

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 8
REPOSSESSION OF WATER RIGHTS UPON ISSUANCE OF TAX DEED

43-801. TAX DEED -- TITLE TO WATER RIGHTS -- ELECTION OF DISTRICT. Whenever a tax deed shall issue under the laws of Idaho transferring title to land within an irrigation district organized under sections [43-727](#), [43-728](#), and [43-729](#), which shall be based upon delinquent taxes, including assessments on behalf of said irrigation district for the purchase of a water right for said land, and which was to become appurtenant to said land, title to said water right shall not pass upon the issuance of said deed: provided, the irrigation district shall so elect.

[(43-801) 1931, ch. 34, sec. 1, p. 67; I.C.A., sec. 42-801.]

43-802. RIGHTS ESTABLISHED UPON ELECTION BY DISTRICT. Upon an election by an irrigation district as provided in section [43-801](#), rights shall be established as follows:

a. The taxes in favor of the irrigation district and constituting part of the taxes delinquent upon which the deed is based shall be canceled;

b. In lieu of the cancellation of said taxes in favor of the irrigation district, title to the water right shall vest in the irrigation district, subject to the right of redemption as hereinafter provided.

[(43-802) 1931, ch. 34, sec. 2, p. 67; I.C.A., sec. 42-802.]

43-803. NOTICE OF ELECTION BY DISTRICT -- RESERVATION OF TITLE TO WATER RIGHT. To constitute an election as provided in section [43-801](#), Idaho Code, the irrigation district shall, at least ten (10) days prior to the date of the issuance of tax deed to the county treasurer on behalf of any taxing unit, or at least ten (10) days prior to the date of any sale of real property acquired by a county on account of delinquent taxes, file with the county treasurer and the clerk of the board of county commissioners of the county a notice in writing, in substantially the following form:

"Notice is hereby given that irrigation district has elected to accept a cancellation of taxes in favor of said irrigation district and constituting part of the taxes delinquent upon which tax deed may or has issued and in lieu thereof to retain title to the water right for the purchase of which the assessments in favor of the irrigation district were levied. The property affected by this notice is described as follows, to wit:
(....)"

Upon the issuance of a tax deed to any lands within an irrigation district organized as aforesaid for delinquent taxes or a sale of any lands acquired by a county on account of delinquent taxes, the receipt of this notice by the county treasurer or the clerk of the board of county commissioners of the county, substantially in form as herein provided, shall be recorded in the chain of title of the subject real property and shall obligate the officer accepting a deed on behalf of a taxing unit and/or the officers executing a deed to lands acquired by the county for delinquent taxes, to reserve title to the water right and title to said water right shall thereupon vest in the irrigation district subject to redemption as hereinafter provided; provided, however, said irrigation district shall as a prerequisite to with-

drawal of said water right from the lands and revesting thereof in said district, pay to the county the amount paid by the county to the state as state taxes levied against said lands from which said water right is to be withdrawn.

[(43-803) 1931, ch. 34, sec. 3, p. 67; I.C.A., sec. 42-803; am. 1933, ch. 112, sec. 1, p. 178; am. 2007, ch. 161, sec. 1, p. 484.]

43-804. REDEMPTION OR REPURCHASE OF WATER RIGHTS. The purchaser of any lands within an irrigation district at a sale of lands acquired by a county on account of delinquent taxes, or the holder of a tax deed to any lands within an irrigation district, or the then owner of said lands, the water right to which has vested in said irrigation district under the provisions of this chapter, may, within six (6) months from the date of the issuance of the tax deed, or of the sale of said lands by the county, whichever is earlier, appear before the board of directors of said irrigation district at a regular or special meeting of said board and make application to redeem or repurchase the water right originally bought for use and to be made appurtenant to said land, and the said board of directors shall, upon receipt of payment of all taxes formerly delinquent against said land in favor of the irrigation district and expenses incurred by the district in connection therewith, reinstate said water right and thereafter said land and water shall be subject to all of the charges required to be paid by lands within the district: provided, however, that during the interim between the issuance of the tax deed to the land, or the sale of said land by the county as herein referred to, and the date of the application to redeem, water represented by said water right shall not be delivered to the land except upon the express consent of the board of directors of the irrigation district.

Should no redemption be made as herein provided within the period herein stated, title to the water right shall vest absolutely in the irrigation district.

[(43-804) 1931, ch. 34, sec. 4, p. 67; I.C.A., sec. 42-804; am. 2007, ch. 161, sec. 2, p. 484.]

43-805. OUTSTANDING BONDS NOT AFFECTED -- DUTY OF DIRECTORS. The election of an irrigation district to cancel delinquent taxes in favor of the irrigation district and accept in lieu thereof title to the water right for the payment of which said taxes were levied, shall in nowise impair outstanding bonds or obligations of the irrigation district, and upon such an election by an irrigation district as herein provided, the board of directors shall:

1. Either set aside in a sinking fund with the state treasurer as the acting treasurer of the irrigation district an amount sufficient to pay the unpaid balance of the taxes to be levied upon the land for which the water right was purchased, based upon the assessments of benefits as confirmed by the court in the proceedings confirming the sale of bonds of said irrigation district;

2. Or shall provide an equivalent assessment of benefits against other lands of equal value.

[(43-805) 1931, ch. 34, sec. 5, p. 67; I.C.A., sec. 42-805.]

43-806. PURPOSE OF CHAPTER. The purpose of the procedure herein provided is to permit an irrigation district to repossess a water right not paid

for and to exclude the land from the benefits theretofore assessed on account of said water right.

[(43-806) 1931, ch. 34, sec. 6, p. 67; I.C.A., sec. 42-806.]