

HOUSE BILL NO. HB0002

Disposition of water rights.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to the subdivision of land and water
2 rights; requiring written documentation from the state
3 engineer or state board of control on the disposition of
4 water rights when subdividing land; requiring notice of the
5 proposed disposition to other appropriators; making
6 conforming amendments; providing applicability; and
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 15-1-415 by creating a new subsection
12 (e), 18-5-306(a)(intro), (xi)(intro), (A)(I) through (III),
13 by creating a new subdivision (IV) and (B) through (E) and
14 18-5-316(b)(intro), (ix)(intro), (A)(I) through (III), by
15 creating a new subdivision (IV), (B) and (C) are amended to
16 read:

1

2 15-1-415. Additions to cities or towns by subdividing
3 landowners; plat requirements; filing and effect thereof;
4 controlling layout of streets.

5

6 (e) With respect to any water rights appurtenant to
7 lands to be subdivided in accordance with this section and
8 prior to certification and approval of the map or plat the
9 governing body shall require the owner to submit to the
10 governing body the following:

11

12 (i) The intended disposition of the water
13 rights, by:

14

15 (A) Written documentation from the state
16 engineer or the state board of control that the owner
17 submitted to the state engineer or the state board of
18 control all documents necessary to voluntarily abandon the
19 water rights, cancel any unadjudicated permits or eliminate
20 applicable lands from any unadjudicated permits. The owner
21 shall notify any purchasers of this action;

22

1 (B) Written documentation from the state
2 board of control that the owner submitted to the state
3 board of control all documents necessary to change the use
4 or place of use to provide for beneficial use of the water
5 rights outside the subdivision, which may include a
6 transfer to the city or town for use within its municipal
7 water service boundaries;

8
9 (C) A plan, accompanied by written
10 documentation from the state engineer approving the plan,
11 for the distribution of the water rights appurtenant to the
12 land to be subdivided. The plan shall specify the
13 distribution of the water to the lots within the
14 subdivision and shall include written documentation from
15 the state board of control that the owner submitted to the
16 state board of control all documents necessary to change
17 the use, place of use or point of diversion or means of
18 conveyance in accordance with W.S. 41-3-103, 41-3-104 or
19 41-3-114; or

20
21 (D) Written documentation from the state
22 board of control that it has accepted an authorization to
23 detach water rights appurtenant to the lands to be

1 subdivided in accordance with rules and regulations
2 promulgated by the state board of control.

3
4 (ii) If the subdivision is located within lands
5 served by or crossed by a ditch, irrigation works or other
6 water conveyance system, evidence that the owner submitted
7 the subdivision map or plat to the public entity, company,
8 association or appropriators responsible for the ditch,
9 irrigations works or other water conveyance system for
10 review and recommendations at least sixty (60) days prior
11 to the submittal of the map or plat to the governing body.
12 Upon receipt of the subdivision map or plat, the public
13 entity, company, association or appropriators shall notify
14 the owner if and how the subdivision will create a
15 significant additional burden or risk of liability;

16
17 (iii) Evidence that the owner will specifically
18 state on all offers and solicitations relative to the
19 subdivision the owner's intent to comply with this
20 paragraph and that the owner does not warrant to a
21 purchaser that the purchaser shall have any rights to the
22 natural flow of any stream within or adjacent to the
23 proposed subdivision. The owner shall further state that

1 Wyoming law does not recognize any riparian rights to the
2 continued natural flow of a stream or river for persons
3 living on the banks of the stream or river;

4
5 (iv) If the subdivision is located within the
6 boundaries of an irrigation district that is subject to the
7 provisions of title 41, chapter 7 of the Wyoming statutes,
8 the map or plat shall be accompanied by recommendations
9 from the irrigation district regarding any changes to the
10 attached water rights and the irrigation district's
11 easements. If there is a conflict with the irrigation
12 district's recommendations, the owner shall certify that it
13 met with and made a good faith effort to resolve any
14 conflicts with the irrigation district; and

15
16 (v) If the subdivision will create a significant
17 additional burden or risk of liability to the public
18 entity, company, association or appropriators responsible
19 for the ditch, irrigation works or other water conveyance
20 system, the owner shall provide an adequate and responsible
21 plan to reduce or eliminate the additional burden or risk
22 of liability and evidence that the owner submitted the plan
23 to the public entity, company, association or appropriators

1 for review and recommendation regarding the adequacy of the
2 plan.

