

DEPARTMENT OF THE INTERIOR

GENERAL
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FEBRUARY 6, 1913
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LAWS AND REGULATIONS
RELATING TO THE RECLA-
MATION OF ARID LANDS
BY THE UNITED STATES



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LAWS AND REGULATIONS

RELATING TO THE RECLAMATION OF ARID LANDS BY THE UNITED STATES

STATUTES.

GENERAL ACTS.

An Act Appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all moneys received from the sale and disposal of public lands in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming, beginning with the fiscal year ending June thirtieth, nineteen hundred and one, including the surplus of fees and commissions in excess of allowances to registers and receivers, and excepting the five per centum of the proceeds of the sales of public lands in the above States set aside by law for educational and other purposes, shall be, and the same are hereby, reserved, set aside, and appropriated as a special fund in the Treasury to be known as the "reclamation fund," to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, and for the payment of all other expenditures provided for in this Act: *Provided,* That in case the receipts from the sale and disposal of public lands other than those realized from the sale and disposal of lands referred to in this section are insufficient to meet the requirements for the support of agricultural colleges in the several States and Territories, under the Act of August thirtieth, eighteen hundred and ninety, entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two," the deficiency, if any, in the sum necessary for the support of the said colleges shall be provided for from any moneys in the Treasury not otherwise appropriated.

SEC. 2. That the Secretary of the Interior is hereby authorized and directed to make examinations and surveys for, and to locate and construct, as herein provided, irrigation works for the storage, diversion, and development of waters, including artesian wells, and to report to Congress at the beginning of each regular session as to the results of such examinations and surveys, giving estimates of cost of all contemplated works, the quantity and location of the lands which can be irrigated therefrom, and all facts relative to the practicability

of each irrigation project; also the cost of works in process of construction as well as of those which have been completed.

SEC. 3. That the Secretary of the Interior shall, before giving the public notice provided for in section four of this Act, withdraw from public entry the lands required for any irrigation works contemplated under the provisions of this Act, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of this Act; and the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works: *Provided*, That all lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of this Act; that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable, and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry; that public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry only under the provisions of the homestead laws in tracts of not less than forty nor more than one hundred and sixty acres, and shall be subject to the limitations, charges, terms, and conditions herein provided: *Provided*, That the commutation provisions of the homestead laws shall not apply to entries made under this Act.

SEC. 4. That upon the determination by the Secretary of the Interior that any irrigation project is practicable, he may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing the necessary funds for such portions or sections are available in the reclamation fund, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project, and the number of annual installments, not exceeding ten, in which such charges shall be paid and the time when such payments shall commence. The said charges shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably: *Provided*, That in all construction work eight hours shall constitute a day's work, and no Mongolian labor shall be employed thereon.

SEC. 5.¹ That the entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section four. No right to the

¹ Sec. 5. Manner of payments, amended by act of Aug. 9, 1912. See p. 16.

use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such right shall permanently attach until all payments therefor are made. The annual installments shall be paid to the receiver of the local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancellation, with the forfeiture of all rights under this Act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this Act.

SEC. 6. That the Secretary of the Interior is hereby authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this Act: *Provided*, That when the payments required by this Act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior: *Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress.

SEC. 7. That where in carrying out the provisions of this Act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose, and it shall be the duty of the Attorney-General of the United States upon every application of the Secretary of the Interior, under this Act, to cause proceedings to be commenced for condemnation within thirty days from the receipt of the application at the Department of Justice.

SEC. 8. That nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated and beneficial use shall be the basis, the measure, and the limit of the right.

SEC. 9.¹ That it is hereby declared to be the duty of the Secretary of the Interior in carrying out the provisions of this Act, so far as

¹ Sec. 9 repealed by act of June 25, 1910, see p. 10.

the same may be practicable and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State and Territory hereinafter named for the benefit of arid and semiarid lands within the limits of such State or Territory: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State or Territory hereinbefore named as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable, to the end that ultimately, and in any event, within each ten-year period after the passage of this Act, the expenditures for the benefit of the said States and Territories shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid.

SEC. 10. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect.

Approved, June 17, 1902 (32 Stat., 388).

An Act Authorizing the use of earth, stone, and timber on the public lands and forest reserves of the United States in the construction of works under the national irrigation law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the provisions of the national irrigation law, approved June seventeenth, nineteen hundred and two, and in constructing works thereunder, the Secretary of the Interior is hereby authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is hereby authorized to permit the use of earth, stone, and timber from the forest reserves of the United States for the same purpose, under rules and regulations to be prescribed by him.

Approved, February 8, 1905 (33 Stat., 706).

An Act To provide for the covering into the reclamation fund certain proceeds of sales of property purchased by the reclamation fund.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be covered into the reclamation fund established under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, the proceeds of the sales of material utilized for temporary work and structures in connection with the operations under the said Act, as well as of the sales of all other condemned property which had been purchased under the provisions thereof, and also any moneys refunded in connection with the operations under said reclamation Act.

Approved, March 3, 1905 (33 Stat., 1032).

An Act Providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

SEC. 2. That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisal and sale, and the proceeds of such sales shall be covered into the reclamation fund.

SEC. 3. That the public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes.

SEC. 4. That the Secretary of the Interior shall, in accordance with the provisions of the reclamation Act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

SEC. 5.¹ That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

Approved, April 16, 1906 (34 Stat., 116).

An Act To extend the irrigation Act to the State of Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands,"

¹Sec. 5 amended by act of Feb. 24, 1911, see p. 14.

approved June seventeenth, nineteen hundred and two, be, and the same are hereby, extended so as to include and apply to the State of Texas.

Approved, June 12, 1906 (34 Stat., 259).

An Act Providing for the subdivision of lands entered under the reclamation Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in the opinion of the Secretary of the Interior, by reason of market conditions and the special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family on lands to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, he may fix a lesser area than forty acres as the minimum entry and may establish farm units of not less than ten nor more than one hundred and sixty acres. That wherever it may be necessary, for the purpose of accurate description, to further subdivide lands to be irrigated under the provisions of said reclamation Act, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the reclamation service, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivision surveys shall be noted upon the tract books in the General Land Office, and they shall be paid for from the reclamation fund: *Provided,* That an entryman may elect to enter under said reclamation Act a lesser area than the minimum limit in any State or Territory.

SEC. 2. That wherever the Secretary of the Interior, in carrying out the provisions of the reclamation Act, shall acquire by relinquishment lands covered by a bona fide unperfected entry under the land laws of the United States, the entryman upon such tract may make another and additional entry, as though the entry thus relinquished had not been made.

SEC. 3. That any town site heretofore set apart or established by proclamation of the President, under the provisions of sections twenty-three hundred and eighty and twenty-three hundred and eighty-one of the Revised Statutes of the United States, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of the Act of Congress approved April sixteenth, nineteen hundred and six, entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes;" and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund.

* * * * *

SEC. 5. That where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred

and two, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: *Provided,* That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements heretofore made on any such desert-land entry of which proof has been filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry, the entryman shall thereupon comply with all the provisions of the aforesaid Act of June seventeenth, nineteen hundred and two, and shall relinquish all land embraced within his desert-land entry in excess of one hundred and sixty acres, and as to such one hundred and sixty acres retained, he shall be entitled to make final proof and obtain patent upon compliance with the terms of payment prescribed in said Act of June seventeenth, nineteen hundred and two, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation Act.

Approved, June 27, 1906 (34 Stat., 519).

An Act Providing for the reappraisal of unsold lots in town sites on reclamation projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, whenever he may deem it necessary, to reappraise all unsold lots within town sites on projects under the reclamation Act heretofore or hereafter appraised under the provisions of the Act approved April sixteenth, nineteen hundred and six, entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes," and the Act approved June twenty-seventh, nineteen hundred and six, entitled "An Act providing for the subdivision of lands entered under the reclamation Act, and for other purposes"; and thereafter to proceed with the sale of such town lots in accordance with said Acts.

SEC. 2. That in the sale of town lots under the provisions of the said Acts of April sixteenth and June twenty-seventh, nineteen hundred and six, the Secretary of the Interior may, in his discretion, require payment for such town lots in full at time of sale or in annual installments, not exceeding five, with interest at the rate of six per centum per annum on deferred payments.

Approved, June 11, 1910 (36 Stat., 465).

An Act Providing that entrymen for homesteads within reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under original homestead Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the filing with the Commissioner of the General Land Office of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the Act of June seventeenth, nineteen hundred and two, may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said Act of June seventeenth, nineteen hundred and two, may receive from the United States a patent for the lands: *Provided*, That all assignments made under the provisions of this act shall be subject to the limitations, charges, terms, and conditions of the reclamation Act.

Approved, June 23, 1910 (36 Stat., 592).

An Act To authorize advances to the "reclamation fund," and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the Secretary of the Interior to complete government reclamation projects heretofore begun, the Secretary of the Treasury is authorized, upon request of the Secretary of the Interior, to transfer from time to time to the credit of the reclamation fund created by the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, such sum or sums, not exceeding in the aggregate twenty million dollars, as the Secretary of the Interior may deem necessary to complete the said reclamation projects, and such extensions thereof as he may deem proper and necessary to the successful and profitable operation and maintenance thereof or to protect water rights pertaining thereto claimed by the United States, provided the same shall be approved by the President of the United States; and such sum or sums as may be required to comply with the foregoing authority are hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sums hereby authorized to be transferred to the reclamation fund shall be so transferred only as such sums shall be actually needed to meet payments for work performed under existing law: *And provided further*, That all sums so transferred shall be reimbursed to the Treasury from the reclamation fund, as hereinafter provided: *And provided further*, That no part of this appropriation shall be expended upon any existing project until it shall have been examined and reported upon by a board of engineer officers of the Army, designated by the President of the United States, and until it shall be approved by the President as feasible and practicable and worthy of such expenditure; nor shall any portion of this appropriation be expended upon any new project.

SEC. 2. That for the purpose of providing the Treasury with funds for such advances to the reclamation fund, the Secretary of the Treasury is authorized to issue certificates of indebtedness of the United States in such form as he may prescribe and in denominations of fifty dollars, or multiples of that sum; said certificates to be redeemable at the option of the United States at any time after three years from the date of their issue and to be payable five years after such date, and to bear interest, payable semiannually, at not exceeding three per centum per annum; the principal and interest to be payable in gold coin of the United States. The certificates of indebtedness herein authorized may be disposed of by the Secretary of the Treasury at not less than par, under such rules and regulations as he may prescribe, giving all citizens of the United States an equal opportunity to subscribe therefor, but no commission shall be allowed and the aggregate issue of such certificates shall not exceed the amount of all advances made to said reclamation fund, and in no event shall the same exceed the sum of twenty million dollars. The certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under state, municipal, or local authority; and a sum not exceeding one-tenth of one per centum of the amount of the certificates of indebtedness issued under this Act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same.

SEC. 3. That beginning five years after the date of the first advance to the reclamation fund under this Act, fifty per centum of the annual receipts of the reclamation fund shall be paid into the general fund of the Treasury of the United States until payments so made shall equal the aggregate amount of advances made by the Treasury to said reclamation fund, together with interest paid on the certificates of indebtedness issued under this Act and any expense incident to preparing, advertising, and issuing the same.

SEC. 4. That all money placed to the credit of the reclamation fund in pursuance of this Act shall be devoted exclusively to the completion of work on reclamation projects heretofore begun as hereinbefore provided, and the same shall be included with all other expenses in future estimates of construction, operation, or maintenance, and hereafter no irrigation project contemplated by said Act of June seventeenth, nineteen hundred and two, shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States.

SEC. 5.¹ That no entry shall be hereafter made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage and fixed the water charges and the date when the water can be applied and made public announcement of the same.

SEC. 6. That section nine of said Act of Congress, approved June seventeenth, nineteen hundred and two, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," is hereby repealed.

Approved, June 25, 1910 (36 Stat., 835).

