

ENROLLED ACT NO. 14, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to water; providing for the state engineer's office to conduct business electronically; and providing for an effective date.

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

Section 1. W.S. 41-1-112 is created to read:

41-1-112. Conducting business electronically.

The state engineer's office may allow its business to be conducted electronically as provided by the Uniform Electronic Transactions Act, W.S. 40-21-118.

Section 2. W.S. 33-29-129(b), 33-29-139(a)(intro), 41-3-110(b), 41-3-210, 41-3-211, 41-3-301(a), 41-3-615, 41-4-502 and 41-4-507 through 41-4-510 are amended to read:

33-29-129. Seals for registrants.

(b) Nonelectronic plans, specifications, plats or reports prepared by a registrant or his bona fide employee shall be issued under his seal.

33-29-139. Maps, plats, plans or designs for filing to be made and certified by professional engineer or surveyor; exception; size of maps.

(a) All maps, plats, plans or designs necessary to be filed in the state engineer's office, the office of state lands and investments, all county clerks offices, all city or town offices, or any other office of public record in the state of Wyoming, shall be made and certified by a professional engineer or land surveyor registered under this act. ~~The original~~ Hardcopy originals must either be

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drawn in waterproof black ink or acetate ink, or be an acceptable photographic or other kind of reproduction on good quality tracing linen or a polyester base drafting film in a minimum thickness of four-thousandths (.004) inch, or as otherwise required by the receiving entity. Maps formatted as required by the receiving entity may be submitted in electronic form as provided by the Uniform Electronic Transactions Act, W.S. 40-21-101 through 40-21-119. All maps, plats, plans or designs shall conform to one (1) of the following sizes and shall consist of one (1) original drawing together with one (1) print:

41-3-110. Right to acquire temporary water rights for highway or railroad roadbed construction or repair; application; restrictions; fee.

(b) Before any right to such use shall become operative, an application must be made in writing on a form provided or designated by the state engineer, with a copy of any conveyance or agreement ~~attached~~ provided, and it shall be filed in the office of the state engineer for his ratification and approval. Upon approval by the state engineer, an order authorizing such use and designating the method, place, and period of use may be entered. No loss, abandonment or impairment of such water rights shall occur or attach as a result of such change or use, except as provided by said conveyance or agreement and order of the state engineer, and upon termination of the temporary diversion and use, as stated in the order, any affected right to the use of water shall automatically be reinvested with all the rights, privileges and uses, and purposes theretofore held and enjoyed.

41-3-210. Change of point of diversion; contents of petition.

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All ~~petitioners~~ petitions for such change of point of diversion shall be made to the state board of control setting forth the acreage in each legal subdivision of land irrigated, with the total acreage, together with ~~maps in duplicate, one (1) of which shall be on tracing linen~~ a map, showing the location of the stream, the ditch, the old and new points of diversion, the new point of diversion in Wyoming to be tied to the nearest corner of the public land survey; the nature and extent of the irrigation works, their size, capacity, and length, and a certified copy of the proceedings had before the proper board, officer, or court, which has authority in the adjoining state to adjudicate water rights; amount of water adjudicated, the land for which the same was adjudicated; the date of priority, the date of adjudication, showing the existence of a valid water right, and that the same is in full force and effect.

41-3-211. Change of point of diversion; endorsement and recording of petition.

Upon receipt of the petition by the board of control, it shall be the duty of the president of said board to make an endorsement thereon of the date of its receipt, and to ~~make a record of same in a proper book kept for that purpose~~ properly record receipt of the petition.

41-3-301. Application for construction permit; contents; procedure.

(a) Any person, corporation, association, or organization, of any nature whatsoever, hereafter intending to store or impound, for beneficial uses, any of the unappropriated waters of the state of Wyoming, shall, before commencing construction of any works for such purpose, or performing any work in connection with said

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proposed construction, make an application to the state engineer, for a permit to construct a reservoir. The application must set forth the name and post office address of the applicant; the source of the water supply; the nature of the proposed use; the location and description of the proposed work; the time within which it is proposed to begin construction, and the time required for the completion of construction. Maps and plans shall conform with the provisions of W.S. 41-4-510. In case of reservoirs where the storage is for stock purposes only and the capacity does not exceed twenty (20) acre-feet and the height of dam does not exceed twenty (20) feet, the state engineer may issue a permit without the filing of a map; ~~on tracing cloth;~~ however the state engineer may require certain information be submitted on special forms to be furnished or designated by him.

41-3-615. Approval of diversion dam plans.

