

SENATE FILE NO. SF0063

Irrigation facility modification and maintenance.

Sponsored by: Senator(s) Case and Representative(s) Baker

A BILL

for

1 AN ACT relating to water; requiring modifications to
2 irrigation facilities to be appropriately installed and
3 maintained; providing for recovery of costs in specified
4 circumstances; and providing for an effective date.

5

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

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8 **Section 1.** W.S. 41-5-111 is created to read:

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10 **41-5-111. Irrigation facility modification and**
11 **maintenance.**

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13 (a) An owner of property upon or through which an
14 irrigation facility is located who modifies an irrigation
15 ditch or any irrigation facility for the conveyance of
16 direct flow, storage water or waste water rights used by
17 authorized users shall be responsible for maintenance of

1 those unauthorized modifications. The modifications shall
2 not diminish the capacities of the ditches and other
3 irrigation facilities. If the owner does not properly
4 maintain or otherwise ensure capacity and performance
5 through such modifications, users may, after forty-eight
6 (48) hours written notice to the owner detailing the
7 problem and what maintenance, repairs or other work is
8 necessary, perform maintenance, repairs or other work
9 necessary to restore capacity and performance through the
10 area of such unauthorized modifications. The user may
11 recover the cost of the reasonable maintenance and
12 modifications to restore flows from the owner who performed
13 the unauthorized modifications. The person or persons so
14 performing the maintenance or modifications may secure
15 payment of the claim by filing an itemized and sworn
16 statement thereof, setting forth the date of the
17 performance and the nature of the labor so performed, with
18 the county clerk of the county wherein the affected ditch
19 is situated, and when so filed, shall constitute a valid
20 lien against the interest of such person or persons who
21 failed to perform the work requisite to the proper
22 maintenance of the ditch, which lien when so taken may be
23 enforced in the same manner as provided by law for the
24 enforcement of construction liens.

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2 (b) For purposes of this section:

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4 (i) "User" means a holder of a valid water right
5 such as an individual, ditch company, irrigation district
6 or other permitted use.

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8 (ii) "Authorized modification" means any
9 modification which is required by the state engineer, water
10 division superintendent or his agent or any modification
11 which has been agreed to by an affected ditch company, or
12 if no ditch company exists, by the owner or owners of a
13 majority, by volume, of the water rights diverted through
14 the irrigation ditch or facility, provided no modification
15 shall harm or impede the delivery or use of any water right
16 or rights associated with those rights.

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18 **Section 2.** This act is effective immediately upon
19 completion of all acts necessary for a bill to become law
20 as provided by Article 4, Section 8 of the Wyoming
21 Constitution.

22

23

(END)