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TITLE 43--PUBLIC LANDS

CHAPTER 22--RIGHTS-OF-WAY AND OTHER EASEMENTS IN PUBLIC LANDS

Sec. 946. Right of way to canal ditch companies and irrigation
or drainage districts for irrigation or drainage purposes and
operation and maintenance of reservoirs, canals, and laterals

The right of way through the public lands and reservations of the United States is granted to any canal ditch company, irrigation or drainage district formed for the purpose of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the applicant, such additional rights of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: Provided, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

(Mar. 3, 1891, ch. 561, Sec. 18, 26 Stat. 1101; Mar. 4, 1917, ch. 184, Sec. 1, 39 Stat. 1197; May 28, 1926, ch. 409, 44 Stat. 668.)

Repeal of Section

Section repealed by Pub. L. 94-579, title VII, Sec. 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.

Amendments

1926--Act May 28, 1926, substituted ``canal ditch company, irrigation or drainage district'' for ``canal or ditch company or drainage district'' and inserted ``or, if not a private corporation, a

copy of the law under which the same is formed'' after ``articles of incorporation'' and `` , and, upon presentation of satisfactory showing by the applicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals'' after ``marginal limits thereof''.

1917--Act Mar. 4, 1917, inserted ``or drainage district,'' after ``any canal or ditch company,'' and ``or drainage,'' after ``for the purpose of irrigation''.

Savings Provision

Repeal by Pub. L. 94-579 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 section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

Section Referred to in Other Sections

This section is referred to in sections 421c, 664, 947, 948, 949, 950, 951 of this title.