¹ Sec. 5 amended by act of Feb. 18, 1911, see p. 13.

An Act Granting leaves of absence to homesteaders on lands to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all qualified entrymen who have heretofore made bona fide entry upon lands proposed to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, known as the national irrigation Act, may, upon application and a showing that they have made substantial improvements, and that water is not available for the irrigation of their said lands, within the discretion of the Secretary of the Interior, obtain leave of absence from their entries, until water for irrigation is turned into the main irrigation canals from which the land is to be irrigated: *Provided,* That the period of actual absence under this Act shall not be deducted from the full time of residence required by law.

Approved, June 25, 1910 (36 Stat., 864).

An Act To provide for the sale of lands acquired under the provisions of the reclamation Act and which are not needed for the purposes of that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), commonly called the "reclamation Act," or under the provisions of any Act amendatory thereof or supplementary thereto, for any irrigation works contemplated by said reclamation Act are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land.

SEC. 2. That upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided,* That not over one hundred and sixty acres shall be sold to any one person.

SEC. 3. That the moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired.

Approved, February 2, 1911 (36 Stat., 895).

An Act To authorize the Secretary of the Interior to withdraw public notices issued under section four of the reclamation Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may, in his discretion, withdraw any public notice heretofore issued under section four of the reclamation Act of June seventeenth,

nineteen hundred and two, and he may agree to such modification of water-right applications heretofore duly filed or contracts with water users' associations and others, entered into prior to the passage of this Act, as he may deem advisable, or he may consent to the abrogation of such water-right applications and contracts, and proceed in all respects as if no such notice had been given.

Approved, February 13, 1911 (36 Stat., 902).

An Act To amend section five of the Act of Congress of June twenty-fifth, nineteen hundred and ten, entitled "An Act to authorize advances to the reclamation fund and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of an Act entitled "An Act to authorize advances to the reclamation fund and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes," approved June twenty-fifth, nineteen hundred and ten (Thirty-sixth Statutes at Large, page eight hundred and thirty-five), be, and the same hereby is amended as follows:

"SEC. 5. That no entry shall be hereafter made and no entryman shall be permitted to go upon lands reserved for irrigation purpose until the Secretary of the Interior shall have established the unit acreage and fixed the water charges and the date when the water can be applied and make public announcement of the same: *Provided,* That where entries made prior to June twenty-fifth, nineteen hundred and ten, have been or may be relinquished in whole or in part, the lands so relinquished shall be subject to settlement and entry under the homestead law as amended by an Act entitled 'An Act appropriating the receipts from the sale and disposal of the public lands in certain States and Territories to the construction of irrigation work for the reclamation of arid lands,' approved June seventeenth, nineteen hundred and two (Thirty-second Statutes at Large, page three hundred and eighty-eight)."

Approved, February 18, 1911 (36 Stat., 917).

An Act To authorize the Government to contract for impounding, storing, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is hereby authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage and carriage of water to an extent not exceeding such excess capacity with irrigation systems operating under the Act of August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, and individuals, corporations, associations, and irrigation districts organized for or engaged in furnishing or in distributing water for irrigation. Water so impounded, stored, or carried under any such contract shall be for the purpose of distribution to individual water

users by the party with whom the contract is made: *Provided, however,* That water so impounded, stored, or carried shall not be used otherwise than as prescribed by law as to lands held in private ownership within Government reclamation projects. In fixing the charges under any such contract for impounding, storing, or carrying water for any irrigation system, corporation, association, district, or individual, as herein provided, the Secretary shall take into consideration the cost of construction and maintenance of the reservoir by which such water is to be impounded or stored and the canal by which it is to be carried, and such charges shall be just and equitable as to water users under the Government project. No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage, carriage, or delivery of such water in excess of the charge paid to the United States except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their works.

SEC. 2. That in carrying out the provisions of said reclamation Act and Acts amendatory thereof or supplementary thereto, the Secretary of the Interior is authorized, upon such terms as may be agreed upon, to cooperate with irrigation districts, water users associations, corporations, entrymen or water users for the construction or use of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water users associations, corporations, entrymen or water users for impounding, delivering, and carrying water for irrigation purposes: *Provided,* That the title to and management of the works so constructed shall be subject to the provisions of section six of said Act: *Provided further,* That water shall not be furnished from any such reservoir or delivered through any such canal or ditch to any one landowner in excess of an amount sufficient to irrigate one hundred and sixty acres: *Provided,* That nothing contained in this Act shall be held or construed as enlarging or attempting to enlarge the right of the United States, under existing law, to control the waters of any stream in any State.

SEC. 3. That the moneys received in pursuance of such contracts shall be covered into the reclamation fund and be available for use under the terms of the reclamation Act and the Acts amendatory thereof or supplementary thereto.

Approved, February 21, 1911 (36 Stat., 925).

An Act To amend an Act entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes," approved April sixteenth, nineteen hundred and six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of an Act entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes," approved April sixteenth, nineteen hundred and six, be amended so as to read as follows:

"SEC. 5. That whenever a development of power is necessary for the irrigation of lands, under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is author-

ized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the money derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided,* That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project: *Provided further,* That the Secretary of the Interior is authorized, in his discretion, to make such a lease in connection with the Rio Grande project in Texas and New Mexico for a longer period not exceeding fifty years, with the approval of the water users' association or associations under any such project, organized in conformity with the rules and regulations prescribed by the Secretary of the Interior in pursuance of section six of the reclamation Act approved June seventeenth, nineteen hundred and two."

Approved, February 24, 1911 (36 Stat., 930).

An Act For the relief of homestead entrymen under the reclamation projects in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no qualified entryman who prior to June twenty-fifth, nineteen hundred and ten, made bona fide entry upon lands proposed to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, the national reclamation law, and who established residence in good faith upon the lands entered by him, shall be subject to contest for failure to maintain residence or make improvements upon his land prior to the time when water is available for the irrigation of the lands embraced in his entry, but all such entrymen shall, within ninety days after the issuance of the public notice required by section four of the reclamation Act, fixing the date when water will be available for irrigation, file in the local land office a water-right application for the irrigable lands embraced in his entry, in conformity with the public notice and an approved farm-unit plat for the township in which his entry lies, and shall also file an affidavit that he has reestablished his residence on the land with the intention of maintaining the same for a period sufficient to enable him to make final proof: *Provided,* That no such entryman shall be entitled to have counted as part of the required period of residence any period of time during which he was not actually upon the said land prior to the date of the notice aforesaid, and no application for the entry of said lands shall be received until after the expiration of the ninety days after the issuance of notice within which the entryman is hereby required to reestablish his residence and apply for water right.

Approved, April 30, 1912 (37 Stat., 105).

An Act Relating to partial assignments of desert-land entries within reclamation projects made since March twenty-eighth, nineteen hundred and eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a desert-land entry within the exterior limits of a Government reclamation project may be assigned in whole or in part under the Act of March twenty-eighth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page fifty-two), and the benefits and limitations of the Act of June twenty-

seventh, nineteen hundred and six (Thirty-fourth Statutes at Large, page five hundred and twenty), shall apply to such desert-land entryman and his assignees: *Provided*, That all such assignments shall conform to and be in accordance with farm units to be established by the Secretary of the Interior upon the application of the desert-land entryman. All such assignments heretofore made in good faith shall be recognized under this Act.

Approved, July 24, 1912 (37 Stat., 200).

An Act Providing for patents on reclamation entries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any homestead entryman under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided*, That no such patent or certificate shall issue until all sums due the United States on account of such land or water right at the time of issuance of patent or certificate have been paid.

SEC. 2. That every patent and water-right certificate issued under this Act shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with eight per centum interest and cost. And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: *Provided*, That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs.

SEC. 3. That upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certifi-

cate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance: *Provided*, That no person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water-right application shall have been made under the said reclamation Act of June seventeenth, nineteen hundred and two, and Acts supplementary thereto and amendatory thereof, before final payment in full of all instalments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction; and this proviso shall be recited in every patent and water-right certificate issued by the United States under the provisions of this Act.

SEC. 4. That the Secretary of the Interior is hereby authorized to designate such bonded fiscal agents or officers of the Reclamation Service as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation Act; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees, which copies shall be admissible in evidence, as are copies authenticated under section eight hundred and eighty-eight of the Revised Statutes.

SEC. 5. That jurisdiction of suits by the United States for the enforcement of the provisions of this Act is hereby conferred on the United States district courts of the districts in which the lands are situated.

Approved, August 9, 1912 (37 Stat., 265).

An Act Making appropriations to supply deficiencies in appropriations for the fiscal year nineteen hundred and twelve and for prior years, and for other purposes.

* * * * *

That any desert-land entryman whose desert-land entry has been embraced within the exterior limits of any land withdrawal or irrigation project under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, and who may have obtained a water supply for the land embraced in any such desert-land entry from the reclamation project by the purchase of a water-right certificate, may at any time after having complied with the provisions of the law applicable to such lands and upon proof of the cultivation and reclamation of the land to the extent required by the reclamation Act for home-

stead entrymen, submit proof of such compliance, which proof, if found regular and satisfactory, shall entitle the entryman to a patent and a final water-right certificate under the same terms and conditions as required of homestead entrymen under the Act entitled "An Act providing for patents on reclamation entries, and for other purposes, approved August ninth, nineteen hundred and twelve."

* * * * *
Approved, August 26, 1912 (37 Stat., 610).

SPECIAL ACTS.

The act of April 23, 1904 (33 Stat., 302), as amended by section 15 of the act of May 29, 1908 (35 Stat., 448), provides for the disposition and irrigation of lands within the limits of the Flathead Indian Reservation, Montana.

Section 25 of the act approved April 21, 1904 (33 Stat., 224), provides for the reclamation, allotment, and disposal of surplus irrigable lands in the Yuma and Colorado River Indian Reservations in California and Arizona.

Section 26 of the act of April 21, 1904, supra, provides for the reclamation, allotment, and disposal of surplus irrigable lands in the Pyramid Lake Indian Reservation, Nevada.

The act of April 27, 1904 (33 Stat., 357), authorizes the reclamation and disposition of irrigable lands in the ceded Crow Indian Reservation in Montana.

Section 12 of the act of March 22, 1906 (34 Stat., 82), provides for the disposition, under the reclamation act, of lands in the diminished Colville Indian Reservation, Washington.

The act of June 9, 1906 (34 Stat., 228), authorizes the disposition of lands in the abandoned Fort Shaw Military Reservation, Mont., under the reclamation act.

The act of March 6, 1906 (34 Stat., 53), authorizes the reclamation and disposal of surplus irrigable lands in the Yakima Indian Reservation, Washington.

The act of June 21, 1906 (34 Stat., 327), authorizes the sale of allotted Indian lands on reclamation projects, and the act of March 3, 1909 (35 Stat., 782), authorizes the Secretary of the Interior to make allotments of such lands in such areas as he may deem proper, not exceeding the amount therein named.

The act of March 1, 1907 (34 Stat., 1037), provides for the disposition of irrigable lands in the Blackfeet Indian Reservation, Montana.

The act of April 30, 1908 (35 Stat., 85), provides for the irrigation of Indian lands.

Sections 1 and 10 of the act of Congress approved May 30, 1908 (35 Stat., 558), provide for the reclamation of lands on the Fort Peck Indian Reservation, Montana.

Par. 5, Sec. 10, act of June 20, 1910 (36 Stat., 564), provides for the disposition of school lands in reclamation projects in the State of New Mexico.

Par. 5, Sec. 28, act of June 20, 1910 (36 Stat., 574), provides for the disposition of school lands in reclamation projects in the State of Arizona.

Section 1 of the act of June 22, 1910 (36 Stat., 583), authorizes the withdrawal and reclamation of classified coal land, patents for such lands to reserve to the United States the coal deposits therein.

REGULATIONS.

