tributaries, or in the plains, basins, sloughs, and tule and swamp lands adjacent to or along the course of said rivers, for the storage of debris or water or as settling reservoirs, with the object of using the same by either or all of these methods to aid in the improvement and protection of said navigable rivers by preventing deposits therein of debris resulting from mining operations, natural erosion, or other causes, or for affording relief thereto in flood time and providing sufficient water to maintain scouring force therein in the summer season; and in connection therewith to investigate such hydraulic and other mines as are now or may have been worked by methods intended to restrain the debris and material moved in operating such mines by impounding dams, settling reservoirs, or otherwise, and in general to make such study of and researches in the hydraulic mining industry as science, experience and engineering skill may suggest as practicable and useful in devising a method or methods whereby such mining may be carried on as aforesaid. |
| Examination of hydraulic and other mines, etc. | |
| Noting conditions of navigable channels. | SEC. 6. That the said commission shall from time to time note the conditions of the navigable channels of said river systems, by cross-section surveys or otherwise, in order to ascertain the effect therein of such hydraulic mining operations as may be permitted by its orders and such as is caused by erosion, natural or otherwise. |

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| Annual report. Contents. | SEC. 7. That said commission shall submit to the Chief of Engineers, for the information of the Secretary of War, on or before the fifteenth day of November of each year a report of its labors and transactions, with plans for the construction, completion, and preservation of the public works outlined in this act, together with estimates of the cost thereof, stating what amounts can be profitably expended thereon each year. The Secretary of War shall thereupon submit same to Congress on or before the meeting thereof. |
| "Hydraulic mining" and "mining by the hydraulic process" defined. | SEC. 8. That for the purposes of this act "hydraulic mining" and "mining by the hydraulic process" are hereby declared to have the meaning and application given to said terms in said State. |
| Hydraulic miners must file petition with commission. | SEC. 9. That the individual proprietor or proprietors or in case of a corporation its manager or agent appointed for that purpose, owning mining ground in the territory in the State of California mentioned in section three hereof, which it is desired to work by the hydraulic process, must file with said commission a verified petition, setting forth such facts as will comply with law and the rules prescribed by said commission. |
| Surrender to United States of right to regulate the working, etc. | SEC. 10. That said petition shall be accompanied by an instrument duly executed and acknowledged, as required by the law of the said State, whereby the owner or owners of such mine or mines surrender to the United States the right and privilege to regulate by law, as provided in this act, or any law that may hereafter be enacted, or by such rules and regulations as may be prescribed by virtue thereof the manner and method in which the debris resulting from the working of said mine or mines shall be restrained, and what amount shall be produced therefrom; it being understood that the surrender aforesaid shall not be construed as in any way affecting the right of such owner or owners to operate said mine or mines by any other process or method now in use in said State: |
| ??? of other processes, etc., not affected. | Provided, That they shall not interfere with the navigability of the aforesaid rivers. |
| Proviso. Navigability of rivers. | SEC. 11. That the owners of several mining claims situated so as to require a common dumping ground or dam or other restraining works for the debris issuing therefrom in one or more sites may file a joint petition setting forth such facts in addition to the requirements of section nine hereof; and where the owner of a hydraulic mine or owners of several such mines have and use common dumping sites for impounding debris or as settling reservoirs which sites are located below the mine of an applicant not entitled to use same, such fact shall also be stated in said petition. Thereupon the same proceedings shall be had as provided for herein. |
| Joint petition by mining claim owners requiring a common dumping ground, etc. | SEC. 12. A notice specifying briefly the contents of said petition and fixing a time previous to which all proofs are to be submitted shall be published by the commission in some newspaper or newspapers of general circulation in the communities interested in the matter set forth therein. If published in a daily paper such publication shall continue for at least ten days; if in a weekly paper in at least three issues of the same. Pending publication thereof, said commission, or a committee thereof, shall examine the mine and premises described in such petition. On or before the time so fixed all parties interested, either as petitioners or contestants, whether miners or agriculturists, may file affidavits, plans, and maps in support of their respective claims. Further hearings, upon notice to all parties of record, may be granted by the commission when necessary. |
| Notice of petition, etc., to be published. | SEC. 13. That in case a majority of the members of said commission, within thirty days after the time so fixed, concur in a decision in favor of the petitioner or petitioners, the said commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines; what restraining or impounding works, if facilities therefor can be found, shall be built, and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interests and prevent injury to the said navigable rivers, and the lands adjacent thereto, with such further conditions and limitations as will observe all the provisions of this act in relation to the working thereof and the payment of taxes on the gross proceeds of the same: Provided, That all expense incurred in complying with said order shall be borne by the owner or owners of such mine or mines. |
| Examination pending publication. | |
| Affidavits, plans, etc., may be filed. Hearings. | |
| Favorable decisions within thirty days. Order directing methods of mining conditions, etc. | |
| Taxes on gross proceeds. Proviso. Expenses | |

