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| WHEN RECORDED RETURN TO: SKAMANIA COUNTY PUD PO BOX 500 CARSON, WA 98610 |
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| DOCUMENT TITLE(S) RIGHT OF WAY APPROVAL |
| REFERENCE NUMBER(S) of Documents assigned or released: [] Additional numbers on page ____ of document. |
| GRANTOR(S): U.S. DEPT OF INTERIOR BLM [] Additional names on page ____ of document. |
| GRANTEE(S): SKAMANIA COUNTY PUD NO. 1 OF SKAMANIA COUNTY [] Additional names on page ____ of document. |
| LEGAL DESCRIPTION (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter): 11 3/9 [X] Complete legal on page 2 of document. |
| TAX PARCEL NUMBER(S): 11 3/9 [] Additional parcel numbers on page ____ of document. |
| The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information. |

Form No. A1-123
December 1958

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LAND OFFICE
Room 680 Bon Marche Building
Spokane 1, Washington

R/W W-03388
102.1

Date NOV 4 - 1958

| | Decision |
|-------------------------------|----------|
| Applicant: Skamania County | : |
| P.U.D. No. 1 | : |
| | : |
| | : |
| | : |
| | : |
| | : |
| Map Filed: September 30, 1959 | : |
| | : |
| Annual Rental: None | : |

Right-of-Way Application

Serial No. W-03388

Right-of-Way Approved


The captioned application for a right-of-way for an electrical distribution line ^{was filed on December 12, 1958} under the act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959) across Federal land described as follows:

T. 3 N., R. 9 E., W. M.
Sec. 11: NE¹/₄NE¹/₄

The application conforms to the regulations, and the records of this office and reports submitted disclose no objection. Therefore, pursuant to the above mentioned act and the terms and conditions outlined in 43 CFR Part 244, the right-of-way is hereby approved on and over the lands described above and as shown on the map(s) submitted by the applicant.

The authority hereby granted is subject to valid existing rights and to a reservation for rights-of-way for canals and ditches constructed under the authority of the United States. It is further expressly subject to 43 CFR 244.9 and 244.39 through 244.47 , attached circular.

The authority hereby granted is further subject to the following specific stipulations: None.


Manager

Attach:Circ.

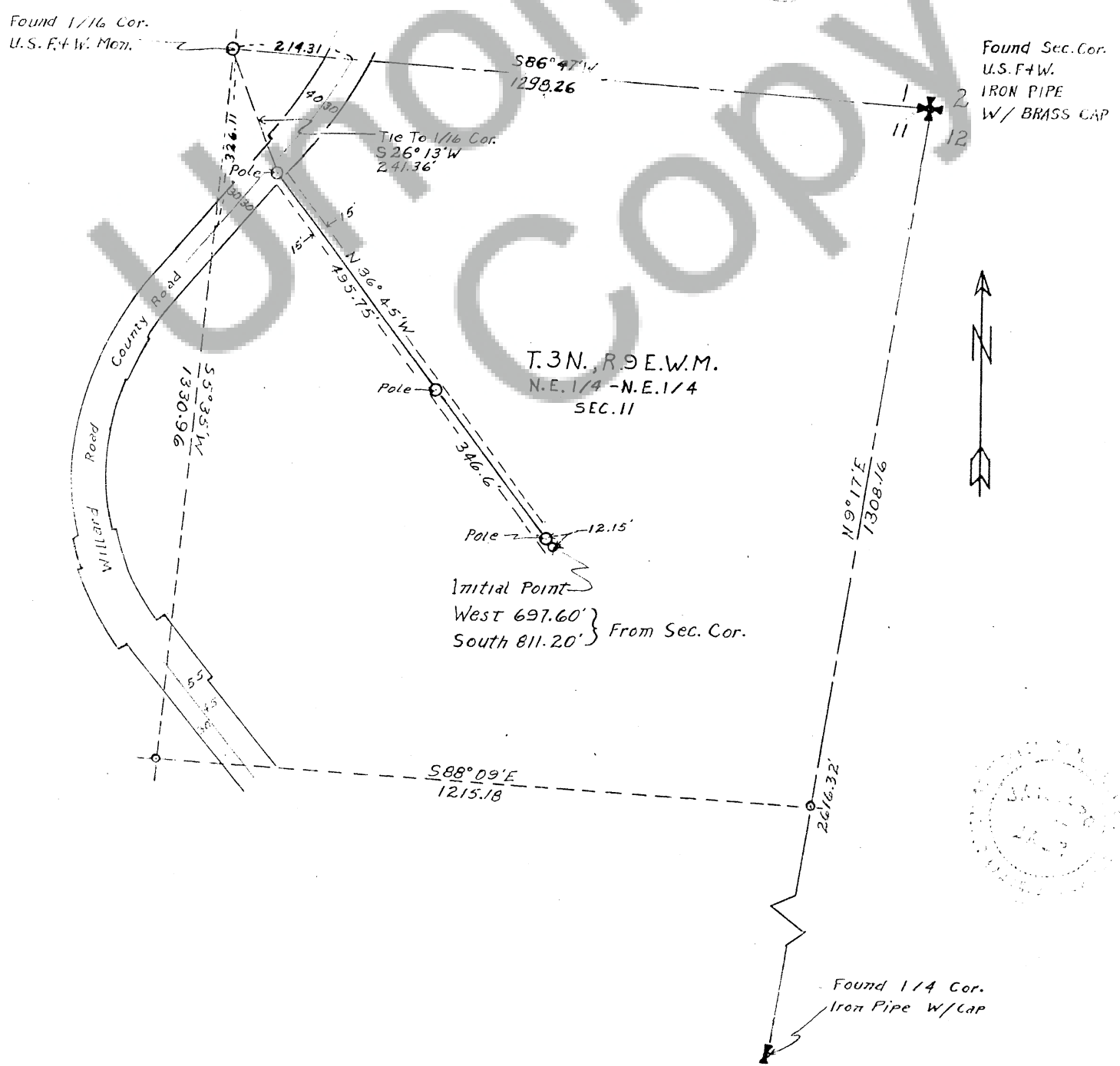
cc:Director, w/map
cc:D.M., , w/map
cc: U.S. Fish & Wildlife Service (3)

SKAMANIA COUNTY, WASHINGTON
PLAT SHOWING PUBLIC UTILITY DISTRICT NO. 1
POLE LINE AS LOCATED IN THE NE 1/4-NE 1/4
SECTION 11 TWN. 3 NORTH., RANGE 9 E.W. M.
SCALE 1"=200'

LAND OFFICE, SPOKANE, WASH.
DATE 11/4/59
I CERTIFY THAT THE PLAT AND
OF THE UNITED STATES IS ACCEPTED
BY THIS APPLICATION
RECEIVED
10 55 AM 1959
LAND OFFICE
BUREAU OF LAND MANAGEMENT
SPOKANE, WASHINGTON

I THE UNDER SIGNED HEREBY CERTIFY, THAT THE
P.U.D. #1 POLE LINE AS SHOWN ON THIS PLAT IS
THE TRUE LOCATION AS SURVEYED AND IS
ACCURATELY PLATTED HEREON SURVEY COMMENCING
SEPT. 17, 1959 AND COMPLETED SEPT. 24, 1959
UNDER MY SUPERVISION AND AUTHORITY
CERTIFIED CORRECT THIS 28 DAY OF SEPT. 1959

Clark H. Eldridge
SKAMANIA COUNTY ENGINEER



TITLE 43—PUBLIC LANDS:
INTERIOR

Chapter I—Bureau of Land Manage-
ment, Department of the Interior

(Circular 1915)

PART 244—RIGHTS-OF-WAY OTHER THAN
FOR RAILROAD PURPOSES AND FOR LOG-
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REPRINT AUGUST 5, 1955
Part 244, Title 43 CFR

Copy to:

Each AA and LO
Each DFO and DGO
Each SO

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All Reg'l and Field Sol. 1

BFS and ESO

Wash. Staff Officers

Asso. Solicitor Parriott

Miss Williams GS Room 3219 20

Each 10

5

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SUBPART A—GENERAL REGULATIONS APPLICABLE TO ALL RIGHTS-OF-WAY PROVIDED FOR IN THIS PART¹

AUTHORITY: §§ 244.1 to 244.21 issued under R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201.

DEFINITIONS

§ 244.1 *Definitions.* As used in §§ 244.1 to 244.69:

- (a) "Secretary" means the Secretary of the Interior.
- (b) "Director" means the Director, Bureau of Land Management.
- (c) "Area Administrator" means area administrator of the Bureau of Land Management.
- (d) "Manager" means manager of the land office for the district in which the lands applied for are situated. For areas for which there is no land office "manager" means the Eastern States Supervisor.
- (e) "Project" means the physical structures in connection with which the right-of-way is approved.
- (f) "Construction work" means any and all work, whether of a temporary or permanent nature, done in the construction of the project.
- (g) "Superintendent in charge" means the officer of the United States having supervision of the land under authority of the agency having jurisdiction and control over the land involved.
- (h) "Reservation lands" includes national parks and monuments, or any other reservations of the United States for the use of or administration by the National Park Service, the Fish and Wildlife Service, the Bureau of Reclamation, or any agency outside the Department of the Interior.
- (i) "Right-of-way" includes license, permit, or easement, as the case may be, and, where applicable, includes "site".

INDIAN LANDS

§ 244.2 *Indian lands.* The Bureau of Indian Affairs has jurisdiction over applications for rights-of-way over and upon Indian lands. All applications for the use and occupancy of Indian lands for right-of-way purposes should, therefore, be filed with the Superintendent of the Indian Agency or other superintendent in charge of the reservation on which the lands involved are situated, in accordance with the regulations contained in 25 CFR Part 256.

¹ This part does not apply to the obtaining of rights-of-way by Federal agencies over unreserved, or withdrawn, or reserved public domain lands. Such rights-of-way may be appropriated under the principles of the instructions of January 13, 1916 (44 L. D. 513), with the consent of the agency having jurisdiction or control over the land.

§ 244.3 *Application.*² No special form of application is required. The application should be in typewritten form or legible handwriting. It must specify that it is made pursuant to the regulations in this part and that the applicant agrees that the right-of-way if approved, will be subject to the terms and conditions of the applicable regulations contained in this part. It should also cite the act to be invoked and state the primary purpose for which the right-of-way is to be used. Applications shall be filed in the proper land office in the State or Territory, or for lands in a State in which there is no land office, shall be filed with the Bureau of Land Management, Washington 25, D. C., except the applications for lands in North or South Dakota shall be filed in the land office at Billings, Montana; applications for lands in Nebraska or Kansas shall be filed in the land office at Cheyenne, Wyoming; and for lands in Oklahoma in the land office at Santa Fe, New Mexico. If the right-of-way has been utilized without authority prior to the time the application is made, the application must state the date such utilization commenced and by whom, and the date the applicant alleges he obtained control of the improvements.

§ 244.4 *Showing as to organization required of corporations.* (a) An application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified by the proper State official of the State where the corporation was organized.

(b) A corporation, other than a private corporation, should file a copy of the law under which it was formed and due proof of organization under the same.

(c) When a corporation is operating in a State other than that in which it was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State that it has complied with the laws of that State governing foreign corporations to the extent required to entitle the company to operate in such State.

(d) A copy of the resolution or by-laws of the corporation authorizing the filing of the application must also be filed.

(e) If the corporation shall have previously filed with the Bureau the papers required by this section, the requirements shall be held to be met if, in making subsequent applications, specific reference is made to such previous filing by date, place, and case number.

§ 244.5 *Showing as to citizenship required of individuals; showing by associations of individuals.* (a) An individ-

² In addition to the material contained under this heading, the subpart relating to the particular type of right-of-way involved should be consulted. See Subparts B through L of this part.

³ 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

ual applicant applying for a right-of-way under any right-of-way act, except the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 946 et seq.), and the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952-955), as amended, must state whether he is native born or naturalized, and, if naturalized, the date of naturalization, the court in which naturalized, and the number of the certificate, if known. If citizenship is claimed by virtue of naturalization of the father, evidence of his naturalization, and that the applicant resided in the United States thereafter while a minor, should be furnished. Where the husband and the wife are native born and a statement to that effect is made, additional information as to the marital status is not required. In other cases, a married woman or widow must show the date of her marriage; a widow must show, in addition, the date of the death of her husband.

(b) An application by an association, including a partnership, must be accompanied by a certified copy of the articles of association, if any; if there be none, the application must be made over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.

§ 244.6 *Documents which must accompany application—*(a) *Maps.* Each application, other than a reservoir declaratory statement under § 244.30, must be accompanied by a map prepared on tracing linen and three or, in the case of electric transmission lines, five print copies thereof, showing the survey of the right-of-way, properly located with respect to the public land surveys so that said right-of-way may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the following requirements:

(1) The scale should be 2,000 feet to the inch for rights-of-way for such structures as canals, ditches, pipelines, and transmission lines and 1,000 feet to the inch for rights-of-way for reservoirs, except where a larger scale is required to represent properly the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively. For electric transmission lines having a nominal voltage of less than 33 kv. map scales may at option of the applicant be 5,280 feet to the inch.

(2) Courses and distances of the center line of the right-of-way or traverse line of the reservoir should be given; the courses referred to the true meridian either by deflection from a line of known bearing or by independent observation, and the distances in feet and decimals thereof. Station numbers with plus distances at deflection points on the traverse line should be shown.

(3) The initial and terminal points of the survey should be accurately connected by course and distance to the nearest corner of the public-land surveys, unless that corner is more than 6 miles distant, in which case the connection will be made to some prominent natural object or permanent monument,

which can be readily recognized and recovered. The station number and plus distance to the point of intersection with a line of the public-land surveys should be ascertained and noted, together with the course and distance along the section line to the nearest existing corner, at a sufficient number of points throughout the township to permit accurate platting of the relative position of the right-of-way to the public-land survey.