This circular contains only the laws specifically applying to reclamation homestead entries and water-right applications and regulations thereunder, but does not contain the general homestead laws, most of which also apply to reclamation homestead entries.

GENERAL INFORMATION.

1. Section 3 of the act of June 17, 1902 (32 Stat., 388), provides for the withdrawal of lands from all disposition other than that provided for by said act. Lands withdrawn as susceptible of irrigation (usually referred to as withdrawn under the second form) are subject to entry under the provisions of the homestead law only, and since the passage of the act of June 25, 1910 (36 Stat., 835), are open to settlement or entry only when approved farm unit plats have been filed and public notice has been issued in connection therewith, fixing the water charges and the date when water can be applied, except as provided by the act of February 18, 1911 (36 Stat., 917). Where settlements had been effected in good faith prior to June 25, 1910, on lands embraced within second form withdrawals, persons showing such settlement are entitled to complete entry in the manner and within the time provided by law. The reclamation act of June 17, 1902, and acts amendatory thereof or supplementary thereto are hereinafter referred to generally as the reclamation law.

2. Under the provisions of the act of February 18, 1911 (36 Stat., 917), the prohibition contained in section 5 of the act of Congress approved June 25, 1910, forbidding settlement on or entry of lands reserved for irrigation purposes prior to the approval of farm unit plats and the issuance of public notice fixing the water charges and the date when water can be applied, is withdrawn and set aside as to lands included in entries made prior to June 25, 1910, where such entries have been or may be relinquished in whole or in part.

3. Settlement and entry on such lands will be allowed subject to the provisions of the homestead law and the reclamation law, in the same manner as for other lands subject to entry within reclamation projects except that the certificate of the project manager that water-right application has been made and charges deposited, which must be filed in the ordinary case, is not required. (See pars. 5 and 74.) The lands must have been covered by a valid entry prior to June 25, 1910, and shall only be subject to entry under the provisions of the present act in cases where a relinquishment of the former entry has been or shall be filed. Registers and receivers in their action on applications to make homestead entry under the provisions of this act will be governed by the records of their office, and will note on all entries allowed hereunder the homestead number and date of the relinquished entry, and the fact that the new entry is allowed subject to the provisions of the act of February 18, 1911.

4. Entry under this act is permitted only after relinquishment of an entry made prior to June 25, 1910, and therefore the relinquishment of an entry made under this act, even though it covers lands which were the subject of another entry made prior to June 25, 1910, would not permit a third entry to be made. Lands entered under this act will be held subject to the prohibition contained in section 5 of the act of June 25, 1910, upon the relinquishment of an entry made under the act of February 18, 1911. This act has no application where the cancellation of the entry made prior to June 25, 1910, was the result of

a contest or relinquishment resulting from the same. (*Fred v. Hook*, 41 L. D., 67.) The act is also inapplicable in the case of lands withdrawn under the first form and has reference only to lands covered by second-form withdrawals. (*Annie G. Parker*, 40 L. D., 406.)

5. Homestead entries of lands platted to farm units and covered by public notice are made practically in the same manner as the ordinary homestead entry and registers and receivers will allow homestead applications for such lands, if found regular, and accompanied by a certificate of the project manager showing that water-right application has been filed and the proper water right charges deposited. No application to make homestead entry of lands within a reclamation project and covered by public notice will be allowed unless accompanied by such certificate of the project manager. If no such certificate is filed, the register and receiver will notify the applicant that unless such certificate is filed within thirty days the homestead application will be rejected without further notice and the case closed. If such certificate be filed before rejection the application will be allowed if otherwise regular. Where under the reclamation law lands within the reclamation project are subject to entry notwithstanding public notice covering said lands has not yet issued, such certificate of the project manager is not required, and in such cases the application, if otherwise regular, will be received and entry allowed. The register and receiver will immediately notify the project manager of each entry allowed, stating whether the entry was allowed with or without the certificate of the project manager above referred to. (See par.74.)

SUBDIVISION OF FARM UNITS.

6. An entry may be made of part of an established farm unit (a) when the remaining portion of said unit is also desired for entry simultaneously by another person and is, in the judgment of the project manager, sufficient, if carefully managed, to return to the reclamation fund the charges apportioned to the irrigable area thereof, or (b) can be advantageously included as part of an established farm unit, or (c) can in combination with existing farm units be advantageously replatted into new farm units, each sufficient, if carefully managed, to support a family and return to the reclamation fund the charges apportioned to the irrigable area of the several new farm units.

7. Where it is desired to make entry of part only of a farm unit, an application for the amendment and subdivision of such unit should be filed with the project manager. If such subdivision is rectangular and survey is not required to determine the division of the irrigable area of the farm unit as proposed to be divided, no charge will be made. If a survey shall be found necessary to determine the boundaries of the subdivision of any such farm unit or the division of the irrigable area, the project manager will proceed as directed in paragraph 35 of this circular. Upon such application being filed, the project manager will either approve or disapprove the same, and if approved, proceed as directed in paragraph 36 of this circular.

8. Registers and receivers will indorse across the face of each homestead application, when allowed under the reclamation act, the following: "This entry allowed subject to the provisions of the act of June 17, 1902 (32 Stat., 388)," and will advise each entryman of the provisions of the act by furnishing him with a copy of this circular.

9. These entries are not subject to the commutation provisions of the homestead law, and on the determination by the Secretary of the Interior that the proposed irrigation project is practicable, the entries hitherto made and not conforming to an established farm unit may be reduced in area to the limit representing the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question, and the lands within the project are platted to farm units representing such areas. The farm units may be as small as 10 acres where the lands are suitable for fruit raising, etc., but on most projects, so far, they have been fixed at from 40 to 80 acres each. These areas are announced on farm unit plats, and public notice stating the amount of the charges and other details concerning payment is issued by the Secretary of the Interior. Until this public notice is issued it will be impossible in most respects to give definite information as to any particular tract or as to the details intended to be covered by such notice; but registers and receivers will, upon inquiry, give all general information relative to the public lands included in reclamation projects, and will keep the project managers of the Reclamation Service fully informed, by correspondence, as to conditions affecting the same.

WITHDRAWALS AND RESTORATIONS.

10. The withdrawal of these lands at first is principally for the purpose of making surveys and irrigation investigations in order to determine the feasibility of the plans of irrigation and reclamation proposed. Only a portion of the lands will be irrigated even if the project is feasible, but it will be impossible to decide in advance, after careful examination what lands may be watered, if any, and the mere fact that surveys are in progress is no indication whatever that the works will be built. It can not be determined how much water there may be available, or what lands can be covered, or whether the cost will be too great to justify the undertaking until the surveys and the irrigation investigations have been completed.

11. There are two classes of withdrawals authorized by the act: One commonly known as "Withdrawals under the first form," which embraces lands that may possibly be needed in the construction and maintenance of irrigation works, and the other commonly known as "Withdrawals under the second form," which embraces lands not supposed to be needed in the actual construction and maintenance of irrigation works, but which may possibly be irrigated from such works.

12. After lands have been withdrawn under the first form they can not be entered, selected, or located in any manner so long as they remain so withdrawn, and all applications for such entries, selections or locations should be rejected and denied, regardless of whether they were presented before or after the date of such withdrawal. (*John J. Maney*, 35 L. D., 250.)

13. Lands withdrawn under the second form and becoming subject to entry in the manner provided by the acts of June 25, 1910, and February 18, 1911, can be entered only under the homestead laws and are subject to the provisions, limitations, charges, terms, and conditions of the reclamation law, and all applications to make selections, locations or entries of any other kind on such lands should be rejected, regardless of whether they are presented before or after the lands are wit-

drawn, except that where settlement rights were acquired prior to the withdrawal and have been diligently prosecuted and the homestead law complied with, the settler will be entitled to make and complete his entry as if it had been made before the withdrawal. (See Wm. Boyle, 38 L. D., 603.) No person will be permitted to gain or exercise any right whatever under any settlement or occupation begun after withdrawal of the land from settlement and entry until the land becomes subject to settlement and entry under the provisions of the acts of June 25, 1910, and February 18, 1911, or is restored to the public domain.

14. Withdrawals made under either of these forms do not defeat or adversely affect any valid entry, location, or selection which segregated and withheld the lands embraced therein from other forms of appropriation at the date of such withdrawal; and all entries, selections, or locations of that character should be permitted to proceed to patent or certification upon due proof of compliance with the law in the same manner and to the same extent to which they would have proceeded had such withdrawal not been made, except as to lands needed for construction purposes. All lands, however, taken up under any of the land laws of the United States subsequent to October 2, 1888, are subject to right of way for ditches or canals constructed by authority of the United States (act of August 30, 1890, 26 Stat., 391; circular approved by department July 25, 1903.) All entries made upon the lands referred to are subject to the following proviso of the act cited:

That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act west of the one hundredth meridian it shall be expressed that there is reserved from lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

15. Should a homestead entry embrace land that is needed in whole or in part for purposes contemplated by said proviso in the act of August 30, 1890, the land would be taken for such purpose, and the entryman would have no claim against the United States for the same.

16. All withdrawals become effective on the date upon which they are ordered by the Secretary of the Interior, and all orders for restorations on the date they are received in the local land office unless otherwise specified in the order. (George B. Pratt et al., 38 L. D., 146.)

17. Upon the cancellation of a homestead entry covering lands embraced within a withdrawal under the reclamation act such withdrawal becomes effective as to such lands without further order. (See Cornelius J. MacNamara, 33 L. D., 520.)

18. Where the Secretary of the Interior by the approval of farm-unit plats has determined, or may determine, that the lands designated thereon are irrigable, the filing of such plats in the General Land Office and in the local land offices is to be regarded as equivalent to an order withdrawing such lands under the second form, and as an order changing to the second form any withdrawals of the first form then effective as to any such tracts. This applies to all areas shown on the farm-unit plats as subject to entry under the provisions of the reclamation law or as subject to the filing of water-right applications. Upon receipt of such plats appropriate notations of the change of form of withdrawal are to be made in accordance therewith

upon the records of the General Land Office and of the local land offices.

19. In the event any lands embraced in any entry on which final proof has not been offered, or in any unapproved or uncertified selection, are needed in the construction and maintenance of any irrigation works (other than for right of way for ditches or canals reserved under act of Aug. 30, 1890) under the reclamation law, the Government may cancel such entry or selection and appropriate the lands embraced therein to such use, after paying the value of the improvements thereon and the enhanced value of such lands caused by such improvements.

20. Uncompleted claims to lands withdrawn under the provision of the reclamation law and determined to be needed for construction of irrigation works in connection with a project that has been found practicable should not be allowed to be perfected, but should remain in the same status as existed at the time the determination was made and the rights of the claimants adjusted upon the basis of that status. (Opinion of Asst. Atty. General, 34 L. D., 421.)

21. Where the owners of the improvements mentioned in paragraph 19 shall fail to agree with the representative of the Government as to the amount to be paid therefor, the same shall be acquired by condemnation proceedings under judicial process; as provided by section 7 of the reclamation act.

22. Inasmuch as every entry made under the reclamation law is subject to conformation to an established farm unit, improvements placed upon the different subdivisions by the entryman prior to such conformation are at his risk. (Jerome M. Higman, 37 L. D., 718.) They should be confined to one legal subdivision until the entry is conformed. In readjusting such an entry the secretary is not required to confine the farm unit to the limits of the entry, but may combine any legal subdivision thereof with a contiguous tract lying outside of the entry so as to equalize in value the several farm units. (Idem.) The act of June 27, 1906, supra, authorizes the Secretary of the Interior to fix a lesser area than 40 acres as a farm unit when, "by reason of market conditions and special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family" or when necessary "in order to provide for practical and economical irrigation."

ADDITIONAL ENTRIES.

23. A person who has made homestead entry for any area within a reclamation project can not make an additional homestead entry for lands outside of a project, nor for lands within a project except as provided in the following paragraph. One who has made homestead entry for less than one hundred and sixty acres outside of a reclamation project is disqualified from making an additional entry within a reclamation project, as every entry within a project is either made for or is subject to conformation to a farm unit, which is the equivalent of a homestead entry of one hundred and sixty acres of land outside of a reclamation project.

