

State Lands, Right of Way Over. Irrigation District, Right of Way for Water Ditches Over State Lands.

A right of way for ditches over state lands may be granted upon such terms as may be agreed upon.

January 26th, 1914.

Honorable State Board of Land Commissioners,
Helena, Montana.

Gentlemen:

I am in receipt of your letter of the 13th instant, submitting correspondence of Mr. W. M. Johnson of Billings relative to right of way over state lands for water ditches of the Lockwood Irrigation District and submitting the inquiry:

“Has the state board the authority to grant a free right of way for such water ditches across such lands?”

If the Lockwood Irrigation District is created, organized and existing under and by virtue of the provisions of the state law relating to irrigation districts (Chap. 146, Laws of 1909), a right of way may be granted as provided in Sec. 26 of that act, but if this district is a private concern, the right of way, if granted would come under the provisions of Sec. 33, Chap. 146, Laws of 1909, and in such cases the right of way would stand on a par with a right of way granted over state lands for ditch, reservoir, private roads, railroads, etc. In this case the same is granted “upon such terms as may be agreed upon.”

I am not informed as to the status of the Lockwood Irrigation District; whether it is such a district as is contemplated by said Chap. 146 or whether it is strictly a private corporation for gain.

Yours very truly,

D. M. KELLY,
Attorney General.