

## 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 has 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 that he has approved  
11 the plan, for the distribution of the water rights  
12 appurtenant to the land to be subdivided. The plan shall  
13 specify the distribution of the water to the lots within  
14 the subdivision and shall include written documentation  
15 from the state board of control that the owner submitted to  
16 the state board of control all documents necessary for a  
17 change of use, change of place of use or change in point of  
18 diversion or means of conveyance in accordance with W.S.  
19 41-3-103, 41-3-104 or 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 application  
20 for a subdivision permit the subdivider shall provide the  
21 following:

22

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

3  
4 (I) ~~Evidence~~ Written documentation  
5 from the state engineer or the state board of control that  
6 the subdivider has submitted to the state engineer ~~the~~  
7 ~~documentation~~ or the state board of control all documents  
8 necessary to ~~relinquish~~ voluntarily abandon the water  
9 rights, ~~and has notified~~ cancel any unadjudicated permits  
10 or eliminate applicable lands from any unadjudicated  
11 permits. The subdivider shall notify any purchasers ~~and the~~  
12 ~~board~~ of this action;

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

21  
22 (III) A plan, ~~a copy of which was~~  
23 ~~submitted to and approved by the state engineer prior to~~

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

13

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

19

20 (B) If the subdivision is located within  
21 lands~~,~~ served by or crossed by a ditch, irrigation ~~company~~  
22 ~~or association or by an unorganized ditch~~ works or other  
23 water conveyance system, evidence that the subdivider



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

13

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

1 or river for persons living on the banks of the stream or  
2 river;

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

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

1 evidence that the subdivider submitted the plan to the  
2 public entity, company, association or appropriators for  
3 review and recommendation regarding the adequacy of the  
4 plan.

5

6 **18-5-316. Requirements for large acreage subdivision**  
7 **permits.**

8

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

14

15 (ix) With respect to any water rights  
16 appurtenant to lands to be subdivided in accordance with  
17 this section and prior to final approval of the application  
18 for a subdivision permit the subdivider shall provide the  
19 following:

20

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

23

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

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

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

1 lots within the subdivision and shall include written  
 2 documentation from the state board of control that the  
 3 subdivider submitted to the state board of control all  
 4 ~~appropriate applications for documents necessary to~~ change  
 5 ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of  
 6 diversion or means of conveyance in accordance with W.S.  
 7 41-3-103, 41-3-104 or 41-3-114; ~~or~~ or

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

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

1 recommendations at least sixty (60) days prior to the  
2 submittal of the application for the subdivision permit to  
3 the board; and

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

15  
16 **Section 2.** The requirements in this act shall apply  
17 to subdivision applications filed on and after July 1,  
18 2022.

19