24. Where, however, the first or original homestead entry was made subject to the restrictions and conditions of the reclamation

act, any entry additional thereto would be likewise subject to the same restrictions and conditions, and in such cases additional entries may be allowed within reclamation projects under acts authorizing additional entries, except where farm units have been established, prior to the filing of the applications. Both entries so allowed are subject to the same adjustment to one farm unit as if the entire tract had been included in the first entry. (Henry W. Williamson, 38 L. D., 233.)

CONTESTS.

25. An entry embracing lands included within a first or second form reclamation withdrawal, whether such entry was made before or after the date of such withdrawal, may be contested and canceled because of entryman's failure to comply with the law or for any other sufficient reason, and any contestant who secures the cancellation of such entry and pays the land office fees occasioned by his contest will be awarded a preferred right of making entry. Should the land embraced in the contested entry be within a first-form withdrawal at time of successful termination of the contest the preferred right may prove futile, for it can not be exercised as long as the land remains so withdrawn; should it be within a second-form withdrawal, however, the contestant may make entry under the terms of the reclamation law, and should it at that time be released from all forms of withdrawal, he may enter as in other cases made and provided. No contest can be allowed, however, against any qualified entryman who, prior to June 25, 1910, made bona fide entry upon lands proposed to be irrigated and who established residence in good faith upon the lands entered by him, for failure to maintain residence or to make improvements upon his land prior to the time when water is available for its irrigation. Successful contestants against entries in second-form reclamation withdrawals can not be allowed to exercise preference right of entry prior to the time when the Secretary shall have established the unit of acreage, fixed the water charges, and the date when water can be applied and made public announcement of the same. It should be the duty, however, of such contestant to keep the local officers advised respecting his residence to which notice may be sent him of his preference right of entry in event of successful contest, and a notice mailed to his address, shown by the records of the local land office at the time of the mailing of the notice of preference right, will be held to meet the requirements of the act of May 14, 1880 (21 Stat., 140). See paragraph 73.

26. When any entry for lands embraced within a first or second form reclamation withdrawal is canceled for any reason, such lands become subject immediately to such withdrawal. Such lands under first-form withdrawal can not therefore, so long as they remain so withdrawn, be entered or otherwise appropriated, either by a successful contestant or any other person; but any contestant who gains a preference right to enter any such first-form withdrawn lands may exercise that right at any time within 30 days from notice that the lands involved have been restored to the public domain or the withdrawal changed to second form. Such lands withdrawn under second-form withdrawal may be entered under the reclamation act when subject to entry by reason of public notice

having been issued as in these regulations provided, and a contestant in such case will be allowed 30 days preference right to make entry (As amended Mar. 1, 1913.)

27. Under these regulations the filing of contests will be allowed against homestead entries made subject to the reclamation law in the following cases:

- (a) Where the entry was made on or after June 25, 1910.
- (b) Where the entry was made prior to June 25, 1910, and it is alleged that the entryman failed to establish residence in good faith upon the lands entered by him.
- (c) Where the entry was made prior to June 25, 1910, and a period of 90 days has elapsed since the issuance of public notice under section 4 of the reclamation act of June 17, 1902 (32 Stat., 388), fixing the date when water will be available for irrigation of the land.
- (d) Where the entry was made prior to June 25, 1910, for any causes other than "failure to maintain residence or make improvements upon the land prior to the time when water is available."

LEAVE OF ABSENCE.

28. When homestead entrymen within irrigation projects file in the local land office applications for leave of absence under the provisions of the act of June 25, 1910, the register and receiver will make proper notation of the same on their records and, at once, by special letter, forward the application, together with their recommendation thereon, to the General Land Office for action.

29. These applications for leave of absence should be in the form of an affidavit, duly corroborated by two witnesses, contain a specific description of the land, show the good faith of the applicant, and set forth in detail the character, the extent, and the approximate value of the improvements placed on the lands, which must be such as to satisfy the requirement of the law that the entryman has made substantial improvements, and the applicant must show, as a matter of fact, that water is not available for the irrigation thereof. The statement regarding the availability of water for irrigation must be corroborated by certificate of the project manager, to be filed with the application for leave.

30. When sufficient showing is made in cases coming within the provisions of the law, leave of absence will be granted until such time as water for irrigation is turned into the main irrigation canal from which the land is to be irrigated or, in the event that the project is abandoned by the Government, until the date of notice of such abandonment and the restoration to the public domain of the land embraced in the entry.

31. Attention is directed to the provision that "the period of actual absence shall not be deducted from the full time of residence required by law." The effect of the granting of leave of absence under this act is to protect the entry from contest for abandonment, and by the necessary implication of the act the period within which the entryman is required to submit final proof will be extended and the entry will not be subject to cancellation for failure to submit proof until the expiration of the period allowed in which to submit final proof, exclusive of the period for which leave of absence may be granted.

MORTGAGES.

40. Mortgagees of lands embraced in homestead or desert-land entries within reclamation projects may file in the local land office for the district in which the land is located a notice of such mortgage interest and shall thereupon become entitled to receive and be given the same notice of any contest or other proceedings thereafter had affecting the entry as is required to be given the entryman in connection with such proceedings, and a like notice of mortgage interest may be filed with the project manager in case of any lands for which water-right application has been made and accepted under the provisions of the act of June 17, 1902 (32 Stat., 388), including homestead entries, desert-land entries, and lands in private ownership; and thereupon the mortgagee shall receive copy of all notices of default in payment upon the corresponding water-right application and shall be permitted to make payment of the amount so in default within 60 days from the date of such notice. Any payment so made shall inure to the benefit of such water-right application. (As amended July 11, 1913.)

41. Every such notice of mortgage interest filed as provided in preceding paragraph must be forthwith noted upon the records of the project manager and of the local land office, and be promptly reported to the Director of the Reclamation Service and to the General Land Office, where like notation will be made. Relinquishment of a homestead entry, or part thereof, within a reclamation project, upon which final proof has been submitted, where the records show the land to have been mortgaged, will not be accepted or noted, unless the mortgagee joins therein; nor will an assignment of such an entry, or part thereof, under the act of June 23, 1910 (36 Stat., 592), be recognized or permitted unless the assignment specifically refers to such mortgage and is made and accepted subject thereto. (As amended July 11, 1913.)

42. If such mortgagee buys in the land at foreclosure sale, no steps will be taken to cancel the water-right application on account of failure of the applicant to maintain residence upon or in the neighborhood of the land until one year after the end of the statutory period of redemption, if there be such statutory period; if not, until one year after the foreclosure sale; nor on account of the holdings by the same mortgagee of lands in excess of 160 acres or of the limit per single ownership of private lands as fixed by the Secretary of the Interior for which a water right may be purchased until two years after such foreclosure purchase, provided that all charges in connection with the water-right application that may be due at the time of foreclosure sale and all such charges that may become due during the period when the land is held under the terms hereof shall be promptly paid by or on behalf of the mortgagee; and also that within such period of one year an acceptable water-right application for such land be filed by a qualified person, who, upon submitting satisfactory evidence of transfer of title, shall receive a credit equal to all payments theretofore made on account of the water-right charges for said land. To secure the benefits of this order the mortgagee purchasing land at foreclosure sale hereunder must give notice thereof to the register of the local land office and to the engineer in charge

of the project within sixty days thereafter. (As amended June 12, 1913.)

CANCELLATION.

43. All homestead and desert-land entrymen holding land under the reclamation law must, in addition to paying the water-right charges, reclaim at least one-half of the total irrigable area in their entries as finally adjusted for agricultural purposes. Homestead entrymen must reside upon, cultivate, and improve the lands embraced in their entries for not less than the period required by the homestead laws. Desert-land entrymen must comply with the provisions of the desert-land laws as amended by the reclamation law. Failure to make any two payments when due, or to reclaim the land as above indicated, or any failure to comply with the requirements of the homestead or desert-land laws, as the case may be, and the reclamation law, as to residence, cultivation, and improvement, will render the entry subject to cancellation and the money paid subject to forfeiture, whether water-right application has been made or not. Failure to make any two payments of the installments of water-right charges when due renders such entries subject to cancellation; and upon receipt of a statement from the Director of the Reclamation Service that two of such payments remain due and unpaid, after proper service upon the entryman and upon the mortgagee, if any such there be of record, of the notice required by paragraph 101 of this circular, the date and manner of service being stated, the entry will, without further notice, be canceled by the Commissioner of the General Land Office. (As amended July 11, 1913.)

WIDOWS AND HEIRS OF ENTRYMEN.

44. The widows or heirs of persons who make entries under the reclamation law will not be required both to reside upon and cultivate the lands covered by the entry of the persons from whom they inherit, but they must reclaim at least one-half of the total irrigable area of the entry for agricultural purposes, as required by the reclamation law, and make payment of all unpaid charges when due.

45. Upon the death of a homesteader having an entry within an irrigation project, leaving no widow and only minor heirs, his right may, under section 2292, Revised Statutes, be sold for the benefit of such heirs. (See heirs of Frederick C. De Long, 36 L. D., 332.) If in such case the land has been divided into farm units, the purchaser takes title to the particular unit to which the entry has been limited, but if subdivision has not been made he will be required to conform the entry to one farm unit in the same manner as an original entryman by amending the former entry, relinquishing to the United States or assigning to a duly qualified assignee the lands embraced in the entry in excess of the farm unit he elects to retain. The purchaser and his assignees take subject to the payment of the water-right charges authorized by the reclamation law and regulations thereunder and must reclaim one-half the irrigable area, as required by said law, but are not required otherwise to comply with the homestead law.

FINAL PROOFS, CERTIFICATES, AND PATENTS.

46. Registers and receivers are directed to furnish chiefs of field divisions with copies of notices of application to make proof on all homestead and desert-land entries covering land withdrawn under the reclamation law, whether the entry was made before or after the withdrawal, noting on each application the particular reclamation project wherein the land lies. When the notice involves any lands withdrawn under the first-form withdrawal authorized by the reclamation law, they will indorse on the back of the notice mailed to the chief of field division: "For report by indorsement hereon as to whether the described lands or any of them are needed for construction purposes." In all cases, as soon as such notice is received by the chief of field division, he will refer the same to the project manager, who will make report by indorsement on the notice as to whether the lands are needed for construction purposes and as to any other matters that he may be instructed to report on by special instructions. This notice should be returned by the project manager to the chief of field division in sufficient time to enable that officer to return the same to the local land office prior to the date fixed for proof.

47. If the lands covered by the final proof notice were entered prior to withdrawal for reclamation purposes and the project manager reports that they are not needed for construction purposes, and are not covered by water-right application, final certificate will be issued upon submission of final proof as on entries not subject to the reclamation law. In all cases where the project manager reports that the lands are needed for construction purposes, the register and receiver will forward the proof, if found to be regular, to the General Land Office without issuance of final certificate. In all cases where the entry was made after withdrawal of the land for reclamation purposes, whether or not they are needed for construction purposes, the register and receiver will forward the proof, if found to be regular, to the General Land Office, without issuance of final certificate, unless there has been submitted a final affidavit, duly corroborated by two witnesses and approved by the project manager, showing compliance with the reclamation act as to payment of all charges due to date, and reclamation of one-half of the irrigable area in the entry, as provided for in paragraph 55. If such affidavit showing reclamation and payment of charges is filed, and the final proof of compliance with the ordinary provisions of the homestead law as to residence, improvements, and cultivation is found, on examination by the local land officers, to be sufficient, they will issue final certificate on the case as hereinafter provided.

48. If any final proof offered under this law be irregular or insufficient, the register and receiver will reject it and allow the entryman the usual right of appeal, and if the General Land Office finds any proof forwarded to be insufficient or defective in any respect, whether or not final certificate has issued on the same, the final proof or certificate may be held for rejection or cancellation and the entryman will be notified of that fact, or he may be given an opportunity to cure the defect or to present acceptable proof.

