

ORIGINAL SENATE  
FILE NO. SF0080

ENROLLED ACT NO. 11, SENATE

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING  
2025 GENERAL SESSION

AN ACT relating to water; amending the conditions under which abandonment of water rights applies as specified; requiring rulemaking; and providing for an effective date.

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

**Section 1.** W.S. 41-3-401(a) and 41-3-402(a) are amended to read:

**41-3-401. Failure to use water; extension of time; initiation by benefitted or injured user; hearing; appeal.**

(a) Where the holder of an appropriation of water from a surface, underground or reservoir water source fails, either intentionally or unintentionally, to use the water therefrom for the beneficial purposes for which it was appropriated, whether under an adjudicated or unadjudicated right, during any five (5) successive years, he is considered as having abandoned the water right and shall forfeit all water rights and privileges appurtenant thereto. Notwithstanding any provision in this section to the contrary, the holder of an appropriation for the diversion and storage of water in a reservoir, from which water or a portion thereof has not yet been beneficially used for the purposes for which appropriated, or the owner of a lawful dam or diversion system as defined in W.S. 41-3-307 under which appropriated water becomes unused due to necessary repairs or replacement, may apply to the board of control for an extension of time not to exceed five (5) years, within which to use water or reactivate use of water therefrom for the beneficial purposes for which it was appropriated. In the application the holder shall demonstrate the exercise of due diligence toward the utilization of the appropriation, and that notwithstanding the exercise of due diligence, reasonable cause exists for

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nonuse. Reasonable cause includes but is not limited to delay due to court or administrative proceedings, time required in planning, developing, financing and constructing projects for the application of stored water to beneficial use which require in excess of five (5) years to complete, delay due to requirement of state and federal statutes and rules and regulations thereunder and any other causes beyond the control of the holder of the appropriation. Upon receipt of an application for extension, the board of control shall proceed under the provisions of W.S. 16-3-101 through 16-3-115 and may grant an extension of time as it finds proper, not to exceed five (5) years, for the application of the appropriated water to the beneficial use for which it was appropriated. A prior grant of extension of time hereunder does not preclude the holder from applying for additional extensions of time, each not to exceed five (5) years, upon similar application and showing. The granting of an extension of time precludes the commencement of an abandonment action against the appropriation during the period of extension.

**41-3-402. Initiation by state engineer; hearing; appeal.**

(a) When any appropriator has failed, intentionally or unintentionally, to use any portion of surface, underground or reservoir water appropriated by him, whether under an adjudicated or unadjudicated right, for a period of five (5) successive years, the state engineer may initiate forfeiture proceedings against the appropriator with the state board of control, to determine the validity of the unused right. The state engineer shall designate the area to be affected by the proceedings, not to contain in area more than one (1) water division. The total absence of water to divert during an irrigation season precludes the

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inclusion of any period of nonuse resulting therefrom in the computation of the successive five (5) year period. The secretary of the board shall refer the matter for a hearing to the superintendent of the water division where the forfeiture is alleged to have occurred. This section does not apply to any reservoir, lawful dam or diversion system for which an extension has been granted during the period of extension under W.S. 41-3-401(a).

**Section 2.** The state engineer shall promulgate any rules necessary to implement this act.

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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 Senate.

\_\_\_\_\_  
Chief Clerk