

proof by certificate from the proper district or county officer that he has paid all charges then due to the district upon said land and also has paid to the proper district or county officer for the holder or holders of any tax certificates, delinquency certificates, or other proper evidence of purchase at tax sale the amount for which the said land was sold at tax sale, together with the interest and penalties thereon provided by law. (Aug. 11, 1916, c. 319, § 6, 39 Stat. 508.)

§ 629. **Delivery to register and to entryman of notices required by State law; right to hearing, appeal, etc.** All notices required by the irrigation district laws mentioned in this chapter shall, as soon as such notices are issued, be delivered to the register and receiver of the proper land office in cases where unpatented lands are affected thereby, and to the entryman whose unpatented lands are included therein, and the United States and such entryman shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership, and all entrymen shall be given the same rights of redemption as are given to the owners of lands held in private ownership. (Aug. 11, 1916, c. 319, § 7, 39 Stat. 509.)

§ 630. **Disposition by Government of proceeds of land sold.** All moneys derived by the United States from the sale of public lands referred to in this chapter shall be paid into such funds and applied as provided by law for the disposal of the proceeds from the sale of public lands. (Aug. 11, 1916, c. 319, § 8, 39 Stat. 509.)

#### Chapter 14.—GRANTS OF DESERT LANDS TO STATES FOR RECLAMATION (THE CAREY ACT)

Sec.

- 641. Grant of desert land to States authorized.
- 642. Liens for expenses of reclamation.
- 643. Temporary withdrawal from settlement or entry.
- 644. Preference right to entrymen under State laws.
- 645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation.
- 646. Grant extended to New Mexico and Arizona.
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- 648. Extension of time of segregation and reclamation in Oregon segregation lists.

**Section 641. Grant of desert land to States authorized.** To aid the public-land States in the reclamation of the desert lands therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President is, as of August 18, 1894, authorized and empowered, upon proper application of the State to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined in section 322 of chapter 9 of this title, to donate, grant, and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed occupied, and not less than twenty acres of each one hundred and sixty acre tract cultivated by actual settlers, as thoroughly as is required of citizens who may enter under the desert-land law, chapter 9 of this title, within ten years from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if actual construction of reclamation works is not begun within three years after the segregation of the lands or within such further period not exceeding three years, as shall be allowed by the Secretary of the Interior, the said Secretary of the Interior, in his discretion, may restore such lands to the public domain; and if the State fails, within ten years from the date of such segregation, to cause the whole or any part of the lands so segregated to be so irrigated and reclaimed, the Secretary of the Interior may, in his discretion, continue said segregation for a period not exceeding five years, or may, in his discretion, restore such lands not irrigated and reclaimed to the public domain upon the expiration of the ten-year period or of any extension thereof.

Before the application of any State is allowed or any contract or agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation, and the Secretary of the Interior may make necessary regulations for the reservation of the lands applied for by the States to date from the date of the filing of the map and plan of irrigation, but such reservation shall be of no force whatever if such map and plan of irrigation shall not be approved.

Any State contracting under this section is hereby authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation, and settlement.

As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed, and occupied by actual settlers, patents shall be issued to the State or its assigns for said lands so reclaimed and settled: *Provided*, That said States shall not sell or dispose of more than one hundred and sixty acres of said lands to any one person, and any surplus of money derived by any State from the sale of said lands in excess of the cost of their reclamation, shall be held as a trust fund for and be applied to the reclamation of other desert lands in such State. (Aug. 18, 1894, c. 301, § 4, 28 Stat. 422; Mar. 3, 1901, c. 853, 31 Stat. 1188; Jan. 6, 1921, c. 10, 41 Stat. 1085.)

§ 642. **Liens for expenses of reclamation.** Under any law heretofore or hereafter enacted by any State, providing for the reclamation of arid lands, in pursuance and acceptance of the terms of the grant made in the preceding section, a lien or liens is hereby authorized to be created by the State to which such lands are granted and by no other authority whatever, and when created shall be valid on and against the separate legal subdivisions of land reclaimed, for the actual cost and necessary expenses of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such State without regard to settlement or cultivation: *Provided*, That in no event, in no contingency, and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liability, in whole or in part. (June 11, 1896, c. 420, § 1, 29 Stat. 434.)

§ 643. **Temporary withdrawal from settlement or entry.** To aid in carrying out the purposes of section 641 of this chapter, it shall be lawful for the Secretary of the Interior, upon application by the proper officer of any State or Territory to which said section applies, to withdraw temporarily from settlement or entry areas embracing lands for which the State or Territory proposes to make application under said section, pending the investigation and survey preliminary to the filing of the maps and plats and application for segregation by the State or Territory: *Provided*, That if the State or Territory shall not present its application for segregation and maps and plats within one year after such temporary withdrawal the lands so withdrawn shall be restored to entry as though such withdrawal had not been made. (Mar. 15, 1910, c. 96, 36 Stat. 237.)

§ 644. **Preference right to entrymen under State laws.** The Secretary of the Interior, when restoring

to the public domain lands that have been segregated to a State under sections 641, 642, and 643, of this chapter, is authorized, in his discretion and under such rules and regulations as he may establish to allow for not exceeding ninety days to any Carey Act entryman a preference right of entry under applicable land laws of any of such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant under the Carey Act and upon which such person had established actual bona fide residence or had made substantial and permanent improvements: *Provided*, That each entryman shall be entitled to a credit as residence upon his new homestead entry allowed hereunder of the time that he has actually lived upon the claim as a bona fide resident thereof. (Feb. 14, 1920, c. 74, 41 Stat. 407.)