(4) If the right-of-way is across or within reservation lands which are not covered by the public-land surveys, the map shall be made in terms of the boundary survey of the reservation to the extent it would be required above to be made in terms of the public-land surveys.

(5) All subdivisions of the public-land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats, with the subdivisions, section, township, and range clearly marked.

(6) The width of the canal, ditch, or lateral at high-water line should be given and the width of all other rights-of-way shall be given. If the width is not uniform, the location and amount of the change in width must be definitely shown. In the case of a pipeline, the diameter of the line should be given. For reservoirs, the capacity in acre-feet, the area within the high-water line, the source of the water supply, and the location and height of the dam must be shown. The total distance of the right-of-way on the Federal lands shall be stated. In the case of a reservoir or other site, the total acreage shall be stated.

(7) Each copy of the map should bear upon its face a statement of the engineer who made the survey and the certificate of the applicant. The statement and certificate referred to are embodied in Forms 1 and 2, which are made a part hereof and which should be modified so as to be appropriate to the act invoked and the nature of the project.^{*}

(8) Whenever it is found that a public-land survey monument or reservation boundary monument will be destroyed or rendered inaccessible by reason of the proposed development, at least two permanent marked witness monuments should be established at suitable points, preferably on the surveyed lines. A brief description of the witness monuments and the connecting courses and distances to the original corners should be shown.

(b) *Evidence of water right.* If the project involves the storage, diversion, or conveyance of water, the applicant must file a statement of the proper State official, or other evidence, showing that he has a right to the use of the water.

Where the State official requires an applicant to obtain a right-of-way as a prerequisite to the issuance of evidence of a water right, if all else be regular, a right-of-way may be granted conditioned only upon the applicant's filing the required evidence of water right from the State official within a specified reasonable time. The conditional right-of-way will terminate at the expiration of the time allowed.

GENERAL PROVISIONS^{*}

§ 244.7 *Nature of the interest granted; settlement on right-of-way.* (a) No interest granted by the regulations in this part shall give the holder thereof any estate of any kind in fee in the lands. The interest granted shall consist of an easement, license, or permit in accordance with the terms of the applicable statute; no interest shall be greater than a permit revocable at the discretion of the authorized officer unless the applicable statute provides otherwise. Unless a specific statute or regulation provides otherwise, no interest granted shall give the grantee any right whatever to take from the public lands or reservations any material, earth, or stone for construction or other purpose, but stone and earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project.

(b) All persons entering or otherwise appropriating a tract of public land, to part of which a right-of-way has attached under the regulations in this part, take the land subject to such right-of-way and without deduction of the area included in the right-of-way.

§ 244.8 *Commencement of construction work in advance of approval of right-of-way; trespass.* (a) Permission to commence construction work over and through lands under the jurisdiction of the Department of the Interior or of its agencies in advance of the approval of a right-of-way may be granted by the manager upon a satisfactory showing of the necessity for such action and upon a determination, after the request for permission has been cleared by all interested agencies of the Department, that such action is compatible with the public interest. Requests for such advance authority need not meet the formal requirements of §§ 244.3-244.5 and may be filed with the agency having supervision of the land involved, in which case a duplicate request must be filed in the office specified in § 244.3.

(b) Any grant of advance permission is solely for the convenience of the applicant and is not a commitment by the Department that a right-of-way will be approved. The Department's authority in acting on a right-of-way application is not restricted in any way by the grant of advance permission or any requirements laid down in such grant of permission and the Department may impose additional or different requirements, within the scope of the applicable statute and lawful regulations thereunder, as conditions precedent to the approval of the right-of-way. A grant of advance permission is revocable at will, and the grantee assumes all the risk of operating under such permission.

(c) Any occupancy or use of the lands of the United States without authority will subject the person occupying or using the land to prosecution and liability for trespass.

^{*} In addition to the material contained under this heading, the subpart relating to the particular type of right-of-way involved should be consulted. See Subparts B through L of this part.

§ 244.9 *Terms and conditions.* An applicant, by accepting a right-of-way, agrees and consents to comply with and be bound by the following terms and conditions, excepting those which the Secretary may waive in a particular case:

(a) To comply with State and Federal laws applicable to the project for which the right-of-way is approved, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.

(b) To clear and keep clear the lands within the right-of-way to the extent and in the manner directed by the superintendent in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such manner as to decrease the fire hazard and also in accordance with such instructions as the superintendent in charge may specify.

(c) To take such soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way as the superintendent in charge of such lands may request.

(d) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near the lands to be occupied under the right-of-way, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(e) To build and repair such roads, fences, and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

(f) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to indemnify the United States against any liability for damages to life, person, or property arising from the occupancy or use of the lands under the right-of-way, except that where a right-of-way is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages.

(g) To notify promptly the superintendent in charge of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction and maintenance of the project, and to pay the United States through such superintendent in advance of construction such sum of money as such superintendent may determine to be the full stumpage value of the timber to be so cut, removed, or destroyed.

(h) To comply with such other specified conditions, within the scope of the applicable statute and lawful regulations thereunder, with respect to the occupancy and use of the lands as may be found by the agency having supervision of the lands to be necessary as a condition to the approval of the right-of-way in order to render its use compatible with the public interest.

^{*} See appendix for form to be placed on maps.

(i) That upon revocation or termination of the right-of-way, unless the requirement is waived in writing, he shall, so far as it is reasonably possible to do so, restore the land to its original condition to the entire satisfaction of the superintendent in charge.

(j) That he shall at all times keep the manager informed of his address, and, in case of corporations, of the address of its principal place of business and of the names and addresses of its principal officers.

(k) That in the construction, operation, and maintenance of the project, he shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall require an identical provision to be included in all subcontracts.

(l) That the allowance of the right-of-way shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the lands affected thereby, and that he agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the right-of-way not actually occupied or required by the project, or the full and safe utilization thereof, for necessary operations incident to such management, administration, or disposal.

(m) That the right-of-way herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.

§ 244.10 Proposed or existing national forest. Whenever a right-of-way is sought through or in national forest lands, or any area withdrawn for inclusion within a national forest, the applicant must enter into such stipulations and execute such bond as the Forest Service may require for the protection of such existing or proposed national forest.

§ 244.11 National parks and monuments. (a) The act of March 3, 1921 (41 Stat. 1353, 16 U. S. C. 797), provides that no right-of-way for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as then constituted of any national park or monument, shall be approved without specific authority of Congress.

(b) Whenever a right-of-way is desired through any national park or monument for purposes other than those excepted by the act of March 3, 1921, or not otherwise expressly prohibited by law, the applicant must show to the satisfaction of the Director, National Park Service, that the location and use of the right-of-way for the purposes contemplated will not interfere with the uses and purposes for which the park or monument was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant

must also file such stipulations and bond as may be required by the Director, National Park Service. Ordinarily, such a right-of-way may be allowed only on a showing of absolute necessity.

§ 244.12 Oregon and California Railroad and Coos Bay Wagon Road grant lands. All applications for rights-of-way for the construction and operation of any project over Oregon and California Railroad lands, title to which was revested in the United States by the act of June 9, 1916 (39 Stat. 218), and re-conveyed Coos Bay Wagon Road lands, act of February 26, 1919 (40 Stat. 1179), must also be accompanied by a statement showing the amount of merchantable timber, if any, to be cut, removed, or destroyed in the construction of the project works, and agreeing to deposit with the Bureau, in advance of construction, such sum of money as may be determined to be the full stumpage value of the timber to be so cut, removed, or destroyed, and an affirmative showing that favorable action on the application will not adversely affect or impair watershed protection, streamflow regulation, and other conservation features enumerated in the act of August 28, 1937 (50 Stat. 874).^{*}

§ 244.13 Alaska. All general right-of-way laws, and the regulations thereunder contained in this part, are applicable to Alaska.^{*}

§ 244.14 Approval of right-of-way. (a) Where an application is complete and in conformity with the law and regulations and all required reports have been obtained and it is determined that the approval of the right-of-way will not be contrary to the public interest, including that of the Government, the manager will approve the right-of-way.^{*}

(b) An application which does not conform with the law or regulations under which filed or the approval of which would be inconsistent with the public or Government interest, will be rejected.

§ 244.15 Use of right-of-way—(a) Proof of construction. A period of 5 years from the date of the approval of the right-of-way is usually allowed for construction unless a different period is provided by statute. Upon completion of construction, proof thereof should be submitted to the manager, consisting of a statement and certificate furnished by the holder of the right-of-way. The statement and certificate are embodied in Forms 5 and 6, which should be modified so as to be appropriate to the act and to the nature of the project.^{*} If, in construction, a substantial deviation from the location shown on the original map is planned or made, the party in

interest must file a duly executed relinquishment of the unused portion of the right-of-way accompanied by a map of amended location of the right-of-way for the project as actually constructed. The map of amended location must be prepared in accordance with § 244.6 (a) and must be filed before or as soon as possible after the deviation is made. The relinquishment may be prepared so as to become effective upon approval of the amended location. Any deviation made prior to such approval will be at the risk of the applicant.

(b) *Nonconstruction, abandonment, or nonuse.* Unless otherwise provided by law, rights-of-way are subject to cancellation by the authorized officer for failure to construct within the period allowed and for abandonment or nonuse.

§ 244.16 Revocation for violation of regulations or terms or conditions. All rights-of-way approved pursuant to this part, except those granted for pipe lines pursuant to section 28 of the act of February 25, 1920, as amended August 21, 1935 (49 Stat. 678; 30 U. S. C. 185), shall be subject to cancellation for the violation of any of the provisions of this part applicable thereto or for the violation of the terms or conditions of the right-of-way. No right-of-way shall be deemed to be canceled except on the issuance of a specific order of cancellation.

§ 244.17 Change in jurisdiction over or disposal of lands. (a) A change of jurisdiction over the lands from one Federal agency to another will not cancel a right-of-way involving such lands. It will, however, change the administrative jurisdiction over the right-of-way.

(b) The final disposal by the United States of any tract traversed by a right-of-way shall not be construed to be a revocation of the right-of-way in whole or part, but such final disposition shall be deemed and taken to be subject to such right-of-way until it is specifically canceled.

§ 244.18 Transfer of right-of-way. Any proposed transfer, by assignment, lease, operating agreement or otherwise, of a right-of-way acquired under any of the acts, except the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 946-949), must be filed in triplicate in accordance with § 244.3 for approval; must be accompanied by the same showing of qualifications of the assignee as is required of applicants; and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the right-of-way. No assignment will be recognized unless and until approved.

§ 244.19 Disposal of property on termination of right-of-way. Upon the termination of a right-of-way by expiration or by prior cancellation, in the absence of any agreement to the contrary, if all moneys due the Government thereunder have been paid, the holder of the right-of-way will be allowed six months or such additional time as may be granted in which to remove from the right-of-way all property or improvements of any kind, other than a road and usable improvements to a road, placed thereon by him; but if not removed within the time allowed, all such property and improvements shall become the property of the United States.

^{*}The general right-of-way statutes were extended to these lands by sec. 2 of the act of June 9, 1916 (39 Stat. 218), and sec. 3 of the act of February 26, 1919 (40 Stat. 1179).

^{*}See sec. 3 of the act of August 24, 1912 (37 Stat. 512; 48 U. S. C. 23), and 30 Op. Atty. Gen. 387 (1915).

^{*}Where the land over which the right-of-way is sought is withdrawn or reserved for the use of another Federal agency, the manager is required to clear the application with such agency.

^{*}See appendix for forms.

§ 244.20 *Appeals.* An appeal pursuant to the Rules of Practice (Part 221 of this chapter) may be taken from any decision of the manager to the Director, and from the Director to the Secretary.

RENTAL CHARGES

§ 244.21 *Payment required; exceptions; default; revision of charges.* (a) The charge for use and occupancy of public and reservation lands for rights-of-way for telephone, telegraph, and power transmission lines, water pipelines, ditches or canals under the act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959); telephone, telegraph, and power transmission lines under the act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961); tramroads under the act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956); oil and gas pipelines under section 28 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 449), as amended August 21, 1935 (49 Stat. 678; 30 U. S. C. 185); and water pipelines, ditches, flumes, tunnels, or canals under section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), shall be at the rate of five dollars (\$5) per mile or fraction thereof per calendar year or fraction thereof for rights-of-way not over 100 feet in width and one dollar (\$1) per mile or fraction thereof for each additional 20 feet or fraction thereof in width.

(b) The charge for use and occupancy of public and reservation lands for reservoirs, dams, water plant and powerplant sites, well sites, and similar purposes under the act of February 15, 1901; sites for pumping stations or other structures authorized under section 28 of the Mineral Leasing Act, as amended; and dams, reservoirs, and water-plant sites under section 4 of the act of February 1, 1905, shall be based on the value of the land and the use to which it is to be put, but in no case will the minimum charge be less than five dollars (\$5) per calendar year or fraction thereof. The charge for micro wave relay and communication sites other than radio and television broadcast sites shall be based upon the value of the land, but in no case will the annual charge be less than fifty dollars (\$50) per site. The charge for radio and television broadcast sites shall be based on the value of the land but in no case will the annual charge be less than the following:

| | |
|-------------------------------|---------|
| Stations not over: | |
| 1,000 watts input power----- | \$75.00 |
| 2,500 watts input power----- | 100.00 |
| 5,000 watts input power----- | 200.00 |
| 10,000 watts input power----- | 250.00 |
| 20,000 watts input power----- | 300.00 |
| All others----- | 450.00 |

(c) No rental charge will be required for the use and occupancy of public or reservation lands under a right-of-way authorizing such use and occupancy exclusively for irrigation projects, municipally operated projects, non-profit or REA cooperative projects, or when the use is by a Government agency.

