

TITLE 58
PUBLIC LANDS

CHAPTER 6
RIGHTS OF WAY OVER STATE LANDS

58-601. RIGHTS OF WAY FOR DITCHES AND RESERVOIRS. Any person or persons desiring to construct over or upon any of the lands owned or controlled by the state of Idaho, any ditch, canal, reservoir or other works for carrying or distributing public waters for any beneficial use, may make application to the state board of land commissioners for said right of way, and shall at the same time file, in duplicate, both in the office of the state board of land commissioners and in the office of the department of water resources, maps showing the location of such lands by accurate survey of such ditch, canal, reservoir or other irrigation works. Such map shall be drawn on tracing linen on a scale of not less than one thousand (1000) feet to the inch, and shall be accompanied by the field notes of survey of such irrigation works.

In the case of a reservoir the maps shall show by contour lines at intervals not greater than ten (10) feet, the topographic features of such reservoir site, and shall state the capacity of such reservoir in acre feet; and when the dam or embankment of such reservoir shall be more than ten (10) feet in height, plans showing the construction of such dam or embankment shall be filed in duplicate in the office of the state board of land commissioners and in the office of the department of water resources. All such maps, plans and field notes shall be certified by the engineer under whose direction such surveys or plans were made. If such map or description is defective or incomplete, the state board of land commissioners may order the same to be corrected; and the state board of land commissioners may grant land for such right of way upon the payment of such compensation therefor as may be deemed reasonable, not less than ten dollars (\$10.00) per acre, and upon such terms and conditions as they may deem best: provided, that the works for which the right of way is herein provided must be completed within the time mentioned in the application for the same (which shall accompany such map), which shall in no case be more than five (5) years from the time of filing such application and maps, and the construction of the works herein mentioned must be commenced within one (1) year after such application and maps are filed, and must be prosecuted to completion diligently and uninterruptedly on a scale reasonably commensurate with the magnitude of the proposed works, in order to obtain the right of way under this section.

It shall be the duty of the director of the department of lands, upon the granting of the said rights of way, to note the same upon the plats of the said lands on file in his office.

[(58-601) 1901, p. 191, sec. 8; am. 1907, p. 527, sec. 1; reen. R.C., sec. 1635; reen. C.L. 125:1; C.S., sec. 2952; I.C.A., sec. 56-501; am. 1974, ch. 17, sec. 72, p. 308.]

58-602. RESERVOIR LANDS MAY BE WITHHELD FROM SALE. When it shall appear upon an investigation by the state board of land commissioners that certain lands belonging to the state are more valuable for reservoir purposes than for any other purpose, the said board may withhold such lands from sale, and such lands shall be reserved by the state for storage purposes as a means of reclaiming other state lands in the vicinity. If, upon investigation, it is ascertained that certain state lands are more valuable for reservoir pur-

poses than for any other purpose, and can be used as a means of reclaiming other lands in that vicinity, the said board may withhold the same from sale until such time as it is advisable to sell the same and may sell such lands as a whole for the purpose of reservoir site, and upon such terms and conditions as they may deem advisable, but no such lands shall be sold for less than ten dollars (\$10.00) per acre: provided, that if the lands so sold for reservoir purposes are not used for the purpose of said reservoir, or if the works in connection with which said reservoir is to be used are not constructed within five (5) years from the granting or sale of the said lands, or such further time as the state land board shall grant, the rights granted shall revert to the state.

[(58-602) 1901, p. 191, sec. 9; am. 1907, p. 527, sec. 2; reen. R.C., sec. 1636; reen. C.L. 125:2; C.S., sec. 2953; I.C.A., sec. 56-502.]

58-603. RIGHTS OF WAY FOR PUBLIC UTILITY LINES, HIGHWAY, AND OTHER PURPOSES. The state board of land commissioners is hereby empowered to grant, over and upon any land owned or controlled by the state of Idaho, rights of way for railroad, telegraph, telephone and electric lines, pipelines for natural and manufactured gas, rights of way for highway purposes, and rights of way for any other public or private purpose or beneficial use. Application for such right of way must be accompanied by a map, in duplicate, showing the course of such right of way over each smallest legal subdivision of land, and the amount of land required for said right of way. The said right of way may be granted by the state board of land commissioners upon such terms and upon such compensation being paid therefor as the said board may determine: provided, that no land shall be sold under the provisions of this section for less than ten dollars (\$10.00) per acre. Upon the said right of way being granted, it shall be the duty of the director of the department of lands to enter the same upon the plats of state lands on file in his office: provided further, that if the lands so granted are not used for the purpose specified in the application for right of way, within five (5) years from the granting of such right of way, then in such event the said lands so granted shall revert to the state; or if the tracks or works upon such lands for which such right of way has been granted are not completed within five (5) years after such right of way has been granted, the state land board shall have the right to declare such rights of way forfeited.

[(58-603) 1907, p. 310, sec. 1; reen. R.C., sec. 1637; reen. C.L. 125:3; C.S., sec. 2954; am. 1931, ch. 40, sec. 1, p. 75; I.C.A., sec. 56-503; am. 1974, ch. 17, sec. 73, p. 308.]

58-604. RIGHTS OF WAY -- GRANT TO UNITED STATES. There is hereby granted over all the lands now or hereafter belonging to the state a right of way for ditches constructed by authority of the United States. All conveyances of state lands hereafter made shall contain a reservation of such right of way.

[(58-604) 1905, p. 373, sec. 1; reen. R.C., sec. 1638; reen. C.L. 125:4; C.S., sec. 2955; I.C.A., sec. 56-504; am. 1951, ch. 44, sec. 1, p. 54.]