§ 645. **Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation.** An additional one million acres of arid lands within each of the States of Colorado, Idaho, Nevada, and Wyoming is made available and subject to the terms of section 641 of this chapter, and the States of Colorado, Nevada, Idaho, and Wyoming are allowed under the provisions of said section said additional area or so much thereof as may be necessary for the purposes and under the provisions of said section. (May 27, 1908, c. 200, § 1, 35 Stat. 347; Mar. 4, 1911, c. 285, § 1, 36 Stat. 1417; Aug. 21, 1911, No. 7, 37 Stat. 38.)

§ 646. **Grant extended to New Mexico and Arizona.** All the provisions of sections 641, 642, and 643 of this chapter, are extended to the States of New Mexico and Arizona, and the said States upon complying with the provisions of said section shall be entitled to have and receive all of the benefits therein conferred upon the States. (Feb. 18, 1909, c. 150, § 1, 35 Stat. 638.)

§ 647. **Grant extended to desert lands within part of former Ute Indian Reservation in Colorado.** The provision of sections 641, 642, and 643 of this chapter are extended over and shall apply to the desert lands within the limits of all that portion of the former Ute Indian Reservation, not included in any national forest, in the State of Colorado, described and embraced in the Act entitled "An Act relating to lands in Colorado lately occupied by the Unconipahgre and White River Ute Indians," approved July 28, 1882: *Provided*, That before a patent shall issue for any of the lands aforesaid under the terms of the said sections the State of Colorado shall pay into the Treasury of the United States the sum of \$1.25 per acre for the lands so patented, and the money so paid shall be subject to the provisions of section 3 of the Act of June 15, 1880, entitled "An Act to accept and ratify the agreements submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same."

No lands shall be included in any tract to be segregated under the provisions of this section on which the United States Government has valuable improvements, or which have been reserved for any Indian schools or farm purposes. (Feb. 24, 1909, c. 178, §§ 1, 2, 35 Stat. 644, 645.)

§ 648. **Extension of time of segregation and reclamation in Oregon segregation lists.** The Secretary of the Interior is authorized, within his discretion, to extend for a period of not exceeding ten years the time of segregation in the Oregon Carey Act segregation lists numbered 6 and 19, the two areas comprising 140,714 acres, in the aggregate, approximately 86,000 acres of which are irrigable, same being situated in Crook County, Oregon: *Provided*, That the Secretary of the Interior is further authorized to grant to the State of Oregon a similar extension of ten years for the reclamation of said lands in addition to the time allotted under rules, regulations, contracts, and laws February 26, 1917.

The Secretary of the Interior is also authorized, within his discretion, to continue to not beyond Janu-

ary 12, 1929, the segregation of the lands embraced in approved Oregon segregation list numbered 13.

The Secretary of the Interior is also authorized within his discretion to continue to not beyond October 21, 1930, the segregation of the lands embraced in approved Oregon segregation list numbered 11. (Feb. 26, 1917, c. 124, 39 Stat. 942; Mar. 3, 1919, c. 114, 40 Stat. 1322; June 5, 1920, c. 249, 41 Stat. 987.)

#### Chapter 15.—APPROPRIATION OF WATERS; RESERVOIR SITES

- Sec.
- 661. Appropriation of waters on public lands; right of way for canals and ditches.
  - 662. Reservation of reservoir sites generally.
  - 663. Restriction of sites to inclusion of necessary lands.
  - 664. Rights of way over reservoir sites generally.
  - 665. Rights of way over reservoir sites, wagon road, railroad, or other highway.

**Section 661. Appropriation of waters on public lands; right of way for canals and ditches.** Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by this section. (R. S. §§ 2330, 2340.)

R. S. § 2339 from Act July 26, 1866, c. 262, § 9, 14 Stat. 253.

R. S. § 2340 from Act July 9, 1870, c. 235, § 17, 16 Stat. 218.

§ 662. **Reservation of reservoir sites generally.** Sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, located or selected prior to August 30, 1890, shall remain segregated and reserved from entry, or settlement, until otherwise provided by law, and reservoir sites thereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof: *Provided*, That the President may at any time in his discretion, by proclamation, open any portion or all of the lands reserved by this provision to settlement under the homestead laws. (Oct. 2, 1888, c. 1069, 25 Stat. 526; Aug. 30, 1890, c. 837, § 1, 26 Stat. 391.)

§ 663. **Restriction of sites to inclusion of necessary lands.** Reservoir sites located or selected and to be located and selected shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs. (Mar. 3, 1891, c. 561, § 17, 26 Stat. 1101.)

§ 664. **Rights of way over reservoir sites generally.** All reservoir sites reserved or to be reserved shall be open to use and occupation under sections 946 to 949, inclusive, of this title, and any State is hereby authorized to improve and occupy such reservoir sites to the same extent as an individual or private corporation, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That the charges for water coming in whole or part from reservoir sites used or occupied under the provisions of this section shall always be subject to the control and regulation of the respective States and Territories in which such reservoirs are in whole or part situate. (Feb. 26, 1897, c. 335, 29 Stat. 599.)

§ 665. **Rights of way over reservoir sites, wagon road, railroad, or other highway.** In the form pro-