(d) (1) There shall be remitted with the application the amount provided as the rental for a calendar year or fraction thereof.

(2) Where the application is for a reservoir, dam, well, or plant sites, etc., the sum of five dollars (\$5), the minimum charge specified for such cases, shall be remitted with the application.

(e) The holder of the right-of-way thereafter shall pay, on or before the first day of each calendar year, the rental charges for that calendar year in accordance with paragraphs (a) and (b) of this section. If the rental charge is not paid when due, and such default shall continue for thirty days after the first day of January, action may be taken to cancel the right-of-way. After default has occurred, no structures, buildings, or other equipment may be removed from the right-of-way except upon written permission first obtained from the regional administrator.

(f) At any time not less than five years after either the approval of the right-of-way or the last revision of rental charges thereunder, the authorized officer, after reasonable notice and opportunity for hearing, may review such charges and impose such new charges as may be reasonable and proper commencing with the ensuing calendar year.

(g) The provisions of this section shall not have the effect of changing, modifying, or amending the rental rates or charges imposed for existing water power projects under rights-of-way previously approved by this Department. (31 Stat. 790, 36 Stat. 1253, 28 Stat. 635, Sec. 4, 33 Stat. 628, Sec. 28, 49 Stat. 678; 43 U. S. C. 959, 961, 956, 16 U. S. C. 524, 30 U. S. C. 185)

SUBPART B—RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS UNDER THE ACT OF MARCH 3, 1891, AS AMENDED^{10 11}

AUTHORITY: §§ 244.22 to 244.28 issued under R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201.

§ 244.22 *Statutory authority.* (a) Section 18 of the act of March 3, 1891 (26 Stat. 1101), as amended by the acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668; 43 U. S. C. 946) authorizes the Secretary to grant rights-of-way for irrigation and drainage purposes over public lands and reservations to the extent of the ground occupied by the water of any reservoirs and any canals and laterals and 50 feet on each side of the marginal limits thereof and such additional right-of-way as may be deemed necessary for the proper operation and maintenance of said reservoirs, canals, and laterals.

(b) Section 19 of the act of March 3, 1891 (26 Stat. 1102; 43 U. S. C. 947), provides that a map of the canal or ditch and reservoir must be filed within twelve months after the location of ten miles of a canal if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States; that upon the approval thereof by the Secretary, the same shall be noted upon the records and thereafter all lands affected by such right-of-way shall be disposed of subject to such right-of-way.

¹⁰ See Solicitor's opinion of July 16, 1942 (58 L. D. 29), for a discussion of the applicability of various acts relating to rights-of-way for canals, ditches, and reservoirs.

¹¹ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

(c) Section 20 of the act of March 3, 1891 (26 Stat. 1102; 43 U. S. C. 948), provides that this act shall apply to all canals, ditches, or reservoirs theretofore or thereafter constructed, whether by corporations, individuals, or association of individuals, on the filing of the certificates and maps as therein provided; that if any section of the project is not completed within 5 years after location, the right-of-way shall be forfeited as to the uncompleted canal, ditch, or reservoir, to the extent that the same is not completed at the date of forfeiture.

(d) Section 21 of the act of March 3, 1891 (26 Stat. 1102; 43 U. S. C. 949), provides that nothing in this act shall authorize the occupancy of such right-of-way except for the purpose for which it was approved, and then only so far as may be necessary for the construction, maintenance, and care of the project.

§ 244.23 *Pipelines, flumes, and conduits included; use of materials on adjacent lands.* (a) The act of March 3, 1891, as amended, is applicable to rights-of-way for pipelines, flumes, or other conduits, although they are not specifically mentioned in the act, if water is conveyed primarily for irrigation or drainage purposes.

(b) Material on adjacent lands: The word "adjacent", as used in section 18 of the act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L. D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L. D. 566). These decisions were rendered under the Railroad Right-of-Way Act of March 3, 1875 (18 Stat. 482; 43 U. S. C. 934), and are applied to the act of March 3, 1891, since the wording with respect to the use of material is the same.

§ 244.24 *Use subsidiary to main purpose of irrigation.* Section 2 of the act of May 11, 1898 (30 Stat. 404; 43 U. S. C. 951), authorizes the use of rights-of-way approved under the act of March 3, 1891, for purposes subsidiary to the main purpose of irrigation.

§ 244.25 *Caretaker's building sites.* The act of March 1, 1921 (41 Stat. 1194; 43 U. S. C. 950), authorizes the Secretary, except as to lands within national forests, to grant permits or easements for not to exceed 5 acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by the act of March 3, 1891, as amended.

§ 244.26 *Showing required for additional right-of-way.* The act of May 28, 1926 (44 Stat. 668; 43 U. S. C. 946), amended section 18 of the act of March 3, 1891, so as to authorize, if needed, a right-of-way additional to the 50 feet allowed by the section for operation and maintenance of reservoirs, canals, ditches, and laterals. To obtain such additional right-of-way, an explanatory showing must accompany the applica-

tion. This should consist of a statement by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right-of-way required and the necessity therefor. The additional right-of-way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right-of-way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

§ 244.27 *Procedure when unsurveyed land is involved.* (a) Maps filed under the said act, as amended, showing canals, ditches, laterals, and reservoirs lying partly upon unsurveyed land can be approved if the application and accompanying maps conform to these regulations, but the approval will only relate to that portion of the right-of-way traversing the surveyed land.¹⁴

(b) Maps showing canals, ditches, laterals, and reservoirs lying wholly on unsurveyed lands may be received and placed on file in the Bureau of Land Management for general information. The date of filing will be noted thereon; but the maps will not be approved as the act makes no provision for the approval of any but maps showing locations on surveyed lands. The filing of such maps will not dispense with the filing of maps after the survey of the lands and within the time specified in the act, and if the maps are regular in all respects they will receive the manager's approval.

§ 244.28 *Segregated reservoir sites.* The act of February 26, 1897 (29 Stat. 599; 43 U. S. C. 664), permits the approval of applications under the act of March 3, 1891, for rights-of-way upon reservoir sites reserved under authority of the act of October 2, 1888 (25 Stat. 526; 43 U. S. C. 662), and August 30, 1890 (26 Stat. 371, 391; 43 U. S. C. 662).

SUBPART C—RESERVATION OF PUBLIC LANDS FOR RESERVOIRS FOR WATERING LIVESTOCK¹⁵

AUTHORITY: §§ 244.29 to 244.37 issued under 29 Stat. 484, 42 Stat. 1437; 43 U. S. C. 952-955.

§ 244.29 *Statutory authority.* (a) By the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952-955), it is provided that any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the

same is constructed, not exceeding 160 acres, so long as such reservoir is maintained and water kept therein for such purpose. The act does not apply to lands in grazing districts, and applications for stock-watering reservoirs on such lands should be filed under section 4 of the Taylor Grazing Act (48 Stat. 1271; 43 U. S. C. sec. 315c) and Part 161 of this chapter.

(b) Section 1 of the act of January 13, 1897, as amended by the act of March 3, 1923 (42 Stat. 1437; 43 U. S. C. 952), authorizes the Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, to grant permission to fence reservoirs constructed under the act of January 13, 1897, in order to protect livestock, to conserve water, and to preserve its quality and conditions, provided, that such reservoir shall be kept open to the free use of any persons desiring to water animals of any kind.

§ 244.30 *Declaratory statement.* To apply for a reservoir site under §§ 244.29 to 244.37, the applicant must file with the manager a declaratory statement drawn in accordance with Form 7.¹⁶ No other application is necessary.

§ 244.31 *Action on declaratory statements; size, location, and number of reservoir sites.* For the filing of the reservoir declaratory statement a fee of \$1 will be charged (R. S. 2238; 43 U. S. C. 82). In acting upon these statements the following general rules will be applied:

(a) No reservation will be made for a reservoir of less than 250,000 gallons capacity, and for a reservoir of less than 500,000 gallons capacity, not more than 40 acres can be reserved. For a reservoir of 500,000 gallons and less than 1,000,000 gallons capacity, not more than 80 acres can be reserved. For reservoir of 1,000,000 gallons and less than 1,500,000 gallons capacity, not more than 120 acres can be reserved. For a reservoir of 1,500,000 gallons capacity or more, 160 acres may be reserved. In the case where the water is furnished the livestock by artificial means, such as by windmill, pump, tanks, and troughs, the regulations requiring a minimum capacity of 250,000 gallons may be waived upon the claimant's submitting a satisfactory showing that by such artificial means he will be able to furnish sufficient water and provide proper troughs and facilities to properly accommodate all cattle likely to water at the place in question.

(b) Not more than 160 acres shall be reserved for this purpose in any section.

(c) Not more than 160 acres shall be reserved for this purpose in one group of tracts adjoining or cornering upon each other.

(d) A distance of one-half mile must be left between any two groups of tracts which aggregate more than 160 acres.

(e) Lands so reserved shall be kept open to the free use of any person desiring to water animals of any kind. If the lands so reserved are not kept open to the free use of any person desiring to water animals of any kind, or if the reservoir applicant attempts to use them

for any other purpose, or if the reservation is not obtained for the bona fide and exclusive purpose of constructing and maintaining a reservoir thereon according to law, the declaratory statement, upon any such matter being made to appear, will be canceled and all rights thereunder be declared at an end.

(f) Notwithstanding his action in accepting any such declaratory statement, the manager will reject the same if upon considering the matters set forth therein it appears that the declaratory statement is not filed in good faith for the sole purpose of accomplishing what the law authorizes to be done.

§ 244.32 *Time for construction.* The reservoir must be constructed and completed within 2 years after the filing of the declaratory statement; otherwise the right-of-way will be subject to cancellation.

§ 244.33 *Map of constructed reservoir.* After the construction and completion of the reservoir the applicant shall have the same accurately surveyed and mapped showing its location with relation to the public land surveys. The map must be prepared in accordance with the requirements of § 244.6 and be filed with the manager and must bear Forms 8 and 9.¹⁷

§ 244.34 *Approval of constructed project.* The map and papers will be examined to determine whether they comply with the law and the regulations, and whether the amount of land desired is warranted by the showing made in the application. If found satisfactory, they will be approved, and the lands shown to be necessary for the proper use and enjoyment of the reservoir will be reserved from other disposition so long as the reservoir is maintained and water kept therein for the purposes named in the act. When such reservation is made the manager will make the proper notations on his records.

§ 244.35 *Annual proof of maintenance.* In order that this reservation shall be continued, it is necessary that the reservoir "shall be kept in repair and water kept therein." For this reason the owner of the reservoir will be required, during the month of January of each year, to file with the manager a statement to the effect that the reservoir has been kept in repair and water kept therein during the preceding year, and that all the provisions of the act have been complied with. Form 10¹⁸ will be used for this statement. Upon failure to file such statement, steps will be taken looking to the revocation of the reservation of the lands.

§ 244.36 *Procedure when unsurveyed land is involved.* (a) In any case where the proposed reservoir is to be located upon unsurveyed public land, the declaratory statement may be filed, the land being therein described by metes and bounds and, as well, by the description which it is believed it will bear when officially surveyed. Proof of construction must be submitted at the end of the same period of time and in the same manner as is prescribed and required in cases where the lands have been previously surveyed. Such proof should embrace the field notes and a plat of

¹⁴ By letter of August 21, 1937, approved by the Department in the case of the Twin Lakes Reservoir and Canal Company (Denver 045465), it was held that a right-of-way may be acquired under the 1891 act, by actual construction of a project in advance of the filing of an application and approval of the right-of-way over unsurveyed lands, upon the same principle applied to railroads under the act of March 3, 1875 (18 Stat. 482; 43 U. S. C. 934-939).

¹⁵ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

¹⁶ See appendix for forms.

^{17 18} See appendix for forms.

survey such as is required in cases of reservoirs on surveyed lands, with such modifications as are necessary (§ 244.33).

(b) Any reservation made pursuant to the act of January 13, 1897, secures only a license to use and occupy the reserved land with and for a reservoir, and this license may endure permanently or may be of transient duration. No estate in the land is granted. For this reason it is administratively undesirable that private surveys made pursuant to the statute and §§ 244.29 to 244.37 shall be preserved and established by subsequent public-land surveys and approved plats thereof. Therefore, when the public-land surveys have been extended over land covered by a reservoir declaratory statement affecting unsurveyed lands, the declarant shall adjust his survey to the line of the official survey, showing the location of the reservoir with respect to said lines by means of properly established tie lines. Any subsequent reservation which may be ordered will be of those subdivisions or aliquot parts of subdivisions thus shown to be occupied by or necessary for the proper use of the reservoir.

(c) An annual statement of maintenance must be submitted the same as though the reservoir had been constructed on surveyed lands. Nothing in §§ 244.29 to 244.37 shall preclude the Bureau of Land Management from requiring additional information in any case where that information is deemed proper or necessary.

§ 244.37 *Application to fence reservoir; plat required.* Any person, company, or corporation desiring to secure the benefits of the act of March 3, 1923, should file in accordance with § 244.3 an application, duly corroborated by at least two disinterested witnesses, setting forth such facts as would show that it is necessary to fence such reservoir in order to protect the livestock, to conserve water, and to preserve its quality and conditions. There should be filed with such application, and as a part thereof, a plat showing the land embraced in the reservoir as near as may be, the location of the proposed fence with respect to such reservoir, together with all gates or other openings and roadways leading to the same. In no instance will an application be considered unless said plat shows the location of at least two gates. Said gates shall be so constructed and maintained that they may be, at all times, readily opened and closed by any person desiring to water animals of any kind, and such gates shall be so placed as to be readily accessible from the road or roads nearest the reservoir, which roads shall be the ones usually traveled and, where there are no such roads to govern the location of such gates, they shall be so situated as to make the reservoir readily available from the adjacent public or other range. There shall be posted on the gates, and elsewhere if necessary, a notice stating that the reservoir is for stock-watering purposes, located on public lands, and that the same is open to the free use of any person desiring to water animals of any kind.

