

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 17
COOPERATION WITH STATE UNDER CAREY ACT

43-1701. IRRIGATION DISTRICTS MAY SUBMIT RECLAMATION PROPOSALS UNDER CAREY ACT. In case there are within the boundaries of an irrigation district organized under the laws of this state lands which are in a condition to be selected under the Carey Act laws of the United States of America, the board of directors of an irrigation district may, and it is hereby authorized and empowered to file with the department of water resources a request for the selection, on behalf of the state, by the department, of the lands to be reclaimed, designating said lands by legal subdivisions.

This request shall be accompanied by a proposal to construct the ditch, canal or other irrigation works necessary for the complete reclamation of the lands asked to be selected and the lands within the district. The proposal shall be prepared in accordance with the rules of the department of water resources of the state of Idaho and with the regulations of the department of the interior, and shall be accompanied by a certificate that application for permit to appropriate water has been filed, together with the department's report thereon. It shall state the source of the water supply, the location and dimensions of the proposed works and the estimated cost thereof.

[(43-1701) R.C., sec. 2386; am. 1911, ch. 71, sec. 1, p. 194; am. 1911, ch. 154, sec. 5, p. 461; am. 1915, ch. 143, sec. 4, p. 304; reen. C.L. 166:1; C.S., 4454; I.C.A., sec. 42-1701.]

43-1702. CERTIFIED CHECK TO ACCOMPANY PROPOSAL. A certified check for a sum not less than fifty dollars (\$50.00), nor more than two hundred fifty dollars (\$250), as the department of water resources may determine, shall accompany each requested proposal by an irrigation district, the same to be held as a guaranty of the execution of the contract with the state in accordance with its terms by the irrigation district submitting such proposal, in case of the approval of the same and the selection of the lands by the department, which check shall be forfeited to the state in case of failure of said irrigation district to enter into a contract with the state in accordance with the terms of the request.

[(43-1702) R.C., sec. 2386a, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:2; C.S., sec. 4455; I.C.A., sec. 42-1702.]

43-1703. CONTRACT FOR CONSTRUCTION. Upon the withdrawal of the land by the department of the interior it shall be the duty of the department of water resources to enter into a contract for the construction of irrigation works with the district submitting the proposition, which contract shall contain complete specifications of the location, dimensions, character and estimated cost of the proposed canal, ditch or other irrigation works. Said contract shall state the price and terms upon which the state will dispose of the lands to the settlers, but shall not state the cost of the water rights to the settlers; it shall further state that the board of directors of the district shall determine the benefits, and the cost of the proposed

works shall be apportioned to the said lands by the said board of directors, as provided by section [43-404](#), [Idaho Code,] and that the procedure with reference to the assessing and the levying of assessments on said lands and the sale for delinquent assessments so levied and assessed and the method of issuing tax deeds by the district shall conform in all particulars to that provided in the irrigation district laws for other lands within said district. The aforesaid contract shall not be entered into on the part of the department of water resources until the withdrawal of such lands by the department of the interior, and the irrigation district shall not at any time be required to file a bond.

[(43-1703) R.C., sec. 2386b, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:3; C.S., sec. 4456; I.C.A., sec. 42-1703.]

43-1704. APPLICATION TO ENTER LAND. Any citizen of the United States, or any person having declared his intention to become a citizen of the United States (excepting married women), over the age of twenty-one (21) years, may make application under oath to the department of water resources to enter any of said land in an amount not to exceed one hundred sixty (160) acres for any one (1) person; and such application shall set forth that the person desiring to make such entry does so for the purpose of actual reclamation, cultivation and settlement in accordance with the act of congress and the laws of this state relating thereto, and that the applicant has never received the benefit of the provisions of any Carey Act law to an amount greater than one hundred sixty (160) acres, including the number of acres specified in the application under consideration. Such application must be accompanied by a certified copy of a contract for the water rights, made and entered into by the person making the application with the district, which has been authorized by the department to furnish water for the reclamation of said lands; and if said applicant has at any previous time entered lands under the provisions of any Carey Act law, he shall so state in the application, together with description, date of entry and location of said land. The department shall thereupon file in its office the application and papers relating thereto, and, if allowed, issue a certificate of location to the applicant.

All applications for entry shall be accompanied by a payment of twenty-five cents (25¢) per acre, which shall be paid as a partial payment on the land if the application is allowed; and all certificates when issued shall be recorded in a book to be kept for that purpose. If the application is not allowed, the twenty-five cents (25¢) per acre accompanying it shall be refunded to the applicant. The department of water resources shall dispose of all lands accepted by the state under the provisions of this chapter at a uniform price of fifty cents (50¢) per acre, half to be paid at the time of entry and the remainder at the time of making final proof by the settler.

[(43-1704) R.C., sec. 2386c, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; compiled and reen. C.L. 166:4; C.S., sec. 4457; I.C.A., sec. 42-1704.]