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| Plans, etc., to be submitted to commission. Commencement of works. Supervision and inspection. Completion of works. | SEC. 14. That such petitioner or petitioners must within a reasonable time present plans and specifications of all works required to be built in pursuance of said order for examination, correction, and approval by said commission; and thereupon work may immediately commence thereon under the supervision of said commission or representative thereof attached thereto from said Corps of Engineers, who shall inspect same from time to time. Upon completion thereof, if found in every respect to meet the requirements of the said order and said approved plans and specifications, permission shall thereupon be granted to the owner or owners of such mine or mines to commence mining operations, subject to the conditions of said order and the provisions of this act. |
| Permission to commence mining. | |
| Conditions, etc., as to commencing operations. | SEC. 15. That no permission granted to a mine owner or owners under this act shall take effect, so far as regards the working of a mine, until all impounding dams or other restraining works, if any are prescribed by the order granting such permission, have been completed, and until the impounding dams or other restraining works or settling reservoirs provided by said commission have reached such a stage as in the opinion of said commission, it is safe to use the same: Provided, however, That if said commission shall be of the opinion that the restraining and other works already constructed at the mine or mines shall be sufficient to protect the navigable rivers of said systems and the work of said commission, then the owner or owners of such mine or mines may be permitted to commence operations. |
| Proviso. Navigation, etc., sufficiently protected. | |
| Allotment of expenses for constructing common dumps, etc. | SEC. 16. That in case the joint petition referred to in section eleven hereof is granted, the commission shall fix the respective amounts to be paid by each owner of such mines toward providing and building necessary impounding dams or other restraining work. In the event of a petition being filed after the entry of such order or in case the impounding dam or dams or other restraining works have already been constructed and accepted by said commission, the commission shall fix such amount as may be reasonable for the privilege of dumping therein, which amount shall be divided between the original owners of such impounding dams or other restraining works in proportion to the amount respectively paid by each party owning same. The expense of maintaining and protecting such joint dam or works shall be divided among mine owners using the same in such proportion as the commission shall determine. In all cases where it is practicable, restraining and impounding works are to be provided, constructed and maintained by mine owners near or below the mine or mines before reaching the main tributaries of said navigable waters. |
| Subsequent petitioners to pay for dumping privilege. Apportionment of such payment to original owners. maintenance, etc. | |
| Location. | |
| Limit of debris washed away. | SEC. 17. That at no time shall any more debris be permitted to be washed away from any hydraulic mine or mines situated on the tributaries of said rivers and the respective branches of each, worked under the provisions of this act, than can be impounded within the restraining works erected. |
| Specification, etc., of orders. | SEC. 18. That the said commission may at any time when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine owners or such as may be provided by Government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce amount thereof to meet the capacities of the facilities then in use, or, if actually required in order to protect the navigable rivers from damage, may revoke same until the further notice of the commission. |
| Forfeiture for violating conditions. | SEC. 19. That an intentional violation on the part of a mine owner or owners, company, or corporation, or the agents or the employees of either, of the conditions of the order granted pursuant to section thirteen or such modifications thereof as may have been made by said commission, shall work a forfeiture of the privileges thereby conferred, and upon notice being served by the order of said commission upon such owner or owners, company or corporation, or agent in charge, work shall immediately cease. Said commission shall take necessary steps to enforce its orders in cases of the failure, neglect, or refusal of such owner or owners, company, or corporation, or agents thereof, to comply therewith, or in the event of any person or persons, company or corporation working by said process in said territory contrary to law. |
| Work to cease upon service of notice. Enforcement of orders, etc. | |
| Visiting mines. | SEC. 20. That said commission, or a committee therefrom or officer of said corps assigned to duty under its orders, shall, whenever deemed necessary, visit said territory and all mines operating under the provisions of this act. A report of such examination shall be placed on file. |
| Report. | |

Use of public lands and material.