SUBPART D—RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES, TRANSMISSION LINES, RADIO AND TELEVISION SITES, AND FOR PIPE LINES, CANALS, DITCHES, AND WATER PLANTS UNDER THE ACTS OF FEBRUARY 15, 1901 AND MARCH 4, 1911¹⁷

AUTHORITY: §§ 244.39 to 244.47 issued under 31 Stat. 790, 36 Stat. 1253; 43 U. S. C. 959, 961.

§ 244.39 *Statutory authority.* (a) The act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959), authorizes the Secretary, under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for pipe lines, canals, ditches, water plants, and other purposes to the extent of the ground occupied by such canals, ditches, water plants, or other works permitted thereunder and not to exceed 50 feet on each side of the marginal limits thereof, or not to exceed 50 feet on each side of the center line of such pipe lines, telephone and telegraph lines, and transmission lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under the act.

(b) The act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961), as amended, authorizes the head of the department having jurisdiction over the lands, under general regulations fixed by him, to grant an easement for rights-of-way for a period not exceeding 50 years, over and across public lands and reservations of the United States, for poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes and for radio, television and other forms of communication transmitting, relay and receiving structures and facilities to the extent of 200 feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for superstructures and facilities to any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under the act.¹⁸

(c) The applicability of the acts of February 15, 1901, and March 4, 1911, to rights-of-way for power purposes over public lands, was superseded by the Federal Power Act of June 10, 1920 (41 Stat. 1063), as amended by sections 201 to 213 inclusive, of the act of August 26, 1935 (49 Stat. 838; 16 U. S. C. 791-825r), as to power projects for the generation and transmission of hydroelectric power, defined in section 2 (11) of the act,

¹⁷ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

¹⁸ The opinion of the Solicitor of the Department of the Interior of November 1, 1940 (M. 30846), held that lands acquired by the United States, by purchase or otherwise, were reservation lands within the meaning of the acts of February 15, 1901, and March 4, 1911.

excepting distribution lines. Applications for hydroelectric power plant sites or rights-of-way for main or primary hydroelectric power transmission lines must be made to the Federal Power Commission, Washington, D. C., under the act of June 10, 1920, as amended. Rights-of-way for transmission lines which are not primary lines must be secured under the act of February 15, 1901, or the act of March 4, 1911. See 18 CFR 2.2.

§ 244.40 *Applications for lands in national forests and other reservations.*

(a) Applications under the act of February 15, 1901,¹⁹ for rights-of-way across national forests should be prepared in accordance with the regulations issued by the Department of Agriculture and submitted to the proper officer thereof. In case a right-of-way is desired upon public lands partly within and partly without a national forest, separate applications must be prepared, and the one affecting lands within the national forest filed with the forest officer, and the other filed in accordance with § 244.3.

(b) Applications for a right-of-way under the act of March 4, 1911, involving lands under the control of a department or agency other than the Department of the Interior should be prepared in accordance with the regulations issued by such department or agency and submitted to the proper officer thereof.²⁰

§ 244.41 *Applications which may be submitted under the acts of February 15, 1901, and March 4, 1911.* (a) All applications where it is sought to acquire a right-of-way for the main purpose of irrigation, as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 946-949), and section 2 of the act of May 11, 1898 (30 Stat. 404; 43 U. S. C. 951), must be submitted under the 1891 and 1898 acts, in accordance with the applicable regulations in this part.

(b) An application may be filed under the act of February 15, 1901, for a stock-watering reservoir site. Rights-of-way will not be approved for stock-watering reservoirs on wildlife refuges. An application under the act for a "water plant" site or for a pipeline right-of-way may include an area for a well to supply the water; but if, because the lands affected are within a grazing district established under the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U. S. C. 315 et seq.), as amended, or for any other reason, the granting of a right-of-way for a stock-watering reservoir site, or for a water plant site or for a pipeline would adversely affect the interest of the Government, the application therefor will not be allowed. If the lands affected are within a grazing district, an application for a stock-watering reservoir or water well site should be filed under section 4 of said act of June 28, 1934, if the applicant is qualified under the section and if the reservoir or well is necessary to the care and management of the permitted livestock and primarily for that purpose. Regulations under the said section 4 are contained in § 161.14 of this chapter.

¹⁹ See section 1 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 472).

²⁰ See 29 Op. Atty. Gen. 303.

(c) Applications for rights-of-way for telephone, telegraph, and power transmission lines may also be submitted under either the act of February 15, 1901, or the act of March 4, 1911, in accordance with the applicable regulations contained in this part. Applications for radio, television and other forms of communication transmitting, relay and receiving structures and facilities should be submitted under the act of March 4, 1911, as amended.

(d) Any application under the act of March 4, 1911 for a line right-of-way in excess of 100 feet in width or for a structure or facility right-of-way of over 10,000 square feet must state the reasons why the larger right-of-way is required. Rights-of-way will not be issued in excess of such sizes in the absence of a satisfactory showing of the need therefor.

§ 244.42 Plant sites; buildings to be platted on maps. (a) When an application is made for a right-of-way for a site for a water plant or for a communication structure or facility, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described on Forms 3 and 4²² by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance shown on the map. The application must also state the proposed use of each structure, and must show definitely that each one is necessary for a proper use of the right-of-way for the purpose contemplated in the act of February 15, 1901. If the right-of-way is within reservation lands which are not covered by the public land surveys, the map shall be made in terms of the boundary survey of the reservation to the extent it would be required above to be made in terms of the public land surveys.

(b) If the application is for a power plant site it must also contain a statement giving a description of the proposed power plant including the number and capacity of prime movers and generators proposed to be installed, initially and ultimately, together with similar pertinent information about any substations included in the project and whether the power plant is to be interconnected with other generating facilities owned by the applicant or others; and whether the power generated is to be sold to others at wholesale or retail or used by the applicant for its own domestic, agricultural, or industrial purposes.

§ 244.43 Transmission lines. When an application is made for a right-of-way for a transmission line, it must also contain the following:

²² See appendix for forms.

(a) A description of the plant or connecting generating plants which generate or will generate the power to be transmitted over such line, such description to be in sufficient detail to show, to the satisfaction of the authorized officer, the character, capacity, and location of such plants.

(b) A description of the transmission line of which the line for which a right-of-way is requested forms a part, giving in reasonable detail the points between which it will extend, its characteristics and purpose. There must also be included a statement as to the voltage for which the line is designed and at which it is to be operated initially, and a statement as to whether it is to serve a single customer, or a number of customers, or is intended to transmit power solely for the applicant's use. If the line is to serve a single customer or is for the applicant's own use, the nature of such use must be given (such as airway beacon, coal mine, and irrigation pumps).

§ 244.44 Terms and conditions. By accepting a right-of-way for a power transmission line, the applicant thereby agrees and consents to comply with and be bound by the following terms and conditions, excepting those which the Secretary may waive in a particular case, in addition to those specified in § 244.9:

(a) To protect in a workmanlike manner, at crossings and at places in proximity to his transmission lines on the right-of-way authorized, in accordance with the rules prescribed in the National Electric Safety Code, all Government and other telephone, telegraph, and power transmission lines from contact, and all highways and railroads from obstruction, and to maintain his transmission lines in such manner as not to menace life or property.

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

§ 244.45 No rights acquired prior to filing and approval of application. Application under the act of February 15, 1901, or the act of March 4, 1911, for permission to use the desired right-of-way through the public lands and reservations must be filed and approved before any rights can be claimed thereunder.

§ 244.46 Unsurveyed lands. Permission may be given under the act of February 15, 1901, and the act of March 4, 1911, for a right-of-way over unsurveyed lands as well as surveyed lands.

§ 244.47 Expiration and renewal of right-of-way. Unless otherwise specified in a right-of-way granted under the act of March 4, 1911, and unless sooner canceled, the right-of-way shall expire 50 years from the date thereof. If, however, within the period of 1 year prior to the expiration date, the grantee shall file, in accordance with § 244.3, a written application to renew the right-of-way,

and shall agree to comply with all the laws and regulations existing at such expiration date governing the occupancy and use of the lands of the United States for the purpose desired, the right-of-way may be renewed for a period of not to exceed 50 years. If such application is filed, the existing right-of-way will be extended subject to then existing and future rules and regulations, pending consideration of the application.

SUBPART E—RIGHTS-OF-WAY THROUGH NATIONAL FORESTS FOR DAMS, RESERVOIRS, WATER PLANTS, DITCHES, FLUMES, PIPES, TUNNELS, AND CANALS FOR MUNICIPAL OR MINING PURPOSES, UNDER THE ACT OF FEBRUARY 1, 1905²³

AUTHORITY: §§ 244.48 to 244.51 issued under sec. 4, 33 Stat. 628; 16 U. S. C. 524.

§ 244.48 Statutory authority. Section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), grants rights-of-way through national forests to citizens and corporations of the United States, for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, for municipal or mining purposes, and for the purpose of the milling and reduction of ores, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

§ 244.49 When construction may commence. No construction will be allowed in national forests until an application for right-of-way has been regularly filed in accordance with §§ 244.1 to 244.20, 244.48 to 244.51, and has been approved, or unless permission for construction in advance of the right-of-way grant has been specifically given.

§ 244.50 Water plant structures. When application is made for a right-of-way for water plants, § 244.42 should be followed, with appropriate changes in the prescribed forms.

§ 244.51 Procedure when unsurveyed land is involved. Maps showing reservoirs, canals, water plants, and other structures wholly upon unsurveyed lands, will be received and acted upon in the manner prescribed for surveyed lands.

SUBPART F—RIGHTS-OF-WAY UNDER THE ACT OF JANUARY 21, 1895, OVER PUBLIC LANDS FOR TRAMROADS AND OTHER ROADS FOR LOGGING AND MINING PURPOSES,²⁴ EXCEPT LOGGING ROADS OVER REVESTED AND RECONVEYED AND INTERMINGLED PUBLIC LANDS IN OREGON²⁵

AUTHORITY: §§ 244.52 and 244.53 issued under 28 Stat. 635; 43 U. S. C. 956.

²³ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

²⁴ In an opinion of July 16, 1942 (58 I. D. 29), the Solicitor of the Department of the Interior held that the act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959), superseded the part of the 1895 act authorizing rights-of-way for canals and reservoirs.

²⁵ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

§ 244.52 Statutory authority. The act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956), authorizes the Secretary under such general regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of 50 feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, quarrying, or of cutting timber and manufacturing lumber. The act does not authorize the use of rights-of-way within the limits of any park or military reservation. The act is made applicable to national forests and reservoir sites by the act of March 3, 1899 (30 Stat. 1233; 16 U. S. C. 525, 43 U. S. C. 665, 958). Where the authorized officer determines it to be in the public interest, he will require applicants under this section to execute the same type of right-of-way and road use agreements for the connecting road system as may be required under Part 115 of this chapter with appropriate modifications to meet local conditions: *Provided*, That where the land over which the right-of-way is requested is under the jurisdiction of an agency other than the Bureau of Land Management, such requirement shall be made only with the concurrence of the authorized officer of such agency. The authorized officer may require an applicant for or holder of a tramroad right-of-way to execute a bond on Form 4-414, modified to refer to the applicable sections of this part, in an amount, not less than \$500 per mile or fraction thereof, to be determined by the authorized officer conditioned on compliance with §§ 244.1 to 244.21 and 244.52 and 244.53. The arbitration procedures involved in the stipulations shall be in accordance with State law, if any is applicable. In the absence of applicable State law, controversies involving arbitration shall be arbitrated in accordance with the rules then obtaining of the American Arbitration Association.

§ 244.53 Tramroads defined. Tramroads are considered as including tramways, railroads, and motor-truck roads to be used in connection with mining, quarrying, logging, and the manufacturing of lumber.

CROSS REFERENCE: Applications for logging road permits over revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands and intermingled public lands administered by the Bureau of Land Management which are in and west of Range 8 East, Willamette Meridian, Oregon, must be made under Part 115 of this chapter.

SUBPART G—TRANSFERS OF PUBLIC LANDS AND RESERVATIONS FOR HIGHWAYS, ROAD BUILDING MATERIAL AND MAINTENANCE SITES, ROADSIDE AND LANDSCAPE DEVELOPMENT AREAS AND FLIGHT STRIPS, UNDER THE FEDERAL AID HIGHWAY ACT²⁶

AUTHORITY: §§ 244.54 to 244.56 issued under R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201.

§ 244.54 Statutory authority—(a) Highways and material sites. (1) Section 17 of the Federal Aid Highway Act of November 9, 1921 (42 Stat. 216; 23 U. S. C. 18), authorizes the transfer of

²⁶ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

public lands and reservations of the United States to the State highway departments on determination by the Secretary of Commerce²⁷ that such lands are necessary for the right-of-way for any highway or forest road or as a source of materials for the construction and maintenance of such roads and highways, and after his request for such transfer with a map showing the portions of such lands which it is desired to appropriate.²⁸ The section does not authorize transfers to Territories.

