

corporate boundaries of any city or town shall disclose in writing to any prospective buyer whether fee ownership of the wind estate has in any way been severed in the chain of title from the surface estate, including the existence of a wind energy agreement as defined in W.S. 34-27-102(a)(i).

34-1-152. Ownership of pore space underlying surfaces.

(a) The ownership of all pore space in all strata below the surface lands and waters of this state is declared to be vested in the several owners of the surface above the strata.

(b) A conveyance of the surface ownership of real property shall be a conveyance of the pore space in all strata below the surface of such real property unless the ownership interest in such pore space previously has been severed from the surface ownership or is explicitly excluded in the conveyance. The ownership of pore space in strata may be conveyed in the manner provided by law for the transfer of mineral interests in real property. No agreement conveying mineral or other interests underlying the surface shall act to convey ownership of any pore space in the stratum unless the agreement explicitly conveys that ownership interest.

(c) No provision of law, including a lawfully adopted rule or regulation, requiring notice to be given to a surface owner, to an owner of the mineral interest, or to both, shall be construed to require notice to persons holding ownership interest in any pore space in the underlying strata unless the law specifies notice to such persons is required.

(d) As used in this section, the term "pore space" is defined to mean subsurface space which can be used as storage space for carbon dioxide or other substances.

(e) Nothing in this section shall be construed to change or alter the common law as of July 1, 2008, as it relates to the rights belonging to, or the dominance of, the mineral estate. For the purpose of determining the priority of subsurface uses between a severed mineral estate and pore space as defined in subsection (d) of this section, the severed mineral estate is dominant regardless of whether ownership of the pore space is vested in the several owners of the surface or is owned separately from the surface.

(f) All instruments which transfer the rights to pore space under this section shall describe the scope of any right

to use the surface estate. The owner of any pore space right shall have no right to use the surface estate beyond that set out in a properly recorded instrument.

(g) Transfers of pore space rights made after July 1, 2008 are null and void at the option of the owner of the surface estate if the transfer instrument does not contain a specific description of the location of the pore space being transferred. The description may include but is not limited to a subsurface geologic or seismic survey or a metes and bounds description of the surface lying over the transferred pore space. In the event a description of the surface is used, the transfer shall be deemed to include pore space at all depths underlying the described surface area unless specifically excluded. The validity of pore space rights under this subsection shall not affect the respective liabilities of any party and such liabilities shall operate in the same manner as if the pore space transfer were valid.

(h) Nothing in this section shall alter, amend, diminish or invalidate rights to the use of subsurface pore space that were acquired by contract or lease prior to July 1, 2008.

34-1-153. Ownership of material injected into geologic sequestration sites; liability for holding interests related to a sequestration site or giving consent to allow geologic sequestration activities.

(a) All carbon dioxide, and other substances injected incidental to the injection of carbon dioxide, injected into any geologic sequestration site for the purpose of geologic sequestration shall be presumed to be owned by the injector of such material and all rights, benefits, burdens and liabilities of such ownership shall belong to the injector. This presumption may be rebutted by a person claiming contrary ownership by a preponderance of the evidence in an action to establish ownership.

(b) No owner of pore space, other person holding any right to control pore space or other surface or subsurface interest holder, shall be liable for the effects of injecting carbon dioxide for geologic sequestration purposes, or for the effects of injecting other substances for the purpose of geologic sequestration which substances are injected incidental to the injection of carbon dioxide, solely by virtue of their interest or by their having given consent to the injection.