49. The registers and receivers are directed to notify, in writing, every person who makes final proof on a homestead entry, which is

subject to the limitations and conditions of the reclamation law, embracing land included in an approved farm unit plat, where the entry does not conform to an established farm unit and conformation notice has not already been issued, that thirty days from notice is allowed the entryman to elect the farm unit he desires to retain, and to file an assignment of the remainder of his entry under the act of June 23, 1910 (36 Stat., 592), in default of which the entry will be conformed by the General Land Office, and cancelled as to the portion not assigned.

50. All persons who make entry of lands within the irrigable area of any project commenced or contemplated under the reclamation law will be required to comply fully with the homestead law as to residence, cultivation, and improvement of the lands, except that where entries were made prior to the issuance of public notice announcing the availability of water for the irrigation of the land and prior to June 25, 1910, in which case under the departmental decision in the case of *Ex parte J. H. Haynes* (40 L. D., 291) and under the provisions of the act of April 30, 1912 (37 Stat., 105), the submission of final proof is not required within the period during which proof must be submitted under the ordinary provisions of the homestead law.

51. Soldiers and sailors of the War of the Rebellion, the Spanish-American War, or the Philippine insurrection, and their widows and minor orphan children who are entitled to claim credit for the period of the soldier's or sailor's service under the homestead laws will be allowed to claim credit in connection with entries made under the reclamation law, but will not be entitled to receive final certificate or patent until the water-right charges due have been paid and the requirements as to reclamation have been met.

52. Homesteaders who have resided on, cultivated, and improved their lands for the time required by the homestead law, and have submitted proof, which has been found satisfactory thereunder by the General Land Office, but who are unable to furnish proof of reclamation because water has not been furnished to the lands or farm units have not been established, will be excused from further residence on their lands and will be given a notice reciting that further residence is not required, but that final certificate and patent will not issue until proof of reclamation of one-half of the irrigable area of the entry, as finally adjusted to an approved farm unit, and payment of all charges due under the public notices and orders issued in pursuance of the reclamation law.

53. The act of August 9, 1912 (37 Stat., 265), expressly requires reclamation of one-half of the irrigable area of the entry as finally adjusted before final certificate and patents may issue thereunder, and, therefore, the act does not authorize the issuance of final certificate on homestead entries made subject to the reclamation law, prior to the establishment by the Secretary of the Interior of farm units, and the conformation of the entry to an approved unit, for the reason that prior to that time the entry is still subject to adjustment in area, and it can not be determined what area must be ultimately reclaimed under the provisions of the act.

54. Upon the tendering to registers and receivers of homestead proof on entries subject to the reclamation law, they will accept only the testimony fees for "reducing testimony to writing and

examining and approving testimony," and will not accept final commissions payable under such entries until proof is received of compliance with the requirements of the reclamation law as to reclamation and payment of the charges which have become due.

55. Homestead and desert-land entrymen, in making proof of compliance with the reclamation law as to reclamation of one-half of the irrigable area and payment of reclamation charges due, must submit an affidavit, duly corroborated by two witnesses, in duplicate, to the project manager showing these facts. Thereupon it shall be the duty of the project manager to verify the statement as to payment and also make such examination of the land as will enable him to determine whether reclamation as required by law and the regulations has been made. If he finds that the statement as to payment be correct he will so certify, which certificate will also show the date on which the next payment is due; but if he finds that all payments have not been made as required he will advise the entryman thereof, requiring him to pay the amounts found to be unpaid and due, with a right of appeal in the entryman from such requirement to the Director of the Reclamation Service and ultimately to the Secretary of the Interior. Should he find that reclamation has been accomplished he will so certify, but if he finds that reclamation has not been accomplished as required he will forward the proofs to the register and receiver of the land district in which the land is situate, with his report or findings thereon, and such officers will thereupon in turn transmit the showing to the General Land Office for its action. If the proof be rejected by the Commissioner of the General Land Office, appeal will lie to the Secretary of the Interior as in other cases provided, it being the purpose to issue final certificate upon any such entry only after a final determination that all water charges due on account thereof have been paid and that reclamation has been accomplished as required by the reclamation law. Where prior to issuance of public notice water has been furnished on a water-rental basis to reclamation entrymen or others, and by means whereof reclamation sufficient to obtain patent or water-right certificate under the act of August 9, 1912, has been accomplished and satisfactory proof made, water-right applications may be received from such entrymen or others desiring to obtain patent or water-right certificate under that act upon the form of application approved by the department, modified so as to refer to the irrigable acreage and the charge per acre as thereafter announced by the Secretary. In such cases reclamation homestead entries must be conformed to farm units as established by the Secretary of the Interior. If not theretofore created, farm units may be established upon application. (As amended Mar. 1 and 3, 1913).

56. To establish compliance with the clause of the reclamation law that requires reclamation of at least one-half of the irrigable area of an entry made subject to the provisions of that law, the land must have been cleared of sagebrush or other incumbrance and leveled, sufficient laterals constructed to provide for the irrigation of the required area, the land put in proper condition and watered and cultivated, and the growth of at least one satisfactory crop secured thereon; but the securing of an actual and satisfactory growth of orchard trees shall likewise be regarded as satisfactory reclamation.

57. Upon receipt of proof of reclamation and payment of water-right charges as provided in the acts of August 9, 1912, and August 26, 1912, in case of homestead entries under the reclamation law, on ceded Indian lands entered under the reclamation act, and in case of desert-land entries within the exterior limits of any land withdrawal or irrigation project under the reclamation act, if final proof of compliance with the homestead or desert land law, as the case may be, has been previously submitted and has been accepted by the Commissioner of the General Land Office, or if such final proof is submitted at the time of the receipt of proof of reclamation and payment of charges, and is found to be sufficient as to residence, improvement, and cultivation upon examination by the local land officers, the register and receiver will issue final certificate on the entry, proceeding in the usual manner, and forward the same with the proof of reclamation and payments to the General Land Office. The final certificate so issued must be stamped by the local land officers across the face of each certificate when issued as follows: "Subject to lien, under section 2, act of August 9, 1912 (37 Stat., 265)." Upon receipt of such case in the General Land Office, if found to be regular, it will be approved for patent under said act of August 9, 1912, or August 26, 1912, and patent issued reserving the lien as in said acts provided. (As amended July 12, 1913.)

58. Upon receipt of proof of reclamation and payment of water-right charges, as provided in the act of August 9, 1912, in the case of homestead entries, other than those under the reclamation act, where a water-right application has been filed by the entryman, and the register and receiver have been notified by the project manager of the acceptance of such application, if final proof has been accepted on the entry by the Commissioner of the General Land Office, or final proof is submitted at the time of the receipt of such reclamation proof and is found to be sufficient on examination by the local land officers, the register and receiver will issue final certificate of compliance with the homestead law, proceeding in the usual manner, and forward such final certificate, with proof of reclamation, to the General Land Office. When the case is received in the General Land Office and is found to be regular, it will be approved for patent and final water-right certificate will be issued by the project manager, reserving a lien to the Government and its successor for the charges due or to become due. (As amended September 3, 1913.)

59. Final water-right certificates are not required for and will not be issued for (a) lands entered under the reclamation act; (b) desert-land entries for which water-right application has been made; (c) entries of ceded Indian lands, whether patents for such lands are issued under acts of August 9, 1912, or otherwise, but patent in each of such cases carries with it the water right to which the lands patented are entitled. In all other cases, that is, in cases of lands in private ownership, and in cases of homesteads where entry was made prior to the reclamation withdrawal, final water-right certificate will issue as herein provided. (As amended July 12, 1913.)

60. In case of lands in private ownership and homestead entries made prior to reclamation withdrawal, reclamation is required to be shown of one-half of the irrigable area in each instance before any final water-right certificate is issued upon a water-right application

made for such lands under the reclamation law. Further, before issuance of such a certificate under the act of August 9, 1912 (37 Stat., 265), on account of any lands so held, evidence must be filed satisfactorily showing that the applicant for water right has an unencumbered title to the land, or, where encumbered, the consent of the encumbrancers must be furnished in such form that the lien to be given the Government to secure the deferred payments on account of the water right shall, as contemplated by the law, constitute a prior lien upon the land. Upon the filing of such proofs with the project manager and the payment of all reclamation charges then due, he will issue a water-right certificate to the applicant which shall expressly reserve to the United States a prior lien on the land upon which a water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims, or demands whatsoever, to secure the payment of all sums due, or to become due, to the United States or its successors. The project manager will forward all papers, including a copy of the certificate, to the Director of the Reclamation Service. (As amended July 12, 1913.)

61. The Director of the Reclamation Service will, upon the full payment of all building and betterment charges by any water user, issue certificate of the full payment of such charges releasing the lien therefor reserved in the final water-right certificate or patent under the act of August 9, 1912 (37 Stat., 265). (As amended July 12, 1913.)

WATER RIGHTS.

62. In pursuance of the authority contained in the act of August 9, 1912 (37 Stat., 265), a special fiscal agent of the Reclamation Service has been designated to receive payment of the building and betterment charges and the charges for operation and maintenance payable on account of the lands within each project. All administrative matters regarding the filing of original water-right applications and all actions regarding water-right applications heretofore filed which have been carried on by the registers and receivers of the local land offices shall hereafter be carried on by the officer of the Reclamation Service in charge of the project, herein designated as project manager. Appeals from his action may be taken in accordance with rules promulgated by the Director of the Reclamation Service approved by the Secretary of the Interior to whom appeal may be ultimately taken.

63. Notice of all action in the local land office or in the General Land Office regarding any entry for which water-right application has been made, or may be made, whether subject to the reclamation law or not, shall be given immediately by the register and receiver to the project manager by the forwarding of copy of decision in the case. The project manager shall advise the register and receiver of all action regarding any water-right application or contract by the Reclamation Service affecting the status or validity of the homestead or desert-land entry covering the lands.

64. The control of operation of all sublaterals constructed or acquired in connection with projects under the reclamation law is retained by the Secretary of the Interior to such extent as may be necessary or reasonable to assure to the water users served therefrom the full use of the water to which they are entitled. (See 37 L. D., 468.)

65. Lands which have been patented or which were entered before the reclamation withdrawal may obtain the benefit of the reclamation law, but water-right contracts may not be held for more than 160 acres by any one landowner, and such landowner must be an actual bona fide resident on such land or occupant thereof residing in the neighborhood. The Secretary of the Interior has fixed a limit of residence in the neighborhood at a maximum of 50 miles. This limit of distance may be varied, depending on local conditions. A landowner may, however, be the purchaser of the use of water for more than one tract in the prescribed neighborhood at one time, provided that the aggregate area of all the tracts involved does not exceed the maximum limit established by the Secretary of the Interior nor the limit of 160 acres fixed by the reclamation law; and a landowner who has made contract for the use of water in connection with 160 acres of irrigable land and sold the same, together with the water right, can make other and successive contracts for other irrigable lands owned or acquired by him. Holders of more than 160 acres of irrigable land, or more than the limit of area per single ownership of private land as fixed by the Secretary of the Interior, for which water may be purchased within the reclamation project, if such a limit has been fixed, must sell or dispose of all in excess of that area before water-right application will be accepted from such holders. If the holder of a greater area desires, he can subscribe for stock in the local water users' association (if there be one) for his entire holding, executing a trust deed, giving the association power to ultimately sell the excess area to actual settlers who are qualified to comply with the reclamation law, unless the land has been sold by the owner when the Government is ready to furnish water thereon, or provide for the disposal of such excess holdings in some manner approved by the Secretary of Interior. Holders of land in private ownership who have made and had accepted water-right application for their holdings may receive water for lands in excess of the area hereinabove stated, in case such excess lands have had water-right application made and accepted therefor, and have been acquired by descent, will, or by foreclosure of any lien; in which case said excess lands may be held for two years and no longer after their acquisition, without in any manner militating against the right of the holder to be furnished water under the reclamation law. (As amended June 12, 1913.)

