

42-108. Measure of damages for right of way over unoccupied lands, when. When any individual, company or corporation shall have constructed any canal, ditch, flume or aqueduct for purposes of irrigation over unoccupied lands of another, the damages awarded for the right of way of such canal, ditch, flume or aqueduct shall not exceed the value of the land occupied at the date of such construction, and neither the enhanced value of the land growing out of the construction of such canal, ditch, flume or aqueduct, nor the subsequent enhancement of its value through settlement made after the construction of such canal, ditch, flume or aqueduct, shall be considered in estimating the damages for such right of way: Provided, Such canal was constructed with the knowledge and without protest from the owner of the land.

History: L. 1886, ch. 115, § 8; Feb. 26; R.S. 1923, 42-108.