SEC. 21. That the said commission is hereby granted the right to use any of the public lands of the United States, or any rock, stone, timber, trees, brush, or material thereon or therein, for any of the purposes of this act; and the Secretary of the Interior is hereby authorized and requested, after notice has been filed with the Commissioner of the General Land Office by said commission, setting forth what public lands are required by it under the authority of this section, that such land or lands shall be withdrawn from sale and entry under the laws of the United States.

Withdrawal of lands from sale and entry.

Willful injury to works a misdemeanor.

SEC. 22. That any person or persons who willfully or maliciously injure, damage, or destroy, or attempt to injure, damage, or destroy, any dam or other work erected under the provisions of this act for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of five thousand dollars or be imprisoned not to exceed five years, or by both such fine and imprisonment, in the discretion of the court. And any person or persons, company or corporation, their agents or employees, who shall mine by the hydraulic waters of the United States, in violation of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: **Provided,** That this section shall take effect on the first day of May, eighteen hundred and ninety-three.

Penalty.

Violation of this act a misdemeanor.

Penalty

Proviso.
Operative date.

Tax on gross proceeds of hydraulic mines.

SEC. 23. That upon the construction by the said commission of dams or other works for the detention of debris from hydraulic mines and the issuing of the order provided for by this act to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the debris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay a tax of three per centum on the gross proceeds of his, their, or its mine so worked; which tax of three per centum shall be ascertained and paid in accordance with regulations to be adopted by the Secretary of the Treasury, and the Treasurer of the United States is hereby authorized to receive the same. All sums of money paid into the Treasury under this section shall be set apart and credited to a fund to be known as the "Debris Fund," and shall be expended by said commission under the supervision of the Chief of Engineers and direction of the Secretary of War, in addition to the appropriations made by law in the construction and maintenance of such restraining works and settling reservoirs as may be proper and necessary: **Provided,** That said commission is hereby authorized to receive and pay into the Treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advances as may be offered to aid in the construction of such impounding dams or other restraining works, or settling reservoirs, or sites therefor, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said debris fund: **And provided further,** That in no event shall the Government of the United States be held liable to refund same except as directed by this section.

Ascertainment and payment of tax.

Regulations, etc.

A "Debris Fund" created. Expenditures from same by the commission.

Proviso.

Money advances from mine owners.

Refund of same when tax is paid.

Commission may consult with State commission of engineers.

SEC. 24. That for the purpose of securing harmony of action and economy of expenditures in the work to be done by the United States and the State of California, respectively, the former in its plans for the improvement and protection of the navigable streams and to prevent the depositing of mining debris or other materials within the same, and the latter in its plans authorized by law for the reclamation, drainage, and protection of its lands, or relating to the working of hydraulic mines, the said commission is empowered to consult thereon with a commission of engineers of said State, if authorized by said State for said purpose, the result of such conference to be reported to the Chief of Engineers of the United States Army, and if by him approved shall be followed by said commission.

Report on conference. Approval.

Appropriations from debris fund to be expended in restraining works, etc., above head of navigation, etc.

SEC. 25. That said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin River systems resulting from mining operations, natural erosion, or other causes, shall be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable and the land adjacent thereto, is hereby directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said debris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or at any place adjacent to the same, which in the judgment of said commission will effect said object (the same to be of such

Recommendations adopted and made the basis of operations.

Appropriations.

material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in Executive Document Numbered Two Hundred and Sixty-seven, Fifty-first Congress, second session, and Executive Document Numbered Ninety-eight, Forty-seventh Congress, First session, as far as they refer to impounding dams, or other restraining works are hereby adopted, and the same are directed to be made the basis of operations. The sum of fifteen thousand dollars is hereby appropriated, from moneys in the Treasury not otherwise appropriated, to be immediately available to defray the expenses of said Commission.