66. The purpose of the reclamation law is to secure the reclamation of arid or semiarid lands and to render them productive, and section 8 declares that the right to the use of water acquired under this act shall be appurtenant to the land irrigated and that "beneficial use shall be the basis, the measure, and the limit of the right." There can be no beneficial use of water for irrigation until it is actually applied to reclamation of the land. The final and only conclusive test of reclamation is production. This does not necessarily mean the maturing of a crop, but does mean the securing of actual growth of a crop. The requirement as to reclamation imposed upon lands under homestead entries applies likewise to lands in private ownership and land entered prior to the withdrawal—namely, that the landowner shall reclaim at least one-half of the total irrigable area of his land for agricultural purposes, and no right to the use of water will permanently attach until such reclamation has been shown. (See 37 L. D., 468.)

67. The provisions of section 5 of the act of June 17, 1902, relative to cancellation of entries with forfeiture of rights for failure to make any two payments when due states the rule to govern all who receive water under any project, and accordingly a failure on the part of any water-right applicant to make any two payments when due shall render his water-right application subject to cancellation with the forfeiture of all rights under the reclamation law as well as of any moneys already paid to or for the use of the United States upon any water right sought to be acquired under said law. (37 L. D., 468.)

Vested Water Rights.

68. The provision of section 5 of the act of June 17, 1902 (32 Stat., 388), limiting the area for which the use of water may be sold does not prevent the recognition of a vested right for a larger area and protection of the same by allowing the continued flowing of the water covered by the right through the works constructed by the Government under appropriate regulations and charges.

Townsite Subdivisions.

69. Where water-right application has been made and accepted for land in private ownership, no new water-right application by any purchaser of part of the irrigable area of such private land will be accepted for land so purchased, if the same is subdivided into lots of such form and area as to indicate a use thereof for townsite rather than for agricultural or horticultural purposes. In such case no notation shall be made of such transfer on the original water-right application, but water will be furnished such land on the original application, and the water-right charges collected thereunder, as if no such sale or sales had been made.

70. Water for land subdivided into such form and areas as to indicate a use thereof for townsite rather than for agricultural or horticultural purposes may be procured for the entire areas so subdivided, by contract with the Reclamation Service through the proper representatives of the landowners, as authorized by the Secretary of the Interior under the acts of April 16 and June 27, 1906 (34 Stat., 116 and 519).

71. Where separate water-right applications, otherwise valid, have been accepted for lands subdivided into such form and areas as indicate a use thereof for townsite rather than for agricultural and horticultural purposes, such water-right applications and the corresponding subscriptions to the stock of the water users' association may be surrendered and canceled, and water supplied to such lands under the provisions of the said acts of April 16 and June 27, 1906, upon such terms and conditions as will return to the "reclamation fund" an amount not less than the charges due under such water-right applications. Similar adjustment by cancellation and new contract may be made where water-right application has been accepted and the land has been subsequently subdivided into tracts of form and area as above.

Water-Right Application.

72. The department has adopted two forms of applications for water rights, viz, Form A for homestead entries under the reclamation law, Form B for lands, other than homestead entries under the reclamation law, embraced within a project.

Copies of these forms have been furnished project managers and they will be used in all applications for water rights on all reclamation projects. (As amended Mar. 1, 1913.)

73. Under the act of April 30, 1912 (37 Stat., 105), a reclamation homestead entry made prior to June 25, 1910, where a residence was established in good faith, is not subject to contest for failure of the entryman to maintain residence or make improvements upon the land prior to the time when water is available for the irrigation of the lands embraced within the entry either under annual rental or under public notice. The entryman is required within 90 days after public notice has issued to file a water-right application. (See par. 25.)

74. Upon notice issued by the Secretary of the Interior that the Government is ready to receive applications for water right for described lands under a particular project, all persons who have made entries of such lands under the provisions of the reclamation law will be required to file application for water rights on Form A for the number of acres of irrigable land in the farm unit entered, as shown by the plats of farm units approved by the Secretary of the Interior. And any person settled on such lands or intending to make entry of any such lands may file application for water rights on Form A for the number of acres of irrigable land in the farm unit settled on or intended to be entered, as shown by such farm unit plats.

75. Where such settler or other person makes a water-right application before initiating entry for the lands for which such water-right application is made, the water-right application will be received by the project manager, and the amount due thereon as shown by the public notices and orders collected by the special fiscal agent of the Reclamation Service. The water-right application will be retained by the project manager until entry is made, or if entry is not perfected by the applicant within 30 days the application shall be endorsed "rejected" with the date thereof and the amount collected returned to the applicant, except in case water shall have been furnished such applicant under the application, in which case only the amount collected on account of the building and betterment charges will be returned. The amount collected for operation and maintenance will be retained by the special fiscal agent as payment to the United States for the service rendered in furnishing water. If entry is made the entryman will be required to exhibit to the project manager his land-office receipt. The project manager will endorse on the water-right application the number, date, and land-office serial number of the entry and take the action indicated in the following paragraph.

76. All applications on Form A must be filed in the project office of the United States Reclamation Service in person or by mail accompanied by three complete copies and the amount due thereon as shown by the public notices and orders. The project manager will carefully examine the original application, and if regularly and properly made out accept the same and endorse thereon his acceptance. He will see that the copies correspond with the original and that the entry number, date, etc., are properly given and will immediately transmit one copy to the director, one copy to the supervising engineer, and give the third copy to the applicant with the special fiscal agent's receipt for the amount collected. The original application will be retained in the project office of the Reclamation Service.

77. Upon the issuance of the public notice private landowners and entrymen whose entries were made prior to withdrawal may, in like manner, apply to the project office of the United States Reclamation Service, on Form B for water rights for tracts not containing more than 160 acres of irrigable land, according to the approved plats, unless a smaller limit has been fixed as to lands in private ownership by the Secretary of the Interior.

78. Each application on Form B must contain a statement as to the distance of the applicant's residence from the land for which a water right is desired.

79. If a greater distance than that fixed for the project is shown in any application, the case should be reported to the director through the supervising engineer for special consideration upon the facts shown. If the applicant is an actual bona fide resident on the land for which water-right application is made, the clause in parentheses of Form B, regarding residence elsewhere, must be stricken out.

80. The applicant on Form B must state accurately the nature of his interest in the land. If this interest is such that it can not be perfected into a fee simple title at or before the time when the last annual installment for water right is due, the application must be rejected.

81. Form B used by owners of private land and entrymen whose entries were made prior to the withdrawal of the land within reclamation projects for entering into contracts with the United States for the purchase of a water right must be signed, sealed, and acknowledged before a duly authorized officer in the manner provided by local law. A space is provided on the blank for evidence of the acknowledgment, which should be in exact conformity to that prescribed for mortgages by the law of the State in which the lands covered by the contract lie. When so executed, the original must be filed in the project office of the United States Reclamation Service either in person or by mail, together with five complete copies, and must be accompanied by the amount of the charges for recording the same. The application must cover all the irrigable land of the applicant in the project (see par. 89). If the applicant owns more than the limit of irrigable area fixed for land in private ownership, he must make disposition of all the irrigable lands not covered by his application, as indicated in paragraph 65, before the application is accepted. If the application is (a) regular and sufficient in all respects; (b) bears the certificate of the secretary of the local water users' association in cases where such certificate is required; (c) is accompanied by the proper payments required by the provisions of the public notices and orders issued in connection with the project and the recording fees; the project manager will accept the same by filling out the blank provided and attaching his signature and seal and placing a scroll around the word "Seal," whereupon the water-right application becomes a water-right contract. (As amended Mar 3, 1913.)

82. Attention is especially called to sections 3743 to 3747, inclusive, of the Revised Statutes, relative to the deposit and execution of public contracts. The project manager will immediately after execution of the contract execute the oath of disinterestedness required by section 3745, Revised Statutes, before a duly authorized officer on the blank form provided on the last page of the water-right contract on one of the copies. No funds are available for the payment by the Government of any fees in connection with this oath, and the project manager

should therefore take such oath before some officer or clerk of the Reclamation Service, who is a notary public, during his office hours, for which service such officer or clerk is precluded from charging or receiving a fee. If it becomes necessary to take this oath before any other authorized officer, the fee due such officer must be paid to him by the water-right applicant, and the project manager is authorized to refuse to accept the water-right application on failure of the applicant to make such payment.

83. Section 3744, Revised Statutes, makes it the duty of a public officer executing a contract on behalf of the United States to file a copy of the same in the returns office of this department as soon as possible and within thirty days after the making of the contract, and the project manager will therefore forward direct to that office the copy of the contract on which he has executed the oath of disinterestedness, as above directed, as soon as possible after the execution of the same. The provision of said section requiring that all papers in relation to each contract shall be attached together by a ribbon and seal and marked by numbers in regular order, according to the number of papers composing the whole return, does not apply to the contracts for the purchase of water rights, because of the fact that only one paper is used.

84. As stated in the instructions for the execution of the blank, the contract must be duly recorded in the records of the county in which the lands are situated, and therefore immediately upon execution of the contract the original will be transmitted by the project manager to the proper county officer to be recorded.

85. Upon return of the original copy of the contract to the project manager bearing certificate at the bottom of the last page, executed by the recording officer, showing the recordation of the instrument, the project manager will fill out the same blank on the four copies held in his office, signing the name of the recording officer with the word "signed" in parentheses, preceding such name. The original and one copy, when thus completed, will be sent to the director, who will transmit the original to the Auditor of the Treasury Department for the Interior Department, and one of the other copies will be forwarded to the applicant, one to the supervising engineer, and the last copy must be retained by the project manager.

86. When application is filed by an assignee of an entryman under the reclamation act, and the assignee proposes to claim credit for any payment made by the assignor, the prior applicant should execute the following form at the bottom of the last page, either written in ink or typewritten:

I, _____, for value received, hereby sell and assign to _____ all my right, title, and interest in and to any credits heretofore paid on water-right application No. _____ for the above-described land, together with all interests possessed by me under said application.

Witness.

Assignor.

87. Action on cases bearing such assignment will be the same as on other cases, except that the assignment must be permissible under the provisions of existing public notices and departmental regulations and orders.

88. In order to avoid discrepancies in areas and resulting payments and the acceptance of applications for tracts not designated as lands for which water can be furnished, the project manager before accepting water-right applications on any of the forms must assure himself of the correctness of all allegations in the application so far as can be determined by the records in his office.

89. With reference to water-right applications for land in private ownership, including entries not subject to the reclamation law, the project manager must assure himself so far as practicable from the information available in his office that the application includes all the land owned by the applicant within the project and open to application for a water right, not exceeding the limit of area fixed by the reclamation act and the public notice in pursuance of which the application is presented, and in case of excess holdings that proper action has been taken with reference thereto.

Water-Right Charges.

90. The Secretary of the Interior will at the proper time, as provided in section 4 of the act of June 17, 1902, fix and announce the area of lands which may be embraced in any entry thereafter made or which may be retained in any entry theretofore made under the reclamation law; the amount of water to be furnished per annum per acre of irrigable land, and the charges which shall be made per acre for the irrigable lands embraced in such entries and lands in private ownership, for the estimated cost of building the works and for operation and maintenance, and prescribe the number and amount and the dates of payment of the annual installments thereof.

91. Under the act of February 13, 1911 (36 Stat., 902), the Secretary is authorized in his discretion to withdraw any public notice issued prior to the passage of that act.

92. If any entry subject to the reclamation law is canceled or relinquished, the payment for water-right charges already made and not assigned in writing to a prospective or succeeding entryman under the provisions of paragraph 94 hereof are forfeited. All water-right charges which remain unpaid are canceled by the relinquishment or cancellation of the entry, except as provided by the specific provisions of public notices applicable to particular projects.