3

4 **18-5-306. Minimum requirements for subdivision**
5 **permits.**

6

7 (a) The board shall require, and with respect to
8 paragraph (xii) of this subsection may require, the
9 following information to be submitted with each application
10 for a subdivision permit, provided the board may by rule
11 exempt from any of the following requirements of this
12 subsection or subsection (c) of this section, ~~and may~~
13 ~~exempt from~~ including paragraph (xii) of this subsection,
14 the subdivision of one (1) or more units of land into not
15 more than a total of five (5) units of land:

16

17 (xi) With respect to any water rights
18 appurtenant to lands to be subdivided in accordance with
19 this chapter and prior to final approval of the subdivision
20 permit, the subdivider shall provide the following:

21

22 (A) The intended disposition of the water
23 rights, by:

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10 ~~board~~ of this action;

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(I) ~~Evidence~~ Written documentationfrom the state engineer or the state board of control thatthe subdivider ~~has~~ submitted to the state engineer ~~the~~~~documentation~~ or the state board of control all documentsnecessary to ~~relinquish~~ voluntarily abandon the waterrights, ~~and has notified~~ cancel any unadjudicated permitsor eliminate applicable lands from any unadjudicatedpermits. The subdivider shall notify any purchasers ~~and the~~~~board~~ of this action;(II) ~~Evidence~~ Written documentationfrom the state board of control that the subdivider hassubmitted to the ~~state engineer the documentation~~ stateboard of control all documents necessary to change the use,or place of use ~~or point of diversion~~ to provide for

beneficial use of the water rights outside the subdivision;

~~or~~(III) A plan, ~~a copy of which was~~~~submitted to and approved by the state engineer prior to~~~~the final approval of the subdivision application~~accompanied by written documentation from the state

1 engineer approving the plan, for the distribution of the
2 water rights appurtenant to the land to be subdivided. The
3 plan shall specify the distribution of the water to the
4 lots within the subdivision and shall include written
5 documentation from the state board of control that the
6 subdivider submitted to the state board of control all
7 ~~appropriate applications for~~ documents necessary to change
8 ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of
9 diversion or means of conveyance in accordance with W.S.
10 41-3-103, 41-3-104 or 41-3-114~~i-~~ or

11

12 (IV) Written documentation from the
13 state board of control that it has accepted an
14 authorization to detach water rights appurtenant to the
15 lands to be subdivided in accordance with rules and
16 regulations promulgated by the state board of control.

17

18 (B) If the subdivision is located within
19 lands~~,~~ served by or crossed by a ditch, irrigation ~~company~~
20 ~~or association or by an unorganized ditch~~ works or other
21 water conveyance system, evidence that the subdivider
22 submitted the plan ~~has been submitted, to the public~~
23 entity, company, association or appropriators responsible

1 for the ditch, irrigation works or other water conveyance
2 system for review and recommendation at least sixty (60)
3 days prior to the submittal of the application for the
4 subdivision permit to the ~~company, or association, or the~~
5 ~~remaining appropriators in the case of an unorganized ditch~~
6 ~~for their review and recommendations~~ board. Upon receipt
7 of the plan, the public entity, company, association or
8 appropriators shall notify the subdivider if and how the
9 subdivision will create a significant additional burden or
10 risk of liability;
11

12 (C) Evidence that the subdivider will
13 specifically state on all offers and solicitations relative
14 to the subdivision ~~his~~ the subdivider's intent to comply
15 with this paragraph and that the ~~seller~~ subdivider does not
16 warrant to a purchaser that ~~he~~ the purchaser shall have any
17 rights to the natural flow of any stream within or adjacent
18 to the proposed subdivision. ~~He~~ The subdivider shall
19 further state that ~~the~~ Wyoming law does not recognize any
20 riparian rights to the continued natural flow of a stream
21 or river for persons living on the banks of the stream or
22 river;
23

1 (D) If the subdivision is located within
2 the boundaries of an irrigation district that is subject to
3 the provisions of title 41, chapter 7 of the Wyoming
4 statutes, the application shall include ~~a review and~~
5 recommendations from the irrigation district regarding any
6 changes to the attached water rights and the irrigation
7 district's easements. If there is a conflict with the
8 irrigation district's recommendations, the ~~applicant~~
9 subdivider shall certify that it ~~has~~ met with and made a
10 good faith effort to resolve any conflicts with the
11 irrigation district; and
12

13 (E) If the subdivision will create a
14 significant additional burden or risk of liability to the
15 ~~irrigation district~~ public entity, company, association or
16 ~~remaining~~ appropriators ~~including appropriators on an~~
17 ~~unorganized~~ responsible for the ditch, irrigation works or
18 other water conveyance system, the ~~applicant~~ subdivider
19 shall provide an adequate and responsible plan to reduce or
20 eliminate the additional burden or risk of liability and
21 evidence that the subdivider submitted the plan to the
22 public entity, company, association or appropriators for

1 review and recommendation regarding the adequacy of the
2 plan.