(2) This statute provides that if within a period of 4 months after such filing the Secretary of the department supervising the administration of such land or reservation shall not have certified to the Secretary of Commerce that the proposed transfer of such lands is contrary to public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land or materials may be appropriated and transferred to the State highway departments for such purposes.²⁹ If and when the need for any such land or materials shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of Commerce, and such lands or materials will immediately revert to the control of the Secretary of the Department from which they had been appropriated.³⁰

(b) **Roadside and landscape development areas.** The act of June 8, 1938 (52 Stat. 633; 23 U. S. C. 10b), authorizes rights-of-way for roadside and landscape development under section 17 of the Federal Aid Highway Act.

(c) **Flight strips.** Section 8 of the act of November 19, 1941 (55 Stat. 767; 23 U. S. C. 108) authorizes rights-of-way under the Federal Aid Highway Act for flight strips adjacent to public highways or roadside development areas along such highways.

(d) **Extent of grant.** Rights-of-way granted pursuant to the Federal Aid Highway Act, as supplemented and amended, do not include rights-of-way for facilities with respect to which any other provision of law specifically requires the filing of an application for a

²⁶ Originally the Federal Aid Highway Act provided that various functions should be administered by the Secretary of Agriculture. Through a series of transfers, the latest of which is 1949 Reorganization Plan No. 7, effective August 19, 1949 (14 F. R. 5228, 63 Stat. 1070), these functions have vested in the Secretary of Commerce.

²⁷ Considered as including maintenance and stock-pile sites.

²⁸ By decision of the Secretary, Nevada Department of Highways, A.24151, September 17, 1945, it was held that the language of the act imports discretion and indicates no intent to vest in the State right at the end of the four months' period without further action by the Department having jurisdiction. It was held further that the interest transferred under the statute is merely a right-of-way or right to take materials and that the Government may reserve the right to dispose of leasable minerals.

²⁹ Notice by the State highway departments that the need for the land or material no longer exists may be given directly to the Bureau of Land Management.

right-of-way. Where the holder of the highway right-of-way determines that such facility will not seriously impair the scenic and recreational values of an area and its consent is obtained, the Department waives the requirement of an application for a right-of-way for all facilities usual to a highway along a highway right-of-way granted pursuant to the Federal Aid Highway Act, as supplemented and amended, except for electric transmission facilities, designed for operation at a nominal voltage of 33 kv or above, or designed for conversion to such operation, or for oil or gas pipe lines which are more than two miles long and are not part of any other pipe line crossing public lands. Applications shall be made under §§ 244.39 to 244.47, inclusive, with respect to any right-of-way for an electric transmission facility subject to this exception, and under §§ 244.60 to 244.66, inclusive, for pipe line facilities subject to this exception. Where the holder of the right-of-way consents to the construction of usual highway facilities as stated above, such holder shall be responsible for compliance with § 244.9 in connection with the construction and maintenance of such facilities.

§ 244.55 Filing of application. Where a right-of-way is desired under the provisions of section 17 of the act of November 9, 1921, and the amendment or supplements thereto, for any of the purposes mentioned in § 244.54, an application and maps should be filed in the manner prescribed by §§ 244.3 and 244.6 (a). Such application should be filed by the State highway department of the particular State and not by any political subdivision of the State. No application will be received by the Bureau for rights-of-way affecting lands entirely within a national forest or an Indian reservation.

§ 244.56 Action on application. Upon receipt of an application filed under section 17 of the act of November 9, 1921, or acts supplemental thereto, which affects unpatented lands or patented lands, acquired by the United States, under the jurisdiction of this Department, Bureau procedure relating to rights-of-way will be followed, and in addition the manager will return a duplicate map or maps to the State highway department which will forward them to the Secretary of Commerce for his determination that the lands are necessary for the purposes desired as required by the act. Upon the receipt of such determination, if all else be regular, the right-of-way will be approved.

SUBPART H—RIGHTS-OF-WAY FOR THE CONSTRUCTION OF HIGHWAYS OVER PUBLIC LANDS UNDER R. S. 2477

AUTHORITY: §§ 244.57 to 244.59 issued under R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201.

§ 244.57 Statutory authority. R. S. 2477 (43 U. S. C. 932) grants rights-of-way for the construction of highways over public lands, not reserved for public uses.

§ 244.58 Effective date and extent of grant. (a) Grants of rights-of-way referred to in the preceding section become effective upon the construction or establishment of highways, in accordance with the State laws, over public

lands, not reserved for public uses. No application should be filed under R. S. 2477, as no action on the part of the Government is necessary. Rights-of-way granted by R. S. 2477 do not include rights-of-way for facilities with respect to which any other provision of law specifically requires the filing of an application for a right-of-way. Where the holder of the highway right-of-way determines that such facility will not seriously impair the scenic and recreational values of an area and its consent is obtained, the Department waives the requirement of an application for a right-of-way for all facilities usual to a highway along a highway right-of-way granted by R. S. 2477, except for electric transmission facilities, designed for operation at a nominal voltage of 33 kv or above, or designed for conversion to such operation, or for oil or gas pipe lines which are more than two miles long and are not part of any other pipe line crossing public lands. Applications shall be made under §§ 244.39 to 244.47, inclusive, with respect to any right-of-way for an electric transmission facility subject to this exception, and under §§ 244.60 to 244.66, inclusive, for pipe line facilities subject to this exception.

(b) Holders of grants under R. S. 2477 shall be subject to the terms and conditions of the following paragraphs of § 244.9 (b), (c), (d), (e), (i), (k). Where the holder of the highway consents to the construction of usual highway facilities, as provided above, such holder shall be responsible for compliance with the designated paragraphs of § 244.9 in connection with the construction and maintenance of such facilities.

§ 244.59 Procedure when reserved land is involved. When a right-of-way is desired for the construction of a highway under R. S. 2477, over public land reserved for public uses, and such reserved land is under the jurisdiction of the Department of the Interior, an application should be made in accordance with § 244.3 for consideration of the revocation or modification of the reserve so as to permit the operation of the statute and construction or establishment of the highway. Such application should be accompanied by a map, drawn on tracing linen, with two print copies thereof, showing the location of the proposed highway with relation to the smallest legal subdivisions of the lands affected. Unless and until the reservation shall have been revoked or modified so as to permit the construction of the highway, subject to such terms and conditions, if any, as may be deemed reasonable and necessary for the adequate protection and utilization of the reserve, no rights to establish or construct the highway will be acquired by reason of the filing of such application.

SUBPART I—RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPELINES AND PUMPING PLANT SITES UNDER THE MINERAL LEASING ACT³⁰

AUTHORITY: §§ 244.60 to 244.66 issued under sec. 28, 49 Stat. 678; 30 U. S. C. 185.

§ 244.60 Statutory authority. (a) Section 28 of the act of February 25, 1920 (41 Stat. 449), as amended by the acts of August 21, 1935 and August 12, 1953 (49 Stat. 678; 67 Stat. 557; 30 U. S. C. 185), authorizes the Secretary to grant rights-of-way through public lands, including the forest reserves of the United States, for pipeline purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of the act (41 Stat. 437; 30 U. S. C. 22, 48, 181) to the extent of the ground occupied by the said pipeline and 25 feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by him, and upon the express conditions that such pipeline, if for oil, or for natural gas and not excepted from the common carrier provisions of section 28 of the act of February 25, 1920, as amended, as stated in paragraph (b) of this section, shall be constructed, operated and maintained as a common carrier and that every pipeline holder shall accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipeline in such proportionate amount as the Secretary of the Interior may, after a full hearing, with due notice thereof to the interested parties, and a proper finding of facts, determine to be reasonable.³¹

(b) The amendatory act of August 12, 1953, cited in paragraph (a) of this section provides that the common carrier provisions of section 28 of the act of February 25, 1920, shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act (52 Stat. 821; 15 U. S. C. 717w) or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

§ 244.61 Who may file application. Application may be filed by citizens of the United States, associations of such persons, any corporation organized under the laws of the United States, or of any State or Territory, and municipalities.

§ 244.62 Common carrier stipulation. Each application for a pipeline right-of-way, if for oil, or for natural gas and the pipeline has not been excepted from the common carrier provisions of section 28 of the act of February 25, 1920, as amended, as stated in § 244.60 (b), must include the following stipulation:

The applicant agrees to operate the pipeline as a common carrier in accordance with the provisions of the Mineral Leasing Act, and, within 30 days after the request of the Secretary of the Interior, to file rate schedule and tariff for the transportation of oil or gas, as the case may be, as such common carrier with any regulatory agency having jurisdiction over such transportation, as the Secretary may prescribe.

³¹ By opinion of the Attorney General of January 3, 1941 (40 Op. Atty. Gen. 9), and departmental decision, Charles P. Plummer, A-23988, February 24, 1945, this statute was construed as not applying to purchased or acquired lands as they are not considered public lands within the meaning of the act.

§ 244.64 Use of pipeline. The applicant shall state in the application the specific use, within the purview of the act, to which the pipeline is to be put, and any approval of the right-of-way shall be limited to such use, unless otherwise stated in the approval. No change in the use of the pipeline from that authorized by the approval of the right-of-way shall be allowed except as follows:

(a) In the case of pipelines engaged in interstate transportation, a change may be made only with approval first obtained from the authorized officer, and upon such terms and conditions as he may prescribe as a prerequisite to the approval of the change of use. If the authorized officer does not disapprove or otherwise act upon an application for a change in use by the end of the forty-fifth day after the application is filed, he shall be deemed to have approved it without conditions other than those previously existing.

(b) In case of pipelines engaged solely in intrastate transportation, a change may be made by the grantee in the use of the pipeline for the transportation of products within the purview of the act, from that specified in the approval of the right-of-way, provided, written notice of such change is filed with the manager not less than 15 days in advance of the actual change of use. Such notice must be accompanied by a showing as to whether the change in use is to be temporary or permanent, and a statement that such change will not result in any hardship or injustice to persons operating under Federal leases who may be dependent on the pipeline as the means of transportation of their products to existing markets, and must be accompanied by the consent in writing of such lessees to the change of use.

§ 244.65 Approval of right-of-way. The approval of such right-of-way shall be subject to the express conditions that the use of the pipeline for the transportation of oil, gas, or other similar products, shall be limited to such products produced in conformity with State and Federal laws, including laws prohibiting waste.

§ 244.66 Pumping plant site. A site for a pumping station or other structures reasonably necessary to the operation of a pipeline on a right-of-way approved under section 28 of the act of February 25, 1920, or as amended by the act of August 21, 1935, may be granted under the same section (36 Op. Atty. Gen. 480). When an application is made for a right-of-way for a site, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described on Forms 3 and 4³² by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance

³² See appendix for forms.

³⁰ In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

shown on the map. The application must also state the proposed use of each structure, and must show definitely that each one is necessary for a proper use of the right-of-way for the purpose contemplated in the act.

SUBPART J—RIGHTS-OF-WAY OVER LANDS SUBJECT TO A MINERAL LEASE

§ 244.67 *Statutory authority; applications.* (a) Section 29 of the act of February 25, 1920 (41 Stat. 449, 30 U. S. C. 186), provides in part:

(a) That any permit, lease, occupation, or use permitted under this act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes.

(b) Where another statutory provision covers the type of right-of-way desired, applications shall be made in accordance with such statute and the applicable regulations.

(c) Where there is no other statutory provision covering the type of right-of-way desired, applications shall be filed in accordance with §§ 244.1 to 244.21, inclusive.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

SUBPART K—RIGHTS-OF-WAY FOR FEDERAL IRRIGATION PURPOSES UNDER THE ACT OF DECEMBER 5, 1924

§ 244.68 *Statutory authority.* Section 4, subsection P, of the act of December 5, 1924 (43 Stat. 704; 43 U. S. C. 417), provides that where, in the opinion of the Secretary, a right-of-way over public land is required in connection with a reclamation project, the Secretary may reserve the same to the United States by filing in the appropriate land office copies of an instrument giving a description of the right-of-way and notice that the same is reserved to the United States for Federal irrigation purposes under this section, in which event entry for such land and the patent issued therefor shall be subject to the right-of-way so described in such instrument; and reference to each such instrument shall be made in the appropriate tract books and also in the patent.

(R. S. 2478; 43 U. S. C. 1201)

SUBPART L—RIGHTS-OF-WAY FOR TRANSMISSION LINES IN CONNECTION WITH BOULDER CANYON PROJECT UNDER THE BOULDER CANYON PROJECT ACT

§ 244.69 *Statutory authority.* Section 5 (d) of the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057; 43 U. S. C. 617d), authorizes the use by any agency receiving a contract for the purchase of electrical energy from Boulder Canyon Project of such public and reserved lands of the United States as may be necessary or convenient for the construction, operation, and maintenance of main transmission lines to transmit said electrical energy.

(R. S. 2478; 43 U. S. C. 1201)

SUBPART M—EMERGENCY ACCESS PERMITS FOR SALVAGE OPERATIONS

AUTHORITY: §§ 244.70 to 244.92 issued under 28 Stat. 635, 50 Stat. 874; 43 U. S. C. 956.

§ 244.70 *Statutory authority.* (a) The act of January 21, 1895 (28 Stat. 635, 43 U. S. C. 956), authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tram roads to the extent of 50 feet on each side of the center line of the tram road, by any citizen or association of citizens of the United States engaged in the business, among others, of cutting timber. The act of January 21, 1895, is made applicable to the revested Oregon and California railroad and the reconveyed Coos Bay wagon road grant lands by the acts of June 9, 1916 (39 Stat. 218) and February 26, 1919 (40 Stat. 1179), respectively.

(b) The act of August 28, 1937 (50 Stat. 874), provides for the conservation and the management of the said revested and reconveyed lands and authorizes the Secretary of the Interior to make rules and regulations in furtherance of such purposes.