93. Any person who applies to enter the same land at the time of relinquishment and at the same time files an assignment in writing of the charges theretofore paid will be allowed credit therefor. If the application to enter is made at a later date or is not accompanied by a written assignment of credits the applicant must pay the water-right charges as if the land had never been previously entered.

94. A person who has entered lands under the reclamation law, and against whose entry there is no pending charge of noncompliance with the law or regulations, or whose entry is not subject to cancellation under this act, may relinquish his entry to the United States and assign to a prospective or succeeding entryman any credit he may have for payments already made under this act on account of said entry, and the party taking such assignment may, upon making proper entry of the land at the time of the filing of the relinquishment, if subject to entry, receive full credit for all payments thus assigned to him, but must otherwise comply in every respect with the homestead law and the reclamation law.

95. The transfer of lands in private ownership covered by water-right contract before cancellation of the contract carries with it the burden of water-right charges and credit for the payments made by the prior owner. (See Dept. decision Mar. 20, 1911, in the case of Fleming McLean and Thomas Dolf, 39 L. D., 580.) After any such transfer water will continue to be delivered for the entire irrigable area of the tract transferred and tract retained, at the same place or places as delivery was theretofore made and no change will be made in the place of delivery except upon compliance with the provisions of paragraphs 99 and 100 regarding the additional expense for laterals, division boxes, surveys, or for other purposes, and for providing rights of way for irrigation or drainage ditches across the portions transferred or retained. (As amended June 23, 1913.)

96. In case of the sale of all or any part of the irrigable area of a tract of land in private ownership covered by a water-right application the vendor will not be recognized as being released of any part of the charge or any other obligation on account thereof except by compliance with the following requirements:

(a) If the land is covered by a water-right contract which has been duly recorded, the vendor will be required to file with the project manager an affidavit on form below executed by the transferee. Upon filing such affidavit the project manager will carefully check the same and, if found correct as to irrigable area, will make notation of the transfer and adjustment of the water-right charges to the respective tracts.

STATE OF _____, County of _____, ss:

_____, of _____, being duly sworn, deposes and says that he (or she) has acquired by transfer from _____, the _____ section _____, township _____, range _____, _____ meridian; that water-right application No. _____, _____ project, _____ State, for _____ acres of irrigable land in said tract was made _____, 19____, and is recorded in vol. _____, at page _____, of the records of the _____ of _____ County, State of _____; that the post-office address of the undersigned is _____; that the undersigned is a bona fide resident upon said land, or an occupant thereof residing in the neighborhood, namely, upon section _____, township _____, range _____, _____ meridian, a distance in a direct line of _____ miles therefrom; and that no water-right application or water-right contract has been made for a water right under the act of June 17, 1902 (32 Stat., 388), or acts amendatory thereof or supplementary thereto, appurtenant to any land now owned or claimed by the undersigned, except as follows:

Application No. _____, _____ project, State of _____, for _____, section _____, township _____, range _____, _____ meridian, an area of _____ acres, and containing _____ acres of irrigable land.

That affiant hereby assumes and agrees to keep and perform in respect of the lands first above described all the obligations necessary to be kept and performed to procure a water right under water-right application No. _____, _____ project, hereinabove referred to, for the lands first hereinabove described.

(b) If the original water-right contract was not recorded the vendor will be required to have his transferee make new water-right application for the land transferred. Upon such water-right application being made by the transferee the same proceedings will be had as in case of an original water-right application for lands in private ownership. Upon acceptance of such new water-right application the water-right charges under the original application of the vendor will be adjusted to the respective tracts. (As amended June 12, 1913.)

97. Where an entryman, whose entry is not subject to the reclamation law, relinquishes part of the land included in his entry, appropriate notation will be made on his water-right application showing such relinquishment, and his charges thereafter due will be reduced

accordingly upon presenting to the project manager certificate of the local land office showing the lands relinquished and the lands remaining in his entry. If entry is made for the relinquished portion at the time of filing the relinquishment the new entryman will receive credit for payments made thereon if assignment in writing is filed, as provided in paragraphs 86 and 93 of these regulations. No credit will be allowed if the new entry is not filed at the time of relinquishment.

CREDITS FOR PAYMENTS ON RELINQUISHMENT OF PART OF A FARM UNIT UNDER THE RECLAMATION ACT.

98. A homestead entryman subject to the reclamation law may relinquish part of his farm unit if in the judgment of the Secretary of the Interior it would not jeopardize the interests of the United States in the collection of the charges against the part proposed for relinquishment or otherwise. The portions of the payments theretofore made by him on account of the building charge applicable to the relinquished area will be credited as follows: First, upon the portion of the charges for operation and maintenance then due against the relinquished area, and second, any remainder will be credited upon the building charge against the area retained. In no case will payments theretofore made on account of operation and maintenance charges be so credited. The entryman desiring to make such relinquishment shall submit to the project manager his application therefor. The project manager will transmit such application with his recommendation through proper channels to the Director of the Reclamation Service for approval and submission to the department for authority to amend the farm unit plat. (As amended Mar. 15, 1913.)

99. No authorization for allowance of credits as hereinabove provided will be made which will, in the judgment of the Secretary of the Interior, impose any additional expense whatever upon the United States for the construction of laterals and division boxes, or for the making of surveys or for other purposes. Where such relinquishment would involve additional expenses on the part of the United States in order to irrigate either the retained or the relinquished portion of the farm unit the applicant may deposit from time to time, in advance, as required by the project manager, payment of the estimated amount necessary to provide for the proper irrigation of either portion of the farm unit, and, in such cases, if the application is not otherwise objectionable, the same will be allowed.

100. Every such relinquishment shall be subject to the following conditions: (a) That the relinquishing entryman and his successors in title shall permit the entryman then or thereafter entering the relinquished part to use the irrigating and drainage ditches and other irrigation works existing on the retained part at the time of relinquishment, whenever in the opinion of the project manager such use is reasonably necessary for the irrigation and drainage of the relinquished part; and the entryman then or thereafter making entry of the relinquished part shall have right of way over the retained portion for the necessary operation and maintenance of such ditches, drains, and irrigation works; (b) that the entryman then or thereafter entering the relinquished part shall have a right of way over the retained part for the construc-

tion, operation, and maintenance of such additional ditches, drains, and other irrigation works as the project manager may from time to time consider reasonably necessary or proper to be constructed upon or through the retained part for the irrigation and drainage of the relinquished part.

101. At least 30 days prior to the date on which any installment of the building charge becomes payable, under the terms of any public notice or order, by any water-right applicant under a project, a notice will be mailed by the project manager to each such water user at his last known post-office address as shown on the project records, which notice will state the amount of building charge due at the date of the notice and the amount to become due when the next succeeding installment of the building charge is due. In all cases of water-right application, upon which two payments of reclamation charges have become due, under any public notice or order under which such application has been made, and remain unpaid on the day after the second of such payments becomes due, a notice will be sent by the project manager as soon as practicable and in no case later than the first of the following month. Such notice shall be sent by registered mail to the applicant at his last known address, as above indicated, which notice will state the amount of reclamation charges then due, and that unless, on or before the 30th day following that on which the notice is sent, payment be made of the amount due in excess of one full installment the following action will be taken: (a) In case of reclamation homestead entryman, that the entry and the accompanying water-right application will be canceled without further notice, or (b) in cases other than those of reclamation homestead entrymen the case will be reported to the Secretary of the Interior with recommendation for appropriate action by suit to recover the amount due, and also, if such action is deemed advisable, for the cancellation of the water-right application. The rules of practice so far as they are not in conformity herewith are hereby modified. The project manager will preserve the registry return receipts of each such notice and promptly after the expiration of the time allowed in the notice to make payment forward to the Director of the Reclamation Service the registry return receipt and copy of notice sent in each case of delinquency, with report and recommendation relative to cancellation or other action to be taken against the delinquent. In case such a notice is returned unclaimed by the addressee, such unclaimed notice should accompany the other papers. In case the registry return receipt is not received, or being received has been lost, a new notice must be sent. The director will take appropriate action in each case. If the entry is subject to cancellation he will forward appropriate statement to the Commissioner of the General Land Office with evidence of service. (As amended Mar. 15, 1913.)

102. All charges due for operation and maintenance of the irrigation system for all the irrigable land included in any water-right application must be paid on or before April 1 of each year, except where a different date is specified in the public notices or orders relating to the particular project, and in default of such payment no water will be furnished for the irrigation of such lands.

103. Where payment is tendered for a part only of either an annual installment of water-right building charges or an annual operation and maintenance charge, the same may be accepted if the insufficient

tender is, in the opinion of the project manager, caused by misunderstanding as to the amount due and approximates the same.

104. In all cases of insufficient payment accepted in accordance with the provisions of the foregoing paragraph, receipts must issue for the amount paid and the water user shall be immediately notified by registered letter that the payment is insufficient and allowed a period of thirty days to make payment of the balance due to complete the charge on which a part payment has been made. No water will be delivered for the land of the water user in case of insufficient payment of the annual installment for operation and maintenance until such balance has been paid. If the balance of either such installments is paid within this period additional receipt must issue therefor, but if either or both installments remain unpaid for thirty days report shall be made to the director.

105. In all other cases where insufficient tenders are made they shall be rejected with notice to the water user of the reason for the rejection.

106. When full payment is tendered and upon examination is found to be correct the special fiscal agent will issue receipt therefor. In all cases payments must be made direct to the special fiscal agent.

107. All moneys collected in connection with water-right applications must be deposited in designated depositories to the credit of the Treasurer of the United States as a repayment to the reclamation fund. (As amended Mar. 15, 1913.)

DESERT-LAND ENTRIES WITHIN A RECLAMATION PROJECT.

108. By section 5 of the act of June 27, 1906 (34 Stat., 519), it is provided that any desert-land entryman who has been or may be directly or indirectly hindered or prevented from making improvements on or from reclaiming the lands embraced in his entry, by reason of the fact that such lands have been embraced within the exterior limits of any withdrawal under the reclamation act of June 17, 1902, will be excused during the continuance of such hindrance from complying with the provisions of the desert-land laws.

109. This act applies only to persons who have been, directly or indirectly, delayed or prevented, by the creation of any reclamation project or by any withdrawal of public lands under the reclamation law, from improving or reclaiming the lands covered by their entries.

110. No entryman will be excused under this act from a compliance with all of the requirements of the desert-land law until he has filed in the local land office for the district in which his lands are situated an affidavit showing in detail all of the facts upon which he claims the right to be excused. This affidavit must show when the hindrance began, the nature, character, and extent of the same, and it must be corroborated by two disinterested persons, who can testify from their own personal knowledge.

111. The register and receiver will at once forward the application to the project manager of the project under which the lands involved are located and request a report and recommendation thereon. Upon the receipt of this report the register and receiver will forward it, together with the applicant's affidavit and their recommendation, to the General Land Office, where it will receive appropriate consideration and be allowed or denied as the circumstances may justify.

112. Inasmuch as entrymen are allowed one year after entry in which to submit the first annual proof of expenditures for the purpose of improving and reclaiming the land entered by them, the privileges of this act are not necessary in connection with annual proofs until the expiration of the years in which such proofs are due. Therefore, if at the time that annual proof is due it can not be made, on account of hindrance or delay occasioned by a withdrawal of the land for the purpose indicated in the act, the applicant will file his affidavit explaining the delay. As a rule, however, annual proofs may be made, notwithstanding the withdrawal of the land, because expenditures for various kinds of improvements are allowed as satisfactory annual proofs. Therefore an extension of time for making annual proof will not be granted unless it is made clearly to appear that the entryman has been delayed or prevented by the withdrawal from making the required improvements; and, unless he has been so hindered or prevented from making the required improvements, no application for extension of time for making final proof will be granted until after all the yearly proofs have been made.

