

SENATE FILE NO. SF0122

Disposition of water rights-amendments.

Sponsored by: Senator(s) Kinskey and Hutchings and
Representative(s) Andrew

A BILL

for

1 AN ACT relating to the subdivision of land and water
2 rights; requiring evidence that the subdivider has
3 submitted documentation to the state engineer on the
4 disposition of water rights when subdividing land; making
5 conforming amendments; repealing provisions; providing
6 applicability; and providing for an effective date.

7

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

9

10 **Section 1.** W.S. 18-5-306(a)(intro), (xi)(intro),
11 (A)(I) through (III) and (B) through (E) and
12 18-5-316(b)(intro), (ix)(intro), (A)(I) through (III), (B)
13 and (C) are amended to read:

14

1 **18-5-306. Minimum requirements for subdivision**
2 **permits.**

3
4 (a) The board shall require, and with respect to
5 paragraph (xii) of this subsection may require, the
6 following information to be submitted with each application
7 for a subdivision permit, provided the board may by rule
8 exempt from any of the following requirements of this
9 subsection or subsection (c) of this section, ~~including~~ and
10 may exempt from paragraph (xii) of this subsection, ~~the~~
11 subdivision of one (1) or more units of land into not more
12 than a total of five (5) units of land:

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

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

21
22 (I) ~~Written documentation from the~~
23 ~~state engineer or the state board of control~~ Evidence that

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

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

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

1 include ~~written documentation from the state board of~~
2 ~~control that the subdivider submitted to the state board of~~
3 ~~control~~ all documents necessary to appropriate applications
4 for change ~~the of~~ use, change of place of use or change in
5 point of diversion or means of conveyance in accordance
6 with W.S. 41-3-103, 41-3-104 or 41-3-114. ~~;~~ ~~or~~

7
8 (B) If the subdivision is located within
9 lands, served by or crossed by a ditch, irrigation works
10 company or association or ~~other water conveyance system by~~
11 an unorganized ditch, evidence that the ~~subdivider~~
12 ~~submitted the plan to the public entity, company,~~
13 ~~association or appropriators responsible for the ditch,~~
14 ~~irrigation works or other water conveyance system for~~
15 ~~review and recommendation~~ has been submitted at least sixty
16 (60) days prior to the submittal of the application for the
17 subdivision permit to the ~~board. Upon receipt of the plan,~~
18 ~~the public entity, company, or~~ association, or ~~the~~
19 remaining appropriators ~~shall notify the subdivider if and~~
20 ~~how the subdivision will create a significant additional~~
21 ~~burden or risk of liability in the case of an unorganized~~
22 ditch for their review and recommendations;

23

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

12
13 (D) If the subdivision is located within
14 the boundaries of an irrigation district that is subject to
15 the provisions of title 41, chapter 7 of the Wyoming
16 statutes, the application shall include a review and
17 recommendations from the irrigation district regarding any
18 ~~changes to~~ the attached water rights and the irrigation
19 district's easements. If there is a conflict with the
20 irrigation district's recommendations, the subdivider
21 applicant shall certify that it has met with and made a
22 good faith effort to resolve any conflicts with the
23 irrigation district; and

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(E) If the subdivision will create a significant additional burden or risk of liability to the ~~public entity,~~ irrigation district, company, association or remaining appropriators ~~responsible for the~~ including appropriators on an unorganized ditch, ~~irrigation works or other water conveyance system,~~ the ~~subdivider~~ applicant shall provide an adequate and responsible plan to reduce or eliminate the additional burden or risk of liability. ~~and evidence that the subdivider submitted the plan to the public entity, company, association or appropriators for review and recommendation regarding the adequacy of the plan.~~

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

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

1 (ix) With respect to any water rights
2 appurtenant to lands to be subdivided in accordance with
3 this section and prior to final approval of the subdivision
4 ~~permit,~~ the subdivider shall provide the following:

5
6 (A) The intended disposition of the water
7 rights by:

8
9 (I) ~~Written documentation from the~~
10 ~~state board of control~~ Evidence that the subdivider has
11 submitted to the state ~~board of control all documents~~
12 engineer the documentation necessary to ~~voluntarily abandon~~
13 relinquish the water rights, ~~cancel any unadjudicated~~
14 ~~permits or eliminate applicable lands from any~~
15 ~~unadjudicated permits. The subdivider shall notify any and~~
16 has notified purchasers and the board of this action;

17
18 (II) ~~Written documentation from the~~
19 ~~state board of control~~ Evidence that the subdivider has
20 submitted to the state ~~board of control all documents~~
21 engineer the documentation necessary to change the use, ~~or~~
22 place of use or point of diversion to provide for

1 beneficial use of the water rights outside the subdivision;
2 or

3
4 (III) A plan, ~~accompanied by written~~
5 ~~documentation from~~ a copy of which was submitted to and
6 approved by the state engineer ~~approving the plan prior to~~
7 the final approval of the subdivision application, for the
8 distribution of the water rights appurtenant to the land to
9 be subdivided. The plan shall specify the distribution of
10 the water to the lots within the subdivision and shall
11 include ~~written documentation from the state board of~~
12 ~~control that the subdivider submitted to the state board of~~
13 ~~control~~ all ~~documents necessary to~~ appropriate applications
14 for change ~~the of~~ use, change of place of use or change in
15 point of diversion or means of conveyance in accordance
16 with W.S. 41-3-103, 41-3-104 or 41-3-114. ~~;~~ or

17
18 (B) If the subdivision is located within an
19 irrigation district or within lands, served by ~~or crossed~~
20 ~~by~~ a ditch, irrigation ~~works or other water conveyance~~
21 ~~system~~ company or association or by an unorganized ditch,
22 evidence that the ~~subdivider submitted the~~ plan has been
23 submitted to the ~~public entity, district board~~ company, or

1 association, or the remaining appropriators ~~responsible for~~
2 in the case of an unorganized ditch, ~~irrigation works or~~
3 ~~other water conveyance system~~ for their review and
4 recommendations; ~~at least sixty (60) days prior to the~~
5 ~~submittal of the application for the subdivision permit to~~
6 ~~the board;~~ and

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

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19 **Section 2.** W.S. 15-1-415(e), 18-5-306(a)(xi)(A)(IV)
20 and 18-5-316(b)(ix)(A)(IV) are repealed.

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1 **Section 3.** The requirements in this act shall apply
2 to subdivision applications filed on and after the
3 effective date of this act.

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5 **Section 4.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

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(END)