§ 244.71 *Statement of policy.* (a) Timber lands of the United States administered by the Bureau of Land Management in western Oregon, western Washington and northwestern California and intermingled and adjacent timber lands in other ownerships during the course of the years 1950 and 1951 have been visited by wind storms of unusually high velocity which have caused extensive wind throw of standing timber. In addition, fires of unusual intensity and magnitude during the summer of the year 1951 burned through extensive acreages of standing timber in the area. Therefore, in view of the extraordinary, immediate, emergency situation, short-term emergency access permits will be issued in accordance with the terms of §§ 244.70 to 244.92 to authorize use of lands of the United States administered by the Bureau of Land Management for the purpose of access to such timber salvage operations. Such permits will not authorize the use of such lands for the removal of other timber; long-term access to any timber controlled by an applicant, whether salvage or healthy, may be obtained over lands administered by Bureau pursuant to § 115.154 et seq. of this chapter, or §§ 244.39 and 244.40.

(b) An emergency access permit will authorize access to conduct a salvage operation for a term of not more than one year, with additional time allowed for necessary road construction. No extension except as authorized pursuant to § 244.78, and no renewal of any such permit will be granted nor will more than one such permit be issued respecting any specific salvage operation.

§ 244.72 *Definitions.* Except as the context may otherwise indicate, as the terms are used in §§ 244.70 to 244.92:

(a) "Bureau" means Bureau of Land Management.

(b) "Area Administrator" means the Area Administrator, Bureau of Land Management, or his authorized representative.

(c) "District Forester" means a district forester of the Bureau who is stationed in western Oregon, western Washington or northwestern California.

(d) "Tramroads" means tramways and wagon or motor truck roads to be used in connection with logging and the manufacturing of lumber.

(e) "Salvage area" means any timber land in western Oregon, western Washington or northwestern California either (1) within the exterior boundary of an area burned by a forest fire where the resulting fire hazard has not been abated, or (2) containing merchantable wind-thrown trees, or (3) which contains standing trees killed by or dying from Douglas fir beetle infestation.

(f) "Salvage operation" means the removal of trees that, in the judgment of the District Forester, are in a salvage area and subject to rapid deterioration because they have been killed or injured by some catastrophic natural cause such as wind, fire, disease or insect infestation, and of timber which, in the judgment of the District Forester, is susceptible to insects. A salvage operation may include, in addition, the removal of healthy intermingled and adjacent trees, provided:

(1) Either the total volume of the trees to be removed does not exceed 100,000 board feet, or

(2) Such healthy trees are, in the judgment of the District Forester, physically located so that their removal is required by normal logging practices, or their removal is economically necessary to make a minimum practical logging operation; for a salvage operation in which logs can be yarded with crawler type tractors, the volume of such healthy timber shall not exceed 35 percent of the total volume to be removed, and for a salvage operation in which logs must be yarded with donkey engine the volume of the healthy timber may not exceed 65 percent of the total volume to be removed.

(g) "Timber susceptible to insects" means healthy and drought weakened living trees most immediately adjacent to and not exceeding in number the currently critically infested trees which, in turn, are immediately adjacent to an area covered with trees which are dead or dying as the result of an attack by Douglas fir beetles.

(h) "Critically infested tree" means a tree infested with Douglas fir beetles to such an extent that such infestation may be reasonably expected to cause the death of such tree.

(i) "Emergency access permit" means a permit issued pursuant to §§ 244.70 to 244.92.

(j) "Management" means police protection, fire suppression and suppression, inspection, cruising, reforestation, thinning, stand improvement, inventorying, surveying, construction and maintenance of improvements, disposal of land, the control of forest insects, pests and disease, and other activities of a similar nature.

(k) "Licensee" means with respect to any road or right-of-way, any person who is authorized to remove forest products derived from a salvage operation conducted on lands of the United States. A licensee is not an agent of the United States.

(l) "Direct control" of a road, right-of-way, or land, by an applicant for an emergency access permit, means that such applicant has authority to permit the United States and its licensees to use such road, right-of-way or land in accordance with §§ 244.70 to 244.92.

(m) "Indirect control" of a road, right-of-way, or land, by an applicant for an emergency access permit means that such road, right-of-way, or land, is not directly controlled by him but is subject to use by him or by:

(1) A principal, disclosed or undisclosed, of the applicant; or

(2) A beneficiary of any trust or estate administered or established by the applicant; or

(3) Any person having or exercising the right to designate the immediate destination of the timber to be transported over the right-of-way for which application is made; or

(4) Any person who at any time has owned, or controlled the disposition of the timber to be transported over the right-of-way applied for, and during the 24 months preceding the filing of the application has disposed of such ownership or control to the applicant or his predecessor, under an agreement reserving or conferring upon the grantor the right to share directly or indirectly in the proceeds realized upon the grantee's disposal to third persons of the timber or products derived therefrom or the right to reacquire ownership or control of all or any part of the timber prior to the time when it undergoes its first mechanical alteration from the form of logs; or

(5) Any person who stands in such relation to the applicant that there is liable to be absence of arm's length bargaining in transactions between them relating to such road, rights-of-way, or lands.

§ 244.73 Nature of emergency access permit. (a) An emergency access permit does not constitute an easement and does not confer any right on the permittee to any material for construction or other purposes. An emergency access permit is merely a non-exclusive license to transport across lands of the United States administered by the Bureau of Land Management and specified in such emergency access permit, forest products derived from a specified salvage operation.

(b) An emergency access permit, when issued, is intended only to afford to the permittee access necessary for an immediate salvage operation in timber which is to be specifically described in such emergency access permit. Such an emergency access permit is not intended to afford access for the harvesting of timber other than that described in such permit. Its sole function is as an aid to conservation in the immediate removal of timber, of the type described in § 244.72 (f), which constitutes a present menace to healthy timber in the area. Such emergency access permit is not intended, therefore, to accommodate logging activities of a continuing nature. Where there is more than one salvage operation to be conducted on land tributary to the same road or same road system, an emergency access permit may be issued to embrace any one or more of such operations, or a separate emergency access permit may be issued for each such operation. But with respect to any single salvage operation, no more than one emergency access permit will be issued and no renewal or extension thereof will be granted except an extension for road construction purposes, pursuant to

§ 244.78: Provided, however, That if a permittee's access to a salvage operation is suspended by virtue of an award of arbitrators made pursuant to § 244.81, or pursuant to an agreement, approved by the District Forester, with a licensee, the term of the permit shall be extended by adding thereto a period equal to the period of such suspension.

§ 244.74 Filing of application. An application for an emergency access permit must be submitted in duplicate on Form 4-1213 and filed in the office of the appropriate district forester. Application forms will be furnished by the District Forester on request. No application will be received for filing subsequent to one year from the date when §§ 244.70 to 244.92 are published in the **FEDERAL REGISTER**.

§ 244.75 Contents of application. (a) An individual applicant and each member of an unincorporated association which is an applicant must state in the application whether he is a native born or a naturalized citizen of the United States. Naturalized citizens will be required to furnish evidence of naturalization pursuant to the provisions of Part 137 of this chapter.

(b) An application by an unincorporated association must disclose the names of all the members of such association.

(c) An application by a private corporation must include the statement of the president, vice president or secretary of such corporation that the corporation is authorized to transact business within the State involved.

(d) Where the application is for an emergency access permit across lands over any portion of which the applicant proposes to construct a road, the application must be accompanied by two copies of a sketch map showing the approximate route of the proposed road. The authorized officer, where he finds it to be in the public interest, may require an applicant to furnish a more accurate map showing the survey of the proposed road and the specifications to which the applicant proposes to construct such road.

(e) Where the application is for the use of an existing road, the applicant must furnish a map adequate to show the location of such road, together with a statement of the nature of any improvement he proposes to make on such road.

(f) Every application must also be accompanied by a diagram indicating the roads and rights-of-way which form an integral part of the road system with which the requested route of access will connect, the portion of such road systems which the applicant directly controls within the meaning of § 244.72 (k), the portions thereof which the applicant indirectly controls within the meaning of § 244.72 (l), and the portions thereof as to which the applicant has no control within the meaning of such sections. As to the portions over which the applicant has indirect or no control, he must furnish a statement showing, for the two years preceding the date of the filing of the application, the date and nature of any change in his control. The diagram shall also contain the name of the person whom the applicant believes directly controls any portion of such road system

which the applicant does not directly control. The map must bear the certification of the applicant that the facts as to control as set forth in such map are true to the best of the applicant's information and belief.

§ 244.76 Reciprocal road use agreement; recordation. (a) Unless the authorized officer finds that use of the road system (including both existing roads and lands over which such roads are practically able to be extended, for authority to traverse any portion of which system the applicant seeks an emergency access permit) will not be convenient or economically necessary for access to and the removal of forest products from salvage operation on lands administered by the Bureau, the authorized officer, as a condition precedent to the issuance of such permit, shall require the applicant:

(1) As to such portions of such road system as are directly controlled by the applicant, to grant to the United States and its licensees rights of use; and

(2) As to such portions of such road system as are indirectly controlled by the applicant, either to obtain rights of use for the United States and its licensees or to make a showing satisfactory to the authorized officer that he has negotiated therefor in good faith and to waive to the United States, its licensees and permittees any exclusive or restrictive rights he might have to such portions of the road system as are indirectly controlled by him.

(b) Rights of use granted to the United States and its licensees under paragraph (a) of this section shall be for a period of time to be fixed pursuant to § 244.78 and for the purposes set forth in § 244.77. Where the United States or its licensees exercises such right of use, the permittee shall be entitled to receive compensation therefor to be fixed in accordance with the standards and procedures set forth in § 244.79 or §§ 244.80 and 244.82.

(c) Where the authorized officer finds that no such rights will be needed by the United States for the conduct of salvage operations on its lands tributary to such road system, he may issue an emergency access permit without requesting the applicant to grant any rights to the United States under this section.

(d) Any grant of rights to the United States made pursuant to this section unless modified under § 244.79, shall be executed on Form 4-1214, which shall constitute and form a part of any emergency access permit issued upon the application involved. The applicant shall record such grant in the office of land records of the county or counties in which the roads or lands subject to the agreement are located and submit to the issuing officer not later than 30 days after the issuance of the emergency access permit, a true copy of such agreement bearing the certificate of the appropriate county official as to such recordation. Failure either to cause such recordation or to furnish such certificate thereof in accordance with this paragraph shall void such emergency access permit.

§ 244.77 *Use by the United States and its licensees of rights received from a permittee.* The use by the United States and its licensees of any of the rights received from a permittee hereunder shall be limited to that which is necessary for management purposes, or to reach, by the most reasonably direct route, involving the shortest practicable use of the permittee's road system, a road or highway which is suitable for the transportation of forest products in the type and size of vehicle customarily used for such purposes and which is legally available for public use for ingress to and the removal of forest products from salvage operations on lands administered by the Bureau. However, the type and size of vehicle which may be used by the licensee on the permittee's road shall be governed by § 244.79 or § 244.81.

§ 244.78 *Duration and location of rights granted or received by the United States.* The rights granted by the United States under §§ 244.70 to 244.92, will be for a stated term of not to exceed one year for the transportation of forest products to be derived from a specified salvage operation plus not to exceed 3 months for such road construction as may be necessary: *Provided, however,* That upon a permittee's showing, made prior to the expiration of the period, if any, allowed for such construction, that unusual weather conditions have delayed completion of such construction, a district forester may in his discretion extend the period for such construction for not to exceed a total of three additional months: *And provided further,* That if a permittee's access to a salvage operation is suspended by virtue of an award made by arbitrators pursuant to § 244.81 or pursuant to an agreement, approved by the authorized officer, with a licensee, the term of the permit shall be extended by adding thereto a period equal to the period of such suspension. Rights granted to the United States shall be for such term as will enable a licensee to commence during either the calendar year in which the permit is issued or during one of the two next succeeding calendar years a salvage operation on lands administered by the Bureau, and to complete such salvage operation in accordance with the provisions of such authorization; normally such a licensee will be allowed only one year to complete a salvage operation plus not to exceed three months for the construction of any necessary access roads. In any event, a grant made to the United States under § 244.76 shall finally expire not later than four years and six months after the date when such grant is made.

§ 244.79 *Permittee's agreement with United States respecting compensation and adjustment of road use.* (a) Where the United States receives rights over any road, right-of-way, or lands, controlled directly or indirectly by a permittee, the authorized officer will seek to arrive at an agreement with the permittee respecting any or all of such matters as the time, route, and specifications for the development of the road system in the area; a reasonable fee for use by a licensee for access to and the removal of forest products from salvage operations on lands administered by the Bureau; provisions for road maintenance; the use, in addition to the uses

set forth in § 244.77, which the United States and its licensees may make of the road system involved; a formula for determining the proportionate capacity of the road system or portions thereof which shall be available to the United States and its licensees for the transportation of forest products derived from salvage operations conducted on lands administered by the Bureau; the amount and type of insurance to be carried, and the type of security to be furnished by licensees of the United States who use such road; and such other similar matters as the regional administrator may deem appropriate. To the extent necessary to fulfill the obligations of the United States under any such agreement, subsequent contracts for salvage operations on lands managed by the Bureau and tapped by such road system, will contain such provisions as may be necessary or appropriate to require such licensees to comply with the terms of the agreement.

(b) The provisions of §§ 244.80 and 244.81 shall not be applicable to any matters embraced in an agreement made pursuant to this section.

§ 244.80 *Agreements and arbitration between permittee and licensee respecting compensation payable by licensee to permittee for use of road.* (a) In the event the United States exercises the rights received from a permittee pursuant §§ 244.70 to 244.92 to license a person to remove forest products over any road, right-of-way, or lands of the permittee or of his successor in interest, to the extent that such matters are not covered by an agreement under § 244.79, such licensee will be required to pay the permittee or his successor in interest such compensation and to furnish him such security, and to carry such liability insurance as the permittee or his successor in interest and the licensee may agree upon. If the parties do not agree, then upon the written request of either party delivered to the other party, the matter shall be referred to and finally determined by arbitration in accordance with the procedures established by § 244.82.