3

4 **18-5-316. Requirements for large acreage subdivision**
5 **permits.**

6

7 (b) The board may require, ~~any or all of~~ and with
8 respect to paragraph (ix) of this subsection shall require,
9 the following information to be submitted with an
10 application for a subdivision permit pursuant to this
11 section:

12

13 (ix) With respect to any water rights
14 appurtenant to lands to be subdivided in accordance with
15 this section and prior to final approval of the subdivision
16 permit, the subdivider shall provide the following:

17

18 (A) The intended disposition of the water
19 rights by:

20

21 (I) ~~Evidence~~ Written documentation
22 from the state board of control that the subdivider ~~has~~
23 submitted to the state ~~engineer the documentation~~ board of

1 control all documents necessary to ~~relinquish~~ voluntarily
2 abandon the water rights, ~~and has notified~~ cancel any
3 unadjudicated permits or eliminate applicable lands from
4 any unadjudicated permits. The subdivider shall notify any
5 purchasers ~~and the board~~ of this action;

6
7 (II) ~~Evidence~~ Written documentation
8 from the state board of control that the subdivider ~~has~~
9 submitted to the state ~~engineer the documentation~~ board of
10 control all documents necessary to change the use, ~~or~~ place
11 of use ~~or point of diversion~~ to provide for beneficial use
12 of the water rights outside the subdivision; ~~or~~

13
14 (III) A plan, ~~a copy of which was~~
15 ~~submitted to and approved by the state engineer prior to~~
16 ~~the final approval of the subdivision application~~
17 accompanied by written documentation from the state
18 engineer approving the plan, for the distribution of the
19 water rights appurtenant to the land to be subdivided. The
20 plan shall specify the distribution of the water to the
21 lots within the subdivision and shall include written
22 documentation from the state board of control that the
23 subdivider submitted to the state board of control all

1 ~~appropriate applications for~~ documents necessary to change
2 ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of
3 diversion or means of conveyance in accordance with W.S.
4 41-3-103, 41-3-104 or 41-3-114; ~~or~~ or

5
6 (IV) Written documentation from the
7 state board of control that it accepted an authorization to
8 detach water rights appurtenant to the lands to be
9 subdivided in accordance with rules and regulations
10 promulgated by the state board of control.

11
12 (B) If the subdivision is located within ~~an~~
13 ~~irrigation district or within~~ lands, served by or crossed
14 ~~by~~ a ditch, irrigation ~~company or association or by an~~
15 ~~unorganized ditch~~ works or other water conveyance system,
16 evidence that the subdivider submitted the plan ~~has been~~
17 ~~submitted to the district board~~ public entity, company, ~~or~~
18 association, ~~or the remaining~~ appropriators ~~in the case of~~
19 ~~an unorganized~~ responsible for the ditch, irrigation works
20 or other water conveyance system for ~~their~~ review and
21 recommendations at least sixty (60) days prior to the
22 submittal of the application for the subdivision permit to
23 the board; and

1

2 (C) Evidence that the subdivider will
3 specifically state on all offers relative to the
4 subdivision ~~his~~the subdivider's intent to comply with this
5 paragraph and that the ~~seller~~subdivider does not warrant
6 to a purchaser that ~~he~~the purchaser shall have any rights
7 to the natural flow of any stream within or adjacent to the
8 proposed subdivision. ~~He~~The subdivider shall further state
9 that ~~the~~ Wyoming law does not recognize any riparian rights
10 to the continued natural flow of a stream or river for
11 persons living on the banks of the stream or river.

12

13 **Section 2.** The requirements in this act shall apply
14 to subdivision applications filed on and after July 1,
15 2022.

16

17 **Section 3.** This act is effective immediately upon
18 completion of all acts necessary for a bill to become law
19 as provided by Article 4, Section 8 of the Wyoming
20 Constitution.

21

(END)