

ORIGINAL HOUSE
BILL NO. HB0002

ENROLLED ACT NO. 44, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2022 BUDGET SESSION

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

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

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

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

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

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

(A) Written documentation from the state engineer or the state board of control that the owner submitted to the state engineer or the state board of control all documents necessary to voluntarily abandon the water rights, cancel any unadjudicated permits or eliminate

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applicable lands from any unadjudicated permits. The owner shall notify any purchasers of this action;

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

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

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

(ii) If the subdivision is located within lands served by or crossed by a ditch, irrigation works or other water conveyance system, evidence that the owner submitted the subdivision map or plat to the public entity, company, association or appropriators responsible for the ditch, irrigations works or other water conveyance system for

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review and recommendations at least sixty (60) days prior to the submittal of the map or plat to the governing body. Upon receipt of the subdivision map or plat, the public entity, company, association or appropriators shall notify the owner if and how the subdivision will create a significant additional burden or risk of liability;

(iii) Evidence that the owner will specifically state on all offers and solicitations relative to the subdivision the owner's intent to comply with this paragraph and that the owner does not warrant to a purchaser that the purchaser shall have any rights to the natural flow of any stream within or adjacent to the proposed subdivision. The owner shall further state that Wyoming law does not recognize any riparian rights to the continued natural flow of a stream or river for persons living on the banks of the stream or river;

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

(v) If the subdivision will create a significant additional burden or risk of liability to the public entity, company, association or appropriators responsible for the ditch, irrigation works or other water conveyance system, the owner shall provide an adequate and responsible plan to reduce or eliminate the additional burden or risk

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of liability and evidence that the owner submitted the plan to the public entity, company, association or appropriators for review and recommendation regarding the adequacy of the plan.

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

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

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

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

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

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(II) Evidence—Written documentation from the state board of control that the subdivider has submitted to the ~~state engineer the documentation~~ state board 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 engineer approving the plan, for the distribution of the water rights appurtenant to the land to be subdivided. The plan shall specify the distribution of the water to the lots within the subdivision and shall include written documentation from the state board of control that the subdivider submitted to the state board of control all appropriate applications for documents necessary to change ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of diversion or means of conveyance in accordance with W.S. 41-3-103, 41-3-104 or 41-3-114; ~~or~~ or

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

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

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

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

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

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(E) If the subdivision will create a significant additional burden or risk of liability to the ~~irrigation district~~ public entity, company, association or ~~remaining~~ appropriators ~~including appropriators on an unorganized~~ responsible for the ditch, irrigation works or other water conveyance system, the ~~applicant~~ subdivider 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, ~~any or all of and with respect to paragraph (ix) of this subsection shall require,~~ the following information to be submitted with an application for a subdivision permit pursuant to this section:

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

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

(I) ~~Evidence~~ Written documentation from the state board of control that the subdivider ~~has~~ submitted to the state ~~engineer~~ the documentation board of control all documents necessary to ~~relinquish~~ voluntarily

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~~abandon~~ the water rights, ~~and has notified~~ cancel any unadjudicated permits or eliminate applicable lands from any unadjudicated permits. The subdivider shall notify any purchasers ~~and the board~~ of this action;

(II) ~~Evidence~~ Written documentation from the state board of control that the subdivider ~~has~~ submitted to the state ~~engineer the documentation~~ board 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 engineer approving the plan,~~ for the distribution of the water rights appurtenant to the land to be subdivided. The plan shall specify the distribution of the water to the lots within the subdivision and shall include written documentation from the state board of control that the subdivider submitted to the state board of control all appropriate applications for documents necessary to change of the use, ~~change of~~ place of use or ~~change in~~ point of diversion or means of conveyance in accordance with W.S. 41-3-103, 41-3-104 or 41-3-114; ~~or~~

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

(B) If the subdivision is located within ~~an irrigation district or within~~ lands, served by or crossed

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by a ditch, irrigation ~~company or association or by an unorganized ditch works or other water conveyance system~~, evidence that the subdivider submitted the plan has been submitted to the ~~district board public entity~~, company, or association, or ~~the remaining appropriators in the case of an unorganized~~ responsible for the ditch, irrigation works or other water conveyance system for ~~their~~ review and recommendations at least sixty (60) days prior to the submittal of the application for the subdivision permit to the board; and

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

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

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk