

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Abandonment of water rights-limitations.

Sponsored by: Select Water Committee

A BILL

for

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

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

6

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

9

10 **41-3-401. Failure to use water; extension of time;**
11 **initiation by benefitted or injured user; hearing; appeal.**

12

1 (a) Where the holder of an appropriation of water
2 from a surface, underground or reservoir water source
3 fails, either intentionally or unintentionally, to use the
4 water therefrom for the beneficial purposes for which it
5 was appropriated, whether under an adjudicated or
6 unadjudicated right, during any five (5) successive years,
7 he is considered as having abandoned the water right and
8 shall forfeit all water rights and privileges appurtenant
9 thereto. Notwithstanding any provision in this section to
10 the contrary, the holder of an appropriation for the
11 diversion and storage of water in a reservoir, from which
12 water or a portion thereof has not yet been beneficially
13 used for the purposes for which appropriated, or the owner
14 of a lawful dam or diversion system as defined in W.S. 41-
15 3-307 under which appropriated water or a portion thereof
16 has been historically beneficially used but which becomes
17 unused due to necessary repairs or replacement, may apply
18 to the board of control for an extension of time not to
19 exceed five (5) years, within which to use water or
20 reactivate use of water therefrom for the beneficial
21 purposes for which it was appropriated. In the application
22 the holder shall demonstrate the exercise of due diligence
23 toward the utilization of the appropriation, and that

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

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1 **41-3-402. Initiation by state engineer; hearing;**
2 **appeal.**

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4 (a) When any appropriator has failed, intentionally
5 or unintentionally, to use any portion of surface,
6 underground or reservoir water appropriated by him, whether
7 under an adjudicated or unadjudicated right, for a period
8 of five (5) successive years, the state engineer may
9 initiate forfeiture proceedings against the appropriator
10 with the state board of control, to determine the validity
11 of the unused right. The state engineer shall designate the
12 area to be affected by the proceedings, not to contain in
13 area more than one (1) water division. The total absence of
14 water to divert during an irrigation season precludes the
15 inclusion of any period of nonuse resulting therefrom in
16 the computation of the successive five (5) year period. The
17 secretary of the board shall refer the matter for a hearing
18 to the superintendent of the water division where the
19 forfeiture is alleged to have occurred. This section does
20 not apply to any reservoir, lawful dam or diversion system
21 for which an extension has been granted during the period
22 of extension under W.S. 41-3-401(a).

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

Section 3.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2025.

(b) Sections 2 and 3 of this act are 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)