113. An entryman will not need to invoke the privileges of this act in connection with final proof until such final proof is due, and if at that time he is unable to make the final proof of reclamation and cultivation, as required by law, and such inability is due, directly or indirectly, to the withdrawal of the land on account of a reclamation project, the affidavit explaining the hindrance and delay should be filed in order that the entryman may be excused for such failure.

114. When the time for submitting final proof has arrived, and the entryman is unable, by reason of the withdrawal of the land, to make such proof, upon proper showing, as indicated herein, he will be excused, and the time during which it is shown that he has been hindered or delayed on account of the withdrawal of the land will not be computed in determining the time within which final proof must be made.

115. If after investigation the irrigation project has been or may be abandoned by the Government, the time for compliance with the law by the entryman will begin to run from the date of notice of such abandonment of the project and of the restoration to the public domain of the lands which had been withdrawn in connection with the project. If, however, the reclamation project is carried to completion by the Government and a water supply has been made available for the land embraced in such desert-land entry, the entryman may comply with all the provisions of the reclamation law, and must relinquish or assign all the land embraced in his entry in excess of 160 acres; and upon making final proof and complying with the terms of payment prescribed in said law, he shall be entitled to patent, and final water-right certificate containing lien as provided for by the act of August 9, 1912, and act of August 26, 1912.

116. Under the act of July 24, 1912 (37 Stat., 200), desert-land entries covering lands within the exterior limits of a Government reclamation project may be assigned in whole or in part, even though water-right application has been filed for the land in connection with the Government reclamation project, or application for an extension of time in which to submit proof on the entry has been submitted under the act of June 25, 1906 (34 Stat., 519), requiring reduction of the area of the entry to 160 acres.

117. Where it is desired to assign a desert-land entry, or a part thereof, under the act quoted, application for the establishment of farm units embracing the land covered by such entry should be filed with the project manager for the project in connection with which the lands are withdrawn.

118. When plats describing the farm units covering the lands embraced in a desert-land entry are approved by the project manager he will forward duplicate copies thereof to the local land office, where the same will be treated as an official amendment of the farm-unit plat. A copy should at the same time be forwarded to the director's office at Washington, D. C., to be formally approved in the usual manner by authority of the Secretary.

119. After the filing of the amendatory farm-unit plat in the local office, the assignment, describing the land in conformity to an established farm unit, with accompanying affidavit required by the desert-land regulations, should be filed in the local land office. If the land is withdrawn in connection with a contemplated project where no project manager has been designated, or if no farm-unit subdivisions have been approved by the Secretary of the Interior, the application for the establishment of the farm units may be filed in the local land office and transmitted with the proper papers to the General Land Office for the purpose of submission to the Secretary of the Interior through the Director of the Reclamation Service.

120. Assignments of desert-land entries made and filed in accordance with these regulations must be noted on the local land office records and at once forwarded to the General Land Office for immediate consideration under paragraphs 14 to 16, inclusive, of the circular approved September 30, 1910, and reprinted with additions November 20, 1911, entitled "Statutes and Regulations Governing Entries and Proof Under the Desert-land Laws." Assignments filed in local land offices prior to July 24, 1912, will be recognized and accepted, if found to be regular, without compliance with these regulations. All assignments filed on or after the date of the passage of the act must comply herewith.

121. Special attention is called to the fact that nothing contained in the act of June 27, 1906, shall be construed to mean that a desert-land entryman who owns a water right and reclaims the land embraced in his entry must accept the conditions of the reclamation law, but he may proceed independently of the Government's plan of irrigation and acquire title to the land embraced in his desert-land entry by means of his own system of irrigation.

122. Desert-land entrymen within exterior boundaries of a reclamation project who expect to secure water from the Government must relinquish or assign all of the lands embraced in their entries in excess of 160 acres whenever they are required to do so through the local land office, and must reclaim one-half of the irrigable area covered by their water right in the same manner as private owners of land irrigated under a reclamation project.

TOWN SITES IN RECLAMATION PROJECTS.

123. *Withdrawal, survey, appraisal, and sale.*—Town sites in connection with irrigation projects may be withdrawn and reserved by the Secretary of the Interior under the acts approved April 16 and June 27, 1906 (34 Stat., 116 (secs. 1, 2, and 3), and 519 (sec. 4)),

respectively, and thereafter will be surveyed into town lots with appropriate reservations for public purposes, and will be appraised and sold from time to time in accordance with special regulations provided under section 2381, United States Revised Statutes, governing reclamation town sites.

124. *Survey and appraisal.*—Town sites under any law directing their disposition under section 2381 will be surveyed, when ordered by the department, under the supervision of the General Land Office, into urban, or urban and suburban, lots and blocks, and thereafter the lots and blocks will be appraised by such disinterested person or persons as may be appointed by the Secretary of the Interior. Each appraiser must take his oath of office and transmit the same to the General Land Office before proceeding with his work. That office must be notified by wire of the time when such appraiser or appraisers enter on duty. They will examine each lot to be appraised and determine the fair and just cash value thereof. Improvements on such lots, if any, must not be considered in fixing such value. Lots or blocks reserved for public purposes will not be appraised.

125. *The schedule of appraisal* must be prepared in duplicate on forms furnished by the General Land Office, and the certificates at the end thereof must be signed by each appraiser, and on being so completed they must be immediately transmitted to said office, and when approved by the Secretary of the Interior one copy will be sent to the local land officers.

126. *Notices of sale* will be published for thirty days (unless a shorter time be fixed in a special case) by advertisement in such newspapers as the department may select and by posting a copy of the notice in a conspicuous place in the register's office.

127. *How sold.*—Beginning on the day fixed in the notice and continuing thereafter from day to day (Sundays and legal holidays excepted) as long as may be necessary, each appraised lot will be offered for sale at public outcry to the highest bidder for cash at not less than its appraised value.

128. *Qualifications and restrictions.*—No restriction is made as to the number of lots one person may purchase. Bids and payments may be made through agents but not by mail or at any time or place other than that fixed in the notice of sale.

129. *Combinations in restraint of the sale are forbidden* by section 2373 of the Revised Statutes of the United States, which reads as follows:

Every person who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees or attempts to bargain, contract, or agree with any other person that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who by intimidation, combination, or unfair management hinders or prevents or attempts to hinder or prevent any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

130. *Suspension or postponement of the sale* may be made for the time being, to a further day, or indefinitely, in case of any combination which effectually suppresses competition or prevents the sale of any lot at its reasonable value, or in case of any disturbance which interrupts the orderly progress of the sale.

131. *Payments and forfeitures.*—If any bidder to whom a lot has been awarded fails to make the required payment therefor to the receiver, before the close of the office on the day the bid was accepted,

the right thereafter to make such payment will be deemed forfeited, and the lot will be again offered for sale on the following day, or if the sale has been closed, then such lot will be considered as offered and unsold, and all bids thereafter by the defaulting bidder may, in the discretion of the local officers, be rejected.

132. *Lots offered and unsold.*—Each lot offered and remaining unsold at the close of the sale will thereafter be and remain subject to private sale and entry, for cash, at the appraised value of such lot.

133. *Certificates.*—All lots purchased at the same time, in the same manner, in the same town site, and by the same persons should be included in one certificate, in order to prevent unnecessary multiplicity of patents. Lots sold at private sale should be accompanied by an application therefor, signed by the applicant. Certificates will be issued upon payment of the purchase price, as in other cases.

134. In all cases where the Secretary of the Interior shall direct the reappraisal of unsold lots under the first section of the act of June 11, 1910 (36 Stat., 465), the reappraisal will be conducted under the regulations provided for under the original appraisal of lots in town sites created under the laws in said act mentioned. The lots to be reappraised will not, from the date of the order therefor, be subject to disposal until offered at public sale at the reappraised value, which offering will be conducted under the regulations providing for the public sale of lots in such town sites. The lots so offered at public sale will then become subject to private sale at the reappraised price.

135. Whenever the Secretary of the Interior, in the exercise of the discretion conferred upon him by section 2 of said act, shall order the payment of the purchase price of lots, sold in town sites created under the laws in said act mentioned, to be made in annual installments, the same will be done under such regulations as may be issued in each particular instance. Transfers of lots will not be recognized, but entries and patents must be issued in the name of original purchasers.

136. The Director of the Reclamation Service shall, from time to time, recommend to the Secretary of the Interior the withdrawal and reservation of such lands, for town-site purposes, under the acts of April 16 and June 27, 1906 (34 Stat., 116 and 519), as he may deem advisable. He shall, when in his judgment the public interests require it, from time to time, cause not less than a legal subdivision, according to the official township surveys, of the lands so reserved to be surveyed into town lots, with appropriate reservations for public purposes. The plats and field notes of such surveys shall be prepared in triplicate for each town site, and shall be submitted for the approval of the Commissioner of the General Land Office, who, after such approval, shall submit the original plat for the approval of the Secretary of the Interior.

137. The said director shall, from time to time, recommend to the Secretary of the Interior the sale, the time and place of sale, the appraisal, the appraisers to be appointed, the officer to superintend the sale, and the compensation of the appraisers and superintendent, and the newspapers for the publication of the notice of sale, of such portions of the surveyed lots as, in his judgment, the public interest may then require to be appraised and sold. The recommenda-

tions in this regulation above required shall be submitted through the Commissioner of the General Land Office for his concurrence or dissent. The Commissioner of the General Land Office shall prepare and submit to the Secretary of the Interior the details and appointments of the appraisers and the superintendent of sale in accordance with the approved recommendations, and when detailed or appointed he shall give them all necessary instructions; and he shall also prepare and transmit the notice of sale for publication. The report of the appraisers shall be transmitted to the Secretary of the Interior, through the Commissioner of the General Land Office, for action in accordance with the general regulations under section 2381, United States Revised Statutes.

138. The said director from time to time, in like manner, may cause one or more additional legal subdivisions of the lands so reserved for town-site purposes to be so surveyed into town lots, with appropriate reservations for public purposes; and he shall submit such further recommendations for appraisal and sale, in accordance with these regulations, as he may deem necessary or advisable; and he may in like manner submit recommendations for the reappraisal and sale of lots previously offered for sale and remaining unsold, as authorized by act of June 11, 1910 (36 Stat., 465).

APPEALS.

139. Appeal may be taken from the action of the project manager to the director, and ultimately to the Secretary of the Interior, as follows:

140. All cases of error or applications for relief should be promptly called to the attention of the project manager by the party affected. If the project manager decides to deny the request or application, he will serve upon the party aggrieved, personally or by registered mail, notice of his decision. The notice will state the facts, the reason for denying the relief asked, and also that the party aggrieved may appeal to the director within 30 days after receipt of the notice by filing with the project manager addressed to the director such appeal. (As amended June 12, 1913.)

141. The appeal may consist of a written statement addressed to the director, setting out clearly and definitely the ground of complaint. The project manager will note thereon the date of its receipt in his office and promptly forward the same, with full report, to the director through the supervising engineer, who will attach his recommendation. (As amended June 12, 1913.)

142. Upon receipt of the papers in the director's office, the matter will be reviewed and decision rendered stating the reasons therefor and that appeal therefrom may be taken as in the next paragraph provided. Notice and copy of this decision will be served by the project manager upon the party aggrieved personally or by registered mail sent to the last-known address of such party. (As amended June 21, 1913.)

143. The party aggrieved desiring to appeal from the director's decision will file with the project manager within 60 days from receipt of notice of director's decision, written statement of appeal, setting out the grounds thereof, addressed to the Secretary of the

Interior. In case of appeal from the director's ruling, the matter will be submitted to the Secretary for consideration and appropriate action. (As amended June 21, 1913.)

144. In case of service of notice of decision by registered mail, such notice will be mailed to the last-known post-office address as shown in the record, and evidence of service will consist of the registry return card on which such letter was delivered, or, in case of inability of postal authorities to make delivery, of the returned unclaimed letter. When service is personal, the party making the service will make affidavit to that fact, stating time and place of service, or secure written acknowledgment of the person served, and file the same with the project manager. (As amended June 12, 1913.)

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