

## HOUSE BILL NO. HB0116

Destruction of water is not beneficial use.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to water; specifying that destruction of  
2 water is not beneficial use; providing for the rejection of  
3 specified applications for water use; providing an  
4 exception; specifying applicability; and providing for an  
5 effective date.

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

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9       **Section 1.** W.S. 41-3-101, 41-3-104 by creating a new  
10 subsection (c), 41-3-931, 41-3-932 by creating a new  
11 subsection (f) and 41-4-503 are amended to read:

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13       **41-3-101. Nature of water rights and beneficial use.**

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15       (a) A water right is a right to use the water of the  
16 state, when such use has been acquired by the beneficial

1 application of water under the laws of the state relating  
2 thereto, and in conformity with the rules and regulations  
3 dependent thereon. Beneficial use shall be the basis, the  
4 measure and limit of the right to use water at all times,  
5 not exceeding the statutory limit except as provided by  
6 W.S. 41-4-317. In addition to any beneficial use specified  
7 by law or rule and regulation promulgated pursuant thereto,  
8 the use of water for the purpose of extracting heat  
9 therefrom is considered a beneficial use subject to prior  
10 rights. Water being always the property of the state,  
11 rights to its use shall attach to the land for irrigation,  
12 or to such other purposes or object for which acquired in  
13 accordance with the beneficial use made for which the right  
14 receives public recognition, under the law and the  
15 administration provided thereby. Water rights for the  
16 direct use of the natural unstored flow of any stream  
17 cannot be detached from the lands, place or purpose for  
18 which they are acquired, except as provided in W.S.  
19 41-3-102 and 41-3-103, pertaining to a change to preferred  
20 use, and except as provided in W.S. 41-4-514.

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22 (b) The destruction of water molecules by separating  
23 the hydrogen and oxygen atoms for the purposes of the

1    industrial production of hydrogen shall not constitute a  
2    beneficial use of water. Nothing in this subsection shall  
3    be construed to prohibit any use of water that results in  
4    evaporation losses where the primary purpose is not the  
5    molecular destruction or chemical dissociation of water or  
6    any use of wastewater.

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8    **41-3-104. Procedure to change use or place of use.**

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10    (c) If the water right's source of supply has been  
11    subject to priority regulation within the previous ten (10)  
12    years, or existing uses from the water right's source of  
13    supply have been regulated to comply with an interstate  
14    compact or United States Supreme Court decree within the  
15    previous ten (10) years, the board of control shall deny  
16    any petition that would result in the destruction of water  
17    molecules by separating the hydrogen and oxygen atoms for  
18    the purposes of the industrial production of hydrogen.

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20    **41-3-931. Application; when granted generally; denial**  
21    **subject to review; defects and corrections generally;**  
22    **cancelation.**

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1           (a) An application for a permit for a well in any  
2 areas not designated as a critical area shall be granted as  
3 a matter of course, if the proposed use is beneficial and,  
4 if the state engineer finds that the proposed means of  
5 diversion and construction are adequate. If the state  
6 engineer finds that to grant the application as a matter of  
7 course, would not be in public's water interest, then he  
8 may deny the application subject to review at the next  
9 meeting of the state board of control. If the state  
10 engineer shall find that the proposed means of diversion or  
11 construction are inadequate, or if the application is  
12 otherwise defective, he may return the application for  
13 correction. If such correction is not made within ninety  
14 (90) days, the state engineer may cancel the application.

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16           (b) If the proposed source of supply has been subject  
17 to priority regulation within the previous ten (10) years,  
18 or existing uses from the proposed source of supply have  
19 been regulated to comply with an interstate compact or  
20 United States Supreme Court decree within the previous ten  
21 (10) years, the state engineer shall deny any application,  
22 petition to amend a permit or application for temporary  
23 transfer that would result in the destruction of water

1 molecules by separating the hydrogen and oxygen atoms for  
2 the purposes of the industrial production of hydrogen. This  
3 subsection shall not apply to applications to appropriate  
4 by-product water under W.S. 41-3-904.

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6 **41-3-932. Public notice of application or petition;**  
7 **hearing before state engineer and control area advisory**  
8 **board; cost.**

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10 (f) No petition or application under this section  
11 shall be granted if it would result in the destruction of  
12 water molecules by separating the hydrogen and oxygen atoms  
13 for the purposes of the industrial production of hydrogen.  
14 This subsection shall not apply to applications to  
15 appropriate by-product water under W.S. 41-3-904.

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17 **41-4-503. Recordation; approval or rejection**  
18 **generally.**

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20 (a) All applications which shall comply with the  
21 provisions of this chapter, and with the regulations of the  
22 engineer's office, shall be recorded in a suitable book  
23 kept for that purpose; and it shall be the duty of the

1 state engineer to approve all applications made in proper  
2 form, which contemplate the application of the water to a  
3 beneficial use and where the proposed use does not tend to  
4 impair the value of existing rights, or be otherwise  
5 detrimental to the public welfare. But where there is no  
6 unappropriated water in the proposed source of supply, or  
7 where the proposed use conflicts with existing rights, or  
8 threatens to prove detrimental to the public interest, it  
9 shall be the duty of the state engineer to reject such  
10 application and refuse to issue the permit asked for.

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12 (b) If the proposed source of supply has been subject  
13 to priority regulation within the previous ten (10) years,  
14 or existing uses from the proposed source of supply have  
15 been regulated to comply with an interstate compact or  
16 United States Supreme Court decree within the previous ten  
17 (10) years, the state engineer shall deny any application,  
18 petition to amend a permit or application for temporary  
19 transfer that would result in the destruction of water  
20 molecules by separating the hydrogen and oxygen atoms for  
21 the purposes of the industrial production of hydrogen. This  
22 subsection shall not apply to applications to appropriate  
23 by-product water under W.S. 41-3-904.

1

## 2 Section 2.

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4 (a) This act shall apply to all new water permit  
5 applications or applications for changes of water use filed  
6 on or after July 1, 2026.

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(END)