43-1705. PROOF OF RECLAMATION AND SETTLEMENT -- PATENT. Within one (1) year after the district authorized to construct irrigation works under the provisions of this title shall have notified the settlers under such works that it is prepared to furnish water under the terms of the contract with the state, said settlers shall cultivate and reclaim not less than one-six-

teenth (1/16) part of the land filed upon, and within two (2) years after said notice, the settler shall have irrigated and cultivated not less than one-eighth (1/8) of the land filed upon, and within three (3) years after the date of said notice the settler shall appear before the director of the department of water resources, a judge or clerk of any court of record within the state, or a commissioner appointed by the department of water resources, and make final proof of the reclamation, settlement and occupation, which proof shall embrace evidence that he has paid all of the assessments levied and assessed against said land by the district, or he shall present a tax deed issued by the treasurer of said district and also prove that all assessments levied and assessed by the district against said land have been paid; that he has been an actual settler thereon and has cultivated and irrigated not less than one-eighth (1/8) part of said tract; and such further proof, if any, as may be required by the regulations of the department of the interior and the department of water resources.

The officer taking this proof shall be entitled to receive a fee of two dollars (\$2.00), which fee shall be paid by the settler and shall be in addition to the price paid to the state for the land: provided, that when the director of the department of water resources takes final proof, all fees received by him shall be turned into the state treasury. The commissioners appointed by the department of water resources are hereby authorized to administer oaths.

All proofs so received shall be submitted to the department of water resources accompanied by the final payment for the said land, and upon approval of the same by said department, the settler shall be entitled to his patent. If the land shall not be embraced in any patent theretofore issued to the state by the United States, the proof shall be forwarded to the secretary of the interior with the request that a patent to said lands be issued to the state.

When the works designed for the irrigation of lands under the provisions of this chapter shall be so far completed as to actually furnish an ample supply of water in a substantial ditch or canal to reclaim any particular tract or tracts of such lands, the state of Idaho shall, through the department of water resources, make proof of such fact, and shall apply for a patent to such lands in the manner provided in the regulations of the department of the interior.

[(43-1705) R.C., sec. 2386d, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:5; C.S., sec. 4458; I.C.A., sec. 42-1705.]

43-1706. ISSUANCE OF PATENT. Upon the issuance of a patent to any lands by the United States to the state, notice shall be forwarded to the settler upon such land. It shall be the duty of the department of water resources to issue a patent to said lands from the state to the settler.

[(43-1706) R.C., sec. 2386e, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:6; C.S., sec. 4459; I.C.A., sec. 42-1706.]

43-1707. APPURTENANCY OF WATER RIGHTS. The water rights to all lands acquired under the provisions of this chapter shall attach to and become appurtenant to the land as soon as title passes from the United States to the state.

[(43-1707) R.C., sec. 2386e, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:7; C.S., sec. 4460; I.C.A., sec. 42-1707.]

43-1708. LIEN OF COST OF WORKS AND ASSESSMENTS. The apportionment of the cost of the irrigation works made by the board of directors of the irrigation district under section [43-404](#)[, Idaho Code], and all assessments and taxes levied and assessed against said land by the district shall be a first and prior lien on said water right and land, said lien to be in all respects prior to any and all other liens created or attempted to be created by the owner and holder of said land, and said land shall be sold as other lands in the district are sold for like assessments, and a sale of the lands shall work an assignment of the contract to the purchaser.

[(43-1708) R.C., sec. 2386e, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:8; C.S., sec. 4461; I.C.A., sec. 42-1708.]

43-1709. EFFECT OF TAX DEED. A tax deed from the treasurer of the district shall be conclusive proof to the department of water resources that the assessments have been regularly and legally made on said land, and no irregularity with reference to any assessment can be raised after a deed has been issued by the district, except an error in the description of the land in said deed.

[(43-1709) R.C., sec. 2386e, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:9; C.S., sec. 4462; I.C.A., sec. 42-1709.]

43-1710. REENTRY AND SALE. In case the district is a purchaser at the sale for delinquent assessments levied and assessed against such lands, said district may, and it is hereby authorized and empowered to, after the expiration of the one (1) year's redemption period, enter into a contract with any party to furnish water to said lands, and the person so entering into a contract with said district may make application for the patent to the lands described in said contract upon his making proof, as hereinbefore required, and said contract, together with the certificate from the irrigation district that all taxes and assessments levied and assessed against said lands have been paid, together with a statement showing the facts whereby said district is authorized to enter into the second contract, certified by the secretary of the district, with the seal of said district attached shall be sufficient evidence to the department of water resources on which to issue to said applicant a patent to said land.

[(43-1709) R.C., sec. 2386e, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:10; C.S., sec. 4463; I.C.A., sec. 42-1710.]

43-1711. APPLICATION OF CAREY ACT LAW. The state laws with reference to the Carey Act lands and requests for selection, etc., and the procedure with reference to the same shall apply to the applications of an irrigation district where the same are not particularly provided for in this chapter, where said state laws are in accord with the provisions hereof.

[(43-1711) R.C., sec. 2386f, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:11; C.S., sec. 4464; I.C.A., sec. 42-1711.]

43-1712. APPLICATION OF CHAPTER. The provisions of this chapter shall apply only to irrigation districts.

[(43-1712) R.C., sec. 2386g, as added by 1911, ch. 71, sec. 2, p. 194, and 1911, ch. 154, sec. 6, p. 461; reen. C.L. 166:12; C.S., sec. 4465; I.C.A., sec. 42-1712.]