(b) During the pendency of such arbitration proceedings, the licensee shall be entitled to use the road, right-of-way or land involved upon payment, or tender thereof validly maintained, to the permittee of an amount to be determined by the authorized officer and the furnishing to the permittee of a corporate surety bond in an amount equal to the difference between the amount fixed by him and the amount sought by the permittee. The licensee shall also, as a condition of use in such circumstances, maintain such liability insurance in such amounts covering any additional hazard and risk which may accrue by reason of the licensee's use of the road, as the regional administrator may prescribe.

(c) The arbitrators shall base their award as to the compensation to be paid by the licensee to the permittee or his successor in interest upon the amortization of the replacement costs for a road of the type involved, including in such replacement costs any extraordinary cost peculiar to the construction of the particular road involved and subtracting therefrom any capital investment made by the United States or its licensees in the particular road involved or in im-

provements thereto used by and useful to the permittee or his successor in interest plus a reasonable interest allowance on the resulting cost figure, taking into account the risk involved, plus costs of maintenance if furnished by the permittee or his successor, including costs of gates and gateman. In arriving at the amortization item, the arbitrators shall take into account the probable period of time, past and present, during which such road may be in existence, and the volume of timber which has been moved and the volume of timber, currently merchantable, which probably will be moved from all sources over such road. The arbitrators shall also take into account the extent to which the use which the licensee might otherwise economically make of the road system is limited by § 244.77. In addition, the arbitrators may fix the rate at which payments shall be made by the licensee during his use of the road. The arbitrators shall require the licensee to provide adequate bond, cash deposit, or other security to indemnify the permittee or his successor in interest against failure of the licensee to comply with the terms of the award and against damage to the road not incident to normal usage, and for any other reasonable purpose, and also to carry appropriate liability insurance covering any additional hazard and risks which may accrue by reason of the licensee's use of the road.

(d) Where improvements or additions are required to enable a licensee to use a road or right-of-way to remove timber or forest products, the cost of such improvements will be allowable to the licensee.

(e) The full value at current stumpage prices will be allocable against a licensee for all timber to be cut, removed, or destroyed by the licensee on a permittee's land in the construction or improvement of the road involved.

§ 244.81 *Agreements and arbitration between permittee and licensee respecting adjustment of road use.* (a) When the United States exercises the right received under §§ 244.70 to 244.92 to license any person to use a road of a permittee, the permittee or his successor in interest shall not unreasonably obstruct such licensee in such use. If there has been no agreement under § 244.79 covering such matters, the permittee shall have the right to prescribe reasonable operating regulations, to apply uniformly as between the permittee and such licensee, covering the use of such road for such matters as speed and load limits, scheduling of hauls during period of use by more than one timber operator, coordination of peak periods of use, and such other matters as are reasonably related to safe operations and protection of the road; if the capacity of such road should be inadequate to accommodate the use thereof which such licensee and permittee desire to make concurrently, they shall endeavor to adjust their respective uses by agreement.

(b) If the permittee and such licensee are unable to agree as to the reasonableness of such operating regulations or on the adjustment of their respective uses where the capacity of the road is inadequate to accommodate their concurrent use, then upon the written request of either party delivered to the other party, the matter shall be referred to and finally

determined by arbitration in accordance with the procedures established by § 244.82.

(c) The arbitrators may make such disposition of a dispute involving the reasonableness of such operating regulations as appears equitable to them, taking into account the capacity and the construction of the road and the volume of use to which it will be subjected. In the determination of a dispute arising out of the inadequacy of the capacity of a road to accommodate the concurrent use by a permittee and a licensee, the arbitrators may make such disposition thereof as appears equitable to them, taking into account, among other pertinent facts, the commitments of the permittee and the licensee with respect to the cutting and removal of the salvage timber involved; the extent to which each of the parties may practicably use his resources in the conduct of other salvage operations; the extent to which the timber to be salvaged constitutes a threat to healthy timber; the extent to which Federal timber has contributed to the amortization of the capital costs of such road; and the extent to which the United States or its licensees have enlarged the road capacity.

§ 244.82 *Arbitration procedure.* (a) As to arbitration proceedings relating to the terms or conditions of use of roads, rights-of-way or lands in Oregon:

(1) Within ten days after the delivery of a written request for arbitration under § 244.80 or § 244.81, each of the parties to the disagreement shall appoint an arbitrator and the two arbitrators thus appointed shall select a third arbitrator. If either party fails to appoint an arbitrator as provided herein, the other party may apply to a court of record of the State of Oregon for the appointment of such an arbitrator, as provided by the laws of such State. If within ten days of the appointment of the second of them, the original two arbitrators are unable to agree upon a third arbitrator who will accept the appointment, either party may petition such a court of record of the State of Oregon for the appointment of a third arbitrator. Should any vacancy occur by reason of the resignation, death or inability of one or more of the arbitrators to serve, the vacancy shall be filled according to the procedures applicable to the appointment of the arbitrator whose death, disability, or other inability to serve, created the vacancy.

(2) By mutual agreement, the parties may submit to a single arbitration proceeding controversies arising under both §§ 244.80 and 244.81.

(3) The arbitrators shall hear and determine the controversy and make, file, and serve their award in accordance with the substantive standards prescribed in §§ 244.80 and 244.81 for the type of controversy involved and in accordance with the procedures established by the laws of the State of Oregon pertaining to arbitration proceedings. A copy of the award shall also be served at the same time upon the area administrator, either personally or by registered mail.

(4) Costs of the arbitration proceedings shall be assessed by the arbitrators against either or both of the parties, as may appear equitable to the arbitrators,

taking into account the original contentions of the parties, the ultimate decision of the arbitrators and such other matters as may appear relevant to the arbitrators.

(b) Arbitration proceedings involving the terms or conditions of use of roads, rights-of-way or lands in California or Washington shall be in accordance with the respective State law, if any, is applicable. In the absence of applicable State law, controversies involving arbitration shall be arbitrated in accordance with the rules then obtaining of the American Arbitration Association.

§ 244.83 *Payment required for Government timber.* An applicant will be required to pay in advance of the issuance of the permit, the full stumpage value as determined by the authorized officer of the estimated volume of all timber to be cut, removed, or destroyed, in the construction or operation of the road on lands administered by the Bureau.

§ 244.84 *Payment to the United States for road use.* Where the permittee receives a right to use a road constructed or acquired by the United States, which is under the administrative jurisdiction of the Bureau of Land Management, he will be required to pay to the United States for the use thereof, except where he transports forest products purchased from the United States through the Bureau, a reasonable fee to be determined by the authorized officer: *Provided, however,* That this section shall not apply where payment for such road use to another permittee is required under §§ 244.70 to 244.92.

§ 244.85 *Bond in connection with existing roads.* An applicant for an emergency access permit to use an existing Government road which is under the administrative jurisdiction of the Bureau will be required, for the protection of such existing road, to execute a bond on Form 4-414 (a) in an amount to be determined by the authorized officer but in no event less than five hundred dollars (\$500) per mile or fraction thereof, conditioned on compliance with §§ 244.70 to 244.92 and the terms and conditions of the permit.

§ 244.86 *Approval of permit.* Upon the applicant's compliance with the appropriate provisions of §§ 244.70 to 244.92 and if it is determined that the approval of the application will be in the public interest, the authorized officer may issue an appropriate permit, upon Form 4-1213.

§ 244.87 *Terms and conditions of permit.* (a) As to all emergency access permits: Every permittee shall agree:

(1) To comply with the applicable regulations in effect as of the time when the permit is issued.

(2) Not to cut, remove, or destroy any timber not previously purchased on the right-of-way without having first obtained specific authority from the authorized officer and making payment therefor.

(3) To take adequate precaution to prevent and suppress forest, brush, and grass fires; to endeavor with all available personnel to suppress any fire originating on or threatening the right-of-way; to do no burning on or near the right-of-

way without State permit during the seasons that permits are required but in any event to set no fire on or near the right-of-way that will result in damage to any natural resource or improvement.

(4) To submit to arbitration proceedings and to be bound by the resulting arbitral awards, pursuant to §§ 244.80 to 244.82.

(5) In the event that the United States acquires by purchase or eminent domain the land or any interest therein, over which there passes a road which the United States has acquired the right to use under § 244.76, to waive compensation for the value of the road, equivalent to the proportion that the amount the United States has contributed bears to the total actual cost of construction of the road. Such contribution shall include any investment in or amortization of the cost of such road, or both, as the case may be, made by the United States or a licensee either by way of direct expenditures upon such road, or by way of payment by the United States or a licensee to the permittee, or by way of allowance made by the United States to the permittee in any timber sales contract for such amortization or capital investment.

(6) To construct all roads and other improvements as described in the application for the permit, except as the authorized officer may authorize modification or abandonment of any such proposed construction.

(7) To use the permit and right-of-way afforded subject to all valid existing rights, to such additional rights-of-way as may be granted under §§ 244.70 to 244.92, to a reservation of rights-of-way for ditches and canals constructed under authority of the United States.

(8) In the exercise of the rights granted by the permit, not to discriminate against any employee or applicant for employment because of race, creed, color or national origin, and to require an identical provision to be included in all subcontracts.

(9) Except as the authorized officer may otherwise permit or direct, to clean up and remove from the road and right-of-way within six months after the expiration or other termination of the permit, all debris, refuse, and waste material which may have resulted from his operations and use of said road; to repair all damage to said road resulting directly or indirectly from his use thereof; and to remove therefrom all structures, timbers, and other objects that may have been installed or placed thereon by him in connection with said operations or use: *Provided, however,* That the road and all usable road improvements shall be left in place.

(b) As to emergency access permits for the use of an existing road: In addition, every permittee to whom an emergency access permit is issued for the use of an existing road is required to agree:

(1) To maintain such a road in an adequate and satisfactory condition or to arrange therefor with the other users of the road. In the absence of satisfactory performance, the authorized officer may have such maintenance work performed as may be necessary in his judgment, determine the proportionate share allocable to each user, and collect the cost

thereof from the parties or the sureties on the bonds furnished by said parties.

(2) Upon the expiration or other termination of his right to its use, to leave said road and right-of-way in at least as good a condition as existed prior to the commencement of his use.

§ 244.88 *Assignment of permit.* Any proposed assignment of an emergency access permit must be submitted in duplicate, within 90 days after the date of its execution, to the District Forester, accompanied by the same showing and undertaking by the assignee as is required of an applicant by §§ 244.75 and 244.76; and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the permit and the applicable regulations of the Department of the Interior in force as of the date of such approval of the assignment.

§ 244.89 *Causes for termination of permittee's rights.* (a) The authorized officer in his discretion may elect upon 30 days' notice to terminate any permit or right-of-way issued under §§ 244.70 to 244.92 if:

(1) In connection with the application made therefor, the applicant represented any material fact knowing the same to be false, or made such representation in reckless disregard of the truth; or

(2) A permittee, subsequent to the issuance of a permit or right-of-way to him, misrepresents any material fact to the Bureau, in accordance with any requirement of such permit or knowing such representation to be false, or make such representation in reckless disregard of the truth.

(b) The authorized officer, in his discretion may elect to terminate any permit issued under §§ 244.70 to 244.92, if the permittee shall fail to comply with any of the provisions of such regulations or make default in the performance or observation of any of the conditions of the permit, and such failure or default shall continue for 10 days after service of written notice thereof.

(c) Notice of such termination shall be served personally or by registered mail upon the permittee, shall specify the misrepresentation, failure or default involved, and shall be final, subject, however, to the permittee's right of appeal.

(d) Termination of the permit and of the right-of-way under this section shall not operate to terminate any right granted to the United States pursuant to §§ 244.70 to 244.92, nor shall it affect the right of the permittee, after the termination of his permit and right-of-way to receive compensation and to establish road operating rules with respect to roads controlled by him which the United States has the right to use and to permit its licensees to use; nor shall it relieve the permittee of his duty under §§ 244.70 to 244.92 to submit to and be bound by arbitration pursuant to §§ 244.79 to 244.81.

§ 244.90 *Remedies for violations by licensee.* (a) No licensee of the United States will be authorized to use the roads of a permittee except under the terms of a timber sale contract which will require the licensee to comply with all the applicable provisions of §§ 244.70 to 244.92, and any agreements or awards

made pursuant thereto. If a licensee fails to comply with the regulations, agreements, or awards, the authorized officer will take such action as may be appropriate under the provisions of the timber sale contract.

(b) A permittee who believes that a licensee is violating the provisions of such a timber sale contract pertaining to use of the permittee's roads, rights-of-way, or lands, may petition the authorized officer, setting forth the grounds for his belief, to take such action against the licensee as may be appropriate under the contract. In such event the permittee shall be bound by the decision of the authorized officer subject, however, to a right of appeal pursuant to § 244.92 and subject, further, to the general provisions of law respecting review of administrative determinations. In the alternative a permittee who believes that a licensee has violated the terms of the timber sale contract respecting the use of the permittee's roads may proceed against the licensee in any court of competent jurisdiction to obtain such relief as may be appropriate in the premises.

§ 244.91 *Disposition of property on termination of permit.* Upon the expiration or other termination of the permittee's rights, in the absence of an agreement to the contrary, the permittee will be allowed six months in which to remove or otherwise dispose of all property or improvements, other than the road and usable improvements to the road, placed by him on the right-of-way, but if not removed within this period, all such property and improvements shall become the property of the United States.

