

CHAPTER 61-13

ORGANIZATION OF CORPORATIONS FOR IRRIGATION PURPOSES

61-13-01. Corporations or limited liability companies may be organized for irrigation purposes. A corporation or limited liability company may be formed for the purpose of acquiring water rights, or for the purpose of establishing, owning, leasing, operating, and maintaining an irrigation system and selling, distributing, supplying, and delivering water for irrigation purposes, or for domestic use, to its members or stockholders.

61-13-02. Powers of corporations and limited liability companies organized under chapter. A corporation or limited liability company organized for irrigation purposes may:

1. Engage in any corporate activity not otherwise prohibited by law and not inconsistent with the purposes mentioned in section 61-13-01.
2. Acquire water rights, easements, sites, and all means, property, machinery, and equipment necessary or required in connection with the operation and maintenance of an irrigation system.
3. Establish, construct, maintain, and operate pumping plants, wells, pipelines, canals, and ditches and all other necessary facilities required for the appropriation of water and the operation and maintenance of an irrigation system.
4. Borrow money in an amount, whether in excess of the amount of its capital stock or membership interests or not, necessary to enable it to carry out the intent and purposes for which it is organized, and as security for the payment of any loan, to pledge or mortgage real or personal property acquired by the proceeds of such loan, or otherwise, including future earnings or income of the corporation or limited liability company.
5. Acquire, purchase, or lease water rights, franchises, and irrigation works and facilities, or any part thereof, from any person, firm, corporation, limited liability company, or irrigation district, and from any state or federal agency.
6. Furnish water for irrigation or domestic use, to its members or stockholders, and to furnish and sell water to any person, firm, corporation, or limited liability company.
7. Adopt bylaws and rules for the furnishing of water, and for charges to be made therefor.
8. Levy assessments against its members or stockholders necessary for the maintenance and operation of the irrigation system, if one is established and maintained.
9. Fix rates of tolls and charges for water, to collect the same, to require that charges for water be paid in advance of the irrigation season, to suspend the delivery of water to any land for the irrigation of which the charges and tolls have not been paid, and to provide for the suspension of water delivery to any land upon which assessments, apportioned and levied, remain unpaid for one year after having become due and payable.
10. Enter into contracts with any person, firm, association, corporation, limited liability company, irrigation district, this state, or any department or agency thereof, or the United States, or with any department or agency of the United States, for supplying water for the irrigation of the lands of its members or stockholders. Such supply of water may be either the entire supply of water necessary to irrigate said lands or to supplement waters supplied or controlled by the corporation or limited liability company.

11. Do each and every thing necessary, suitable, or proper for the accomplishment of any one or more of the objects enumerated in this section, and to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the corporation or limited liability company is organized, or to the activities in which it is engaged.
12. Exercise any other rights, powers, and privileges not inconsistent with the purposes of this chapter granted by this state to ordinary corporations or limited liability companies or to mutual aid corporations organized under chapter 10-12.

61-13-03. Articles of incorporation or bylaws may restrict sales to stockholders - When stock to become appurtenant to land - Sale of water to others. Any corporation organized for irrigation purposes may provide in its articles of incorporation or bylaws that water shall be sold, distributed, supplied, or delivered only to owners of its shares of stock and that such shares shall be appurtenant to the lands described in the certificate issued and evidencing such shares of stock. When such certificate and a copy of such articles of incorporation or bylaws are recorded in the office of the recorder of the county in which such lands are situated, such shares of stock shall become appurtenant to said lands and shall be transferred only with the sale or transfer of such lands, except in the event of sale or forfeiture of such shares of stock for delinquent assessments thereon as provided in section 61-13-04. Notwithstanding such provision in its articles of incorporation or bylaws, any corporation organized for irrigation purposes may sell water to an irrigation district, this state, or any department or agency thereof, and to the United States, or any department or agency thereof, at the same rates as to holders of shares of such corporation. In the event lands to which any such stock is appurtenant are acquired by this state, the United States, or any department or agency thereof, such stock shall be canceled by the corporation, but shall be reissued to any persons subsequently acquiring title to such land.

61-13-03.1. Articles of organization or bylaws may restrict sales to members - When membership interest to become appurtenant to land - Sale of water to others. Any limited liability company organized for irrigation purposes may provide in the articles of organization or bylaws that water must be sold, distributed, supplied, or delivered only to owners of the limited liability company's membership interests and that these membership interests must be appurtenant to the land described in the document evidencing these membership interests. If a copy of the articles of organization or bylaws is recorded in the office of the recorder of the county in which the lands are situated, the membership interests become appurtenant to the lands and may be transferred only with the sale or transfer of the lands, except in the event of sale or forfeiture of the membership interests for delinquent assessments on the land as provided in section 61-13-04. Notwithstanding any provision in the limited liability company's articles of organization or bylaws, any limited liability company organized for irrigation purposes may sell water to an irrigation district, this state, or any department or agency of this state, and to the United States, or any department or agency of the United States, at the same rates as to holders of membership interests of the limited liability company. If lands to which any membership interest is appurtenant are acquired by the state, the United States, or any department or agency of the state or the United States, the membership interest must be canceled by the limited liability company and must be reissued to any persons acquiring title to the land at a later date.

61-13-04. Assessments may be levied upon capital stock. Any corporation or limited liability company organized for irrigation purposes, unless otherwise provided in its articles of incorporation or bylaws, may levy assessments upon its capital stock whether or not such stock is paid in full. If any shares of stock of any such corporation or membership interests of any such limited liability company, which have been made appurtenant to any land as provided in section 61-13-03, become delinquent in the payment of assessments, the right to receive water thereunder or through dividends on such stock or membership interests may be denied and such shares or membership interests may be forfeited to the corporation or limited liability company.