Approved, March 1, 1893.

Feb. 27, 1907, Vol. 34, p. 1001.. (H.R. 13367.) (Public No. 137.)

California Debris Commission. Vol. 27, p. 508. Ante, p. 661.

CHAP. 2077. An Act To amend section thirteen of an Act of March first, eighteen hundred and ninety-three, entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section thirteen of an Act of March first, eighteen hundred and ninety-three, entitled "An Act to create the California Debris Commission and to regulate mining in the State of California," is hereby amended so as to read as follows:

Favorable decisions within 30 days. Order directing methods of mining, etc.

"SEC. 13. That in case a majority of the members of said Commission, within thirty days after the time so fixed, concur in the decision in favor of the petitioner or petitioners, the said Commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines; what restraining or impounding works, if any, if facilities therefor can be found, shall be built and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interests and prevent injury to the said navigable rivers and the lands adjacent thereto, with such further conditions and limitations as will observe all the provisions of this Act in relation to the working thereof and the payment of taxes on the gross proceeds of the same; **Provisos.** That all expenses incurred in complying with said order shall be borne by the owner or owners of such mine or mines; **And provided further,** That where it shall appear to said Commission that hydraulic mining may be carried on without injury to the navigation of said navigable rivers and the lands adjacent thereto, an order may be made authorizing such mining to be carried on without requiring the construction of any restraining or impounding works or any settling reservoirs; **And provided also,** That where such an order is made a license to mine, no taxes provided for herein on the gross proceeds of such mining operations shall be collected.

Taxes on gross proceeds.

Provisos. Expenses.

Hydraulic mining without impounding works, etc.

No tax on gross proceeds to be collected.

Approved, February 27, 1907.

(Public No. 425 — 73d Congress) (H.R. 1503.)

An Act To amend the Act, entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California", approved March 1, 1893, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18 of the Act entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California" approved March 1, 1893, as amended (U.S.C., title 33, sec. 678), is amended to read as follows:

"SEC 18. The said commission may, at any time when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine owners or such as may be provided by Government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce the amount thereof to meet the capacities of the facilities then in use; or, if actually required in order to protect the navigable rivers from damage or in case of failure to pay the tax prescribed by section 23 hereof within thirty days after same becomes due, may revoke same until the further notice of the commission."

SEC. 2. Section 23 of such Act as amended (U.S.C., title 33, sec. 683), is amended to read as follows:

“SEC. 23. Upon the construction by the said commission of dams or other works for the detention of debris from hydraulic mines and the issuing of the order provided for by this Act to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual company, or corporation operating thereunder working any mine or mines by hydraulic process, the debris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay for each cubic yard mined from the natural bank a tax equal to the total capital cost of the dam, reservoir, and rights of way divided by the total capacity of the reservoir for the restraint of debris, as determined in each case by the California Debris Commission, which tax shall be paid annually on a date fixed by said commission and in accordance with regulations to be adopted by the Secretary of the Treasury, and the Treasurer of the United States is hereby authorized to receive the same. All sums of money paid into the Treasury under this section shall be set apart and credited to a fund to be known as the debris fund, and shall be expended by said commission under the supervision of the Chief of Engineers and direction of the Secretary of War, for repayment of any funds advanced by the Federal Government or other agency for the construction of restraining works and settling reservoirs, and for maintenance: **Provided**, That said commission is hereby authorized to receive and pay into the Treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advances as may be offered to aid in the construction of such impounding dams, or other restraining works, or settling reservoirs, or sites therefor, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said debris fund: **And provided further**, That in no event shall the Government of the United States be held liable to refund same except as directed by this section.”

Approved, June 19, 1934.

NOTE: In 1938 the Act was amended further when the following provision was added:

June 25, 1938

Added at the end of sec. 23 of above act, a provision that the Secretary of the Army is authorized to enter into contracts to supply storage for water and use of outlet facilities from debris storage reservoirs for domestic and irrigation purposes and power development, upon such conditions of delivery, use, and payment as he may approve, these payments are to be deposited to the credit of such reservoir project, reducing its capital cost to be repaid by tax on mining operations.

(Public No. 716, 75th Cong., 3d sess. (H.R. 9881))