§ 244.92 *Appeals.* An appeal, pursuant to the Rules of Practice, Part 221 of this chapter, may be taken from any final decision to the Director, Bureau of Land Management, and, from the latter's decision to the Secretary of the Interior.

APPENDIX FORMS¹

Reference should be made to the appropriate section of the regulations to determine when each of the forms is required.

Forms Nos. 2, 4, 6, 7, 9, and 10 may be signed by any officer or employee of the company who is authorized to sign them. However, if they are executed by a person other than the President, they must be accompanied by a certified copy of the minutes of the Board of Directors meeting or other document authorizing such signature unless such certified copy has already been filed in the case.

Forms 1 and 2 to be placed on maps. See section 244.6 (a) (7).

ENGINEER'S STATEMENT

(Form 1)

----- states he is by
(Name of engineer)
occupation a ----- em-
(Type of engineer)
ployed by the ----- to
(Company)
make the survey of the -----
(Kind of works)

as described and shown on this map; that the survey of said works was made by him (or under his supervision) and under authority, commencing on the ----- day of ----- 19-----, and ending on the ----- day of ----- 19-----; and that such survey is accurately represented upon this map.

(Engineer)

APPLICANT'S CERTIFICATE

(Form 2)

This is to certify that -----
(Engineer)

who subscribed the statement hereon is the person employed by the undersigned applicant to prepare this map, which has been adopted by the applicant as the approximate final location of the works thereby shown; and that this map is filed as a part of the complete application, and in order that the applicant may obtain the benefits of -----; and I further certify that the
(Cite statute)

right-of-way herein described is desired for -----

(State purpose)

[SEAL]

(Signature of applicant)

(Title)

Attest: -----
(Company)

FORMS FOR PLANT SITES ONLY

See sections 244.42 (a) and 244.66.

(Form 3)

----- states that
(Name of engineer)
he is the chief engineer of (or the person employed by) the -----
(Company)

under whose supervision the survey was made of the grounds selected by the company for structures for a plant site under the act of Congress approved February 15, 1901 (February 1, 1905, act of March 4, 1911, as amended, or act of February 25, 1920, as amended), said grounds (here describe as required by regulation, sec. 244.31); that the accompanying drawing correctly represents the locations of the said structures; and that in his belief the structures represented are actually and to their entire extent required for the necessary uses contemplated by the said Act.

(Signature of engineer)

(Form 4)

I, -----, do hereby certify
(Applicant) (Company officer)
that I am the ----- of the -----
(Title)

-----; that the survey of the struc-
(Company)

tures represented on the accompanying drawing was made under authority and by direction of the company, and under the supervision of -----, its chief engineer (or person employed in the premises), whose statement precedes this certificate; that the survey as represented on the accompanying drawing actually represents the structures required (here described as required by regulation, sec. 244.30), for plant site under the act of Congress approved February 15, 1901 (February 1, 1905, March 4, 1911, as amended, or February 25, 1920, as amended); and that the company, by resolution of its board of directors, passed on the ----- day of ----- 19-----, directed the proper officers to present the said drawing for approval in order that the company may obtain the use of the grounds required for said structures, under the provisions of said act.

[SEAL]

(Signature of applicant)

(Title)

(Company)

Attest:

¹Where necessary, these forms should be modified so as to be appropriate to the applicant (corporation, association, or individual), to the act invoked, and to the nature of the project.

FORMS FOR PROOF OF CONSTRUCTION
See section 244.15.

(Form 5)

----- states that he is
(Name of engineer)
the chief engineer (or was employed to supervise or check the construction of the canals, ditches, laterals, and reservoirs) for the -----; that said (canals, (Company)
ditches, laterals, and reservoirs) have been constructed under his supervision; that construction was commenced on the ----- day of ----- 19-----, and completed on the ----- day of ----- 19-----; that the constructed (canals, ditches, laterals, and reservoirs) as aforesaid, conform to the map which received the approval of the Department of the Interior on the ----- day of ----- 19-----.

(Signature of engineer)

(Form 6)

I, ----- certify
(Applicant) (Company officer)
that I am the ----- of the -----;
(Title) (Company)
that the (canals, ditches, laterals, and reservoirs) were actually constructed as set forth in the accompanying statement of -----, chief engineer (or the person employed by the company in the promises), and on the exact location represented on the map approved by the Department of the Interior on the ----- day of ----- 19-----; and that the company has in all things complied with the requirements of the act of (March 3, 1891) granting rights-of-way for (canals, ditches, laterals, and reservoirs) through public lands of the United States.

[SEAL]

(Signature of applicant)

(Title)

(Company)

Attest:

FORMS FOR RESERVOIR DECLARATORY
STATEMENT

(Form 7)

See section 244.30.
Res. D. S.
No. -----

Land Office at -----
----- 19-----

I, -----
(Applicant) (Company officer)
of -----
(Post office address)
do hereby certify that I am -----
(Title)
of the -----, and on behalf of
(Company)
said company, and under its authority, do hereby apply for the reservation of land in ----- county, State of -----, for the construction and use of a reservoir for furnishing water for livestock under the provisions of the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952). The location of said reservoir and of the land necessary for its use, is as follows: -----
of section ----- in township -----
of range ----- M., containing ----- acres.

To the best of my knowledge and belief the said land is not occupied or otherwise claimed, and is not mineral or otherwise reserved. The said reservoir is to be used in connection with -----
(Business of applicant)

The land owned or claimed by the applicant within the vicinity (within 3 miles) of the said reservoir is as follows:

(Describe by legal subdivision, section, township, and range)

No part of the land to be reserved under this application is or will be fenced unless written permission is first obtained from the Department of the Interior; the same will be kept open to the free use of any person desiring to water animals of any kind; the land will not be used for any purpose except the watering of stock; and the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Department of the Interior.

The water of said reservoir will cover an area of ----- acres in ----- of section ----- in township -----, of range ----- of said lands; the capacity of the reservoir will be ----- gallons, and the dam will be ----- feet high. The source of the water for said reservoir is -----

(Type and location

-----, and there are
of spring, stream, runoff, etc.)
no streams or springs within 2 miles of the land to be reserved except as follows:

(Insert names or other identification)

The applicant has filed no other declaratory statements under this act, except as follows:

No. ----- land office, area
to be reserved ----- acres.

No. ----- land office, area
to be reserved ----- acres.

No. ----- land office, area
to be reserved ----- acres.

No. ----- land office, area
to be reserved ----- acres.

Total, ----- acres, of which Nos. -----

are located in said county.
It is the bona fide purpose and intention of this applicant to construct and complete said reservoir and maintain the same in accordance with the provisions of said Act of Congress and such regulations as are or may be prescribed thereunder.

[SEAL]

(Signature of applicant)

(Title)

Attest: -----
(Company)

Land Office at -----

I, -----, manager of the
land office, do hereby certify that the foregoing application is for the reservation of lands subject thereto under the provisions of the Act of January 13, 1897; that there is no prior valid adverse right to the same; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Department of the Interior.

Fees, \$----- paid.

(Manager)

¹ Description should be in terms of smallest legal subdivision (40-acre tract or lot).

² Statement of business should include full information concerning the extent to which applicant is engaged in grazing, breeding, driving, or transporting livestock; the number and kinds of such stock; the place where they are being bred or grazed; whether within an enclosure or upon unenclosed lands; and the points from which and to which they are being driven or transported.

(Form 8)

See section 244.33.

----- says that he is the
(Chief engineer)
person who was employed to make the survey of a reservoir covering an area of ----- acres, the initial point of the survey being -----, said
(Describe as required by § 244.33)
reservoir having been constructed upon the ----- of section -----, township -----, range ----- M., as proposed by reservoir declaratory statement No. -----, which was filed in the local land office at -----, under the provisions of the
(City)
act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952); that the said survey was made on the ----- day of ----- 19-----; that the dam and all necessary works have been constructed in a substantial manner; that the reservoir has a capacity of ----- gallons of water.

(Signature of engineer)

(Form 9)

See section 244.33.

I, -----, do
(Applicant) (Company officer)
hereby certify that I am the -----
(Title)
of the ----- which filed (or
(Company)
that I am the person who filed) reservoir declaratory statement No. ----- in the local land office at -----; that the proposed reservoir has been constructed upon the ----- of section -----, township -----, range ----- M., covering an area of ----- acres; that the dam and all necessary works have been constructed in a substantial manner in good faith in order that the reservoir may be used and maintained for the purpose, and in the manner prescribed by the said act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 752), the provisions of which have been and will be complied with in all respects.

[SEAL]

(Signature of applicant)

(Title)

(Company)

Attest:

(Form 10)

See section 244.35.

----- says
(Applicant) (Company officer)
that he is the ----- of the -----
(Title)
----- which filed (or that he is the
(Company)
person who filed) reservoir declaratory statement No. ----- in the local land office at -----; that the reservoir constructed in pursuance thereof, as heretofore certified has been kept in repair; that water has been kept therein to the extent of not less than ----- gallons during the entire calendar year of 19-----; that neither the reservoir nor any part of the land reserved for use in connection therewith is or has been fenced during said year; and that the said company (or person) has in all respects complied with the provisions of the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952).

[SEAL]

(Signature of applicant)

(Title)

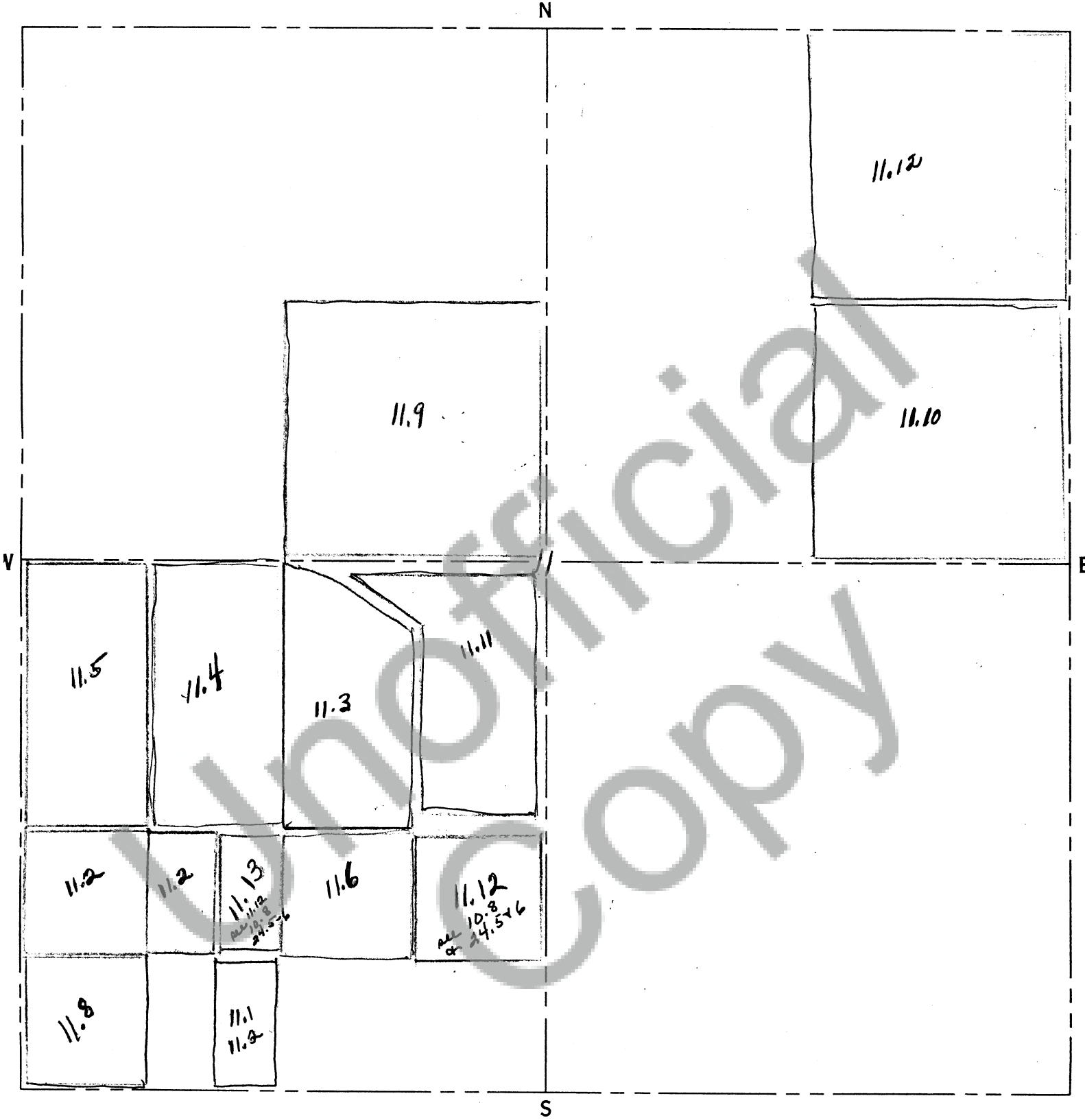
(Company)

Attest:

3-9

Section 11

SCALE FOR SECTION, { Each side large blue squares = 20 chains, 80 rods, 1320 feet; area of square 40 acres.
660 Ft. = 1 Inch. { Each side small red squares = 5 chains, 20 rods, 330 feet; area of square 2½ acres.



SCALE FOR QUARTER SECTION, { Each side large blue squares = 10 chains, 40 rods, 660 feet; area of square 10 acres.
330 Ft. = 1 Inch. { Each side small red squares = 2½ chains, 10 rods, 165 feet; area of square .625 of 1 acre.

PRONTO LAND MEASURE 660-330 MAP SHEET

PRONTO LAND MEASURE
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