

Right of Way Required by Government Irrigation Project.

The state board of land commissioners has the power to and is required to grant right of way over state lands for canals and ditches projected by the national government. No compensation is necessary or required in return for the grant of such right of way.

Helena, Montana, March 20, 1908.

Hon. John P. Schmit,
Register State Land Office,
Helena, Montana.

Dear Sir:—

I have your favor of March 17, 1908, wherein you ask my opinion as to whether the state board of land commissioners may grant, without receiving pay therefor, a certain right of way for an irrigating canal projected by the United States Government over two school sections owned by the State of Montana.

Chap 53 of the Session Laws of the State of Montana, 1905, provides expressly your authority for granting the Government a right of way in cases of this kind; in fact the second section of said act. in terms, grants to the United States the right of way, and provides the only action necessary on the part of the government to take advantage of this grant is to file with your board a map descriptive of the right of way proposed to be taken. This has been done in the case under consideration now, and upon the filing of these maps in your office the matter will be closed.

However, I think it well for the board to note the action taken by appropriate minute entry in your journal.

I herewith return all papers by you submitted.

Very truly yours,

ALBERT J. GALEN,
Attorney General.