

TITLE 42  
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 25  
TRANSFER AND LEASE OF CAREY ACT WATER RIGHTS

42-2501. RIGHT TO TRANSFER RECOGNIZED. The owner of any lands to which a water right has been made appurtenant pursuant to the provisions or operation of the act of congress of the United States known as the Carey Act may transfer such water right, in whole or in part, to other land owned by him which can be served and irrigated by the same Carey act irrigation system and may, by sale, or by lease for a period not exceeding one year, transfer such water right or any portion thereof to another for use upon or in connection with any such other lands, in the manner and on the condition set forth in this chapter.

[(42-2501) 1917, ch. 159, sec. 1, p. 484; reen. C.L. 130:1; am. 1919, ch. 171, sec. 1, p. 544; C.S., sec. 3052; am. 1925, ch. 94, sec. 1, p. 134; I.C.A., sec. 41-2101.]

42-2502. INSTRUMENT OF CONVEYANCE -- EXECUTION -- RECORDATION. The transfer of a water right, in whole or in part, made by such person to other lands so owned by him shall be evidenced by a written instrument executed and acknowledged by such person as other conveyances of real estate, reciting therein the facts, stating the amount of the right transferred and describing the land from which and the land to which the transfer is to be made, and the transfer of a water right or any portion thereof from one person to another shall be evidenced by a written instrument containing similar recitals and executed and acknowledged in like manner by the grantor or lessor.

All of such instruments shall be recorded in the office of the county recorder of the county or counties where the land is situated from which such right is transferred and also in the office of the county recorder of the county or counties where the land is situated to which such right is transferred, and to all of such instruments the recording acts of the state shall apply.

[(42-2502) 1917, ch. 159, sec. 2, p. 484; reen. C.L. 130:2; C.S., sec. 3053; I.C.A., sec. 41-2102.]

42-2503. CONSENT OF CAREY ACT OPERATING COMPANY TO TRANSFER. Before the transfer of a water right shall take effect under this chapter a person interested therein must apply to the board of directors of the corporation operating such Carey Act irrigation system for consent to the making of such transfer, and if such consent is given a resolution showing the same and the extent or portion of the right to be transferred shall be adopted by said board and a copy thereof, with proper reference to the date of its passage, shall be incorporated in the instrument evidencing such transfer, and upon the recording of such instrument, as provided in section [42-2502](#), [Idaho Code,] such transfer shall be complete.

[(42-2503) 1917, ch. 159, sec. 4, p. 484; compiled and reen. C.L. 130:4; C.S., sec. 3054; I.C.A., sec. 41-2103.]

42-2507. TRANSFER OF STOCK CERTIFICATES EVIDENCING WATER RIGHT. When a transfer of a water right or of a portion thereof is made effectual under this chapter otherwise than by lease the certificate or certificates evidencing the ownership thereof shall be surrendered to the corporation, and the officers of the corporation shall issue new certificates to the person or persons entitled thereto, specifying the land or lands to which the water right is appurtenant after such transfer and the amount of such right which is appurtenant to any of said lands.

[(42-2507) 1917, ch. 159, sec. 8, p. 484; reen. C.L. 130:8; C.S., sec. 3058; I.C.A., sec. 41-2107.]

42-2508. EFFECT OF LEASE UPON APPURTENANCY. A lease of a water right or of a portion thereof shall not change the appurtenancy of such right, but the same shall remain an appurtenant of the land of the lessor, subject only to the rights of the lessee to make use of the same.

[(42-2508) 1917, ch. 159, sec. 9, p. 484; reen. C.L. 130:9; C.S., sec. 3059; I.C.A., sec. 41-2108.]

42-2509. RIGHTS OF LIENHOLDERS PROTECTED. No water right or any portion thereof shall be transferred from one tract of land to another under the provisions of this chapter where there is a valid existing mortgage or other lien or encumbrance on the land to which such water right is appurtenant without the consent of the holder of such mortgage or other lien or encumbrance, which consent shall be evidenced by an instrument in writing executed and acknowledged as other instruments relating to the conveyance of real estate.

[(42-2509) 1917, ch. 159, sec. 10, p. 484; reen. C.L. 130:10; C.S., sec. 3060; I.C.A., sec. 41-2109.]

CHAPTER 26  
SALE OF WATER RIGHTS