

TITLE 42
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 8
DISTRIBUTION OF STORED WATER

42-801. CONVEYANCE OF STORED WATER THROUGH NATURAL CHANNEL -- APPOINTMENT OF SPECIAL DEPUTY AND ASSISTANTS. Whenever the owner of a reservoir shall desire to use the bed of a stream, or a natural water course, for the purpose of carrying stored water, he shall in writing notify the department of water resources, giving the date when it is proposed to discharge the water, its volume in acre feet, and in cubic feet per second at the point of discharge, and the persons and ditches entitled to its use. The department shall then appoint a special deputy, unless a state watermaster has already been appointed to deliver the waters from said stream, in which event the appointed watermaster and his assistants may be instructed to make the delivery of the stored water without further appointment, whose duty it shall be to adjust the headgates of all ditches not entitled to the stored water, and in such manner that those having the right to the use of such water shall secure the volume to which they are entitled. For the purpose of delivering such stored water the deputy appointed by the department of water resources may employ such number of assistants as, with the approval of the department, he may deem necessary. The owner of any reservoir proceeding under the provisions of this section shall pay to the special deputy and to each assistant a salary as determined by the director of the department of water resources, or a salary and expenses as negotiated with the owner of the said stored water and approved by the director of the department of water resources, or pay to the water district, if there is one, a sum based upon the cost of delivering a unit of water. Said charge by the water district will be determined and collected in the same manner as prescribed in [chapter 6, title 42](#), Idaho Code, for compensating the watermaster for delivery of natural flow water.

[(42-801) 1909, p. 150, sec. 1; reen. C.L., sec. 3282h; C.S., sec. 5624; I.C.A., sec. 41-701; am. 1980, ch. 277, sec. 2, p. 721.]

42-802. CONVEYANCE OF STORED WATER -- PENALTY FOR INTERFERENCE -- DUTY OF SPECIAL DEPUTY. After the special deputy and his assistants shall have adjusted the headgates of all ditches, the owners of which are not entitled to the use of such stored water as provided in the preceding section and before such stored water shall have passed the headgates so adjusted, any person who shall raise or tamper with any such headgate in such manner as to misappropriate any portion of such water to his own use and benefit whether he be the owner of such headgate or not, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 together with imprisonment in the county jail for ten (10) days; and not more than \$2000 or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

Whenever the special deputy or any assistant shall discover any person in the act of committing a misdemeanor declared in this section, he shall arrest such person and turn him over to the sheriff of the county in which the misdemeanor was committed and he shall also file with the county attorney of such county an affidavit setting out the facts with reference to the commission of such misdemeanor.

[(42-802) 1909, p. 150, sec. 2; reen. C.L., sec. 3282i; C.S., sec. 5625; am. 1921, ch. 133, sec. 1, p. 320; I.C.A., sec. 41-702.]