~~Duplicate~~ Plans for any diversion dam across the channel of a running stream, above five (5) feet in height, or of any other diversion dam intended to retain water above ten (10) feet in height, shall be submitted to the state engineer for his approval, and it shall be unlawful to construct such diversion dam until the said plans have been approved.

41-4-502. Application for permit to acquire right to beneficial use of public water; duty of state engineer upon receipt; use for irrigation purposes; defective applications; corrections; cancellation; extensions.

On receipt of an application for a permit to acquire the right to the beneficial use of the public water of the state of Wyoming, which application shall be on a form prescribed or designated by the state engineer, it is the state engineer's duty to date the application and to make a

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record of receipt of the application ~~in a suitable book~~ in his office. It is the state engineer's duty to examine all applications to ascertain that they contain all the necessary information to show the location, nature and amount of the proposed beneficial use. If the proposed beneficial use is for irrigation purposes, the application shall give the total acreage to be irrigated and the acreage in each legal subdivision of land proposed to be irrigated. If, upon such examination, an application submitted in hard copy is found defective, it is the duty of the state engineer to return the application for correction, ~~by registered letter requesting registry return receipt, the date of such return,~~ with reasons therefor, and the time allowed within which to make such corrections, which shall not be less than ninety (90) days, shall be endorsed on the application, or by letter correspondence accompanying the return of the application, and a record made thereof. ~~in the book kept for recording receipts of such application.~~ A like record shall be kept of the date of the return of corrected applications, and of the date of the refusal and return of applications rejected. If the application is submitted in hard copy, the defective application shall be returned by certified mail, requesting return receipt. If the application is submitted electronically, the defective application shall be returned electronically. If, at the expiration of the time allowed within which to make such corrections, the application has not been returned to the office of the state engineer with the corrections properly made, it is the duty of the state engineer to cancel the filing covered by the application. The state engineer, if in his opinion an extension is justified, or, upon request by the applicant for good cause shown, shall grant extensions of time for making corrections. However, extensions will not be granted if the request for the extension is received after the

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expiration of the time period the applicant seeks to extend.

41-4-507. Maps and plats; when required with application; contents; format requirements; copies; duties of state engineer generally.

(a) Each application for a permit to appropriate waters for beneficial uses under a project embracing the major irrigable portion of an entire drainage basin within the limits of this state which has been approved by either state or federal agencies for development and construction in subdivisions as the result of preliminary investigations, must be accompanied by a map or plat ~~in duplicate, the original of which shall be on tracing linen~~ drawn on a scale to conform to the regulations of the state engineer, showing the approximate location of all streams, proposed reservoirs, main canals and the other data required under the terms of W.S. 41-3-301, together with the approximate location and area of the lands to be irrigated and approximate capacity of each of the reservoirs to be constructed. It shall be the duty of the state engineer to approve any such application made in conformity herewith which contemplates the application of the water of a drainage basin to the beneficial use of a major irrigable portion thereof where the proposed use does not tend to impair the value of existing rights, or to be otherwise detrimental to the public welfare; provided, however, that any permit for appropriation of waters for beneficial uses upon the irrigable lands designated in such a drainage basin project application, must be conditioned for the submission to the state engineer of detailed maps, plans and specifications applicable to a single subdivision of the project and the approval thereof by the state engineer, prior to the commencement of the construction of any such subdivisions; provided further that such

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subdivision maps, plans and specifications shall conform to the requirements hereinafter set forth as applicable to other applications not embracing the major irrigable portion of an entire drainage basin.

(b) Every other application for permit to appropriate water for beneficial uses must be accompanied by a map or plat, ~~in duplicate,~~ showing accurately the location and extent of the proposed work. The ~~original of these~~ maps or plats must be drawn, ~~on tracing linen,~~ on a scale to conform to the regulations of the state engineer; they must show the location of the headgate or point of diversion by courses and distances from some government corner; they must show the actual location of the ditch or canal, or water line of the reservoir, and must show, wherever section lines are crossed, the distance to the nearest government corner. The map or plat must show the course of the river, stream or other source of supply; the location and area of all lands proposed to be reclaimed; the position and area of all reservoirs or basins intended to be created for the purpose of storing water; the location of the intersection with all other ditches, canals, laterals or reservoirs which are caused by this work, or with which connections are made. These maps must contain the name of the proposed work, and, where possible, the number of the permit. They must in addition, have the name or names of the applicant or applicants and the certificate of the surveyor, giving the date of survey, his name and ~~post office~~ address.

41-4-508. Maps and plats; examination; approval; filing; return of copy.

It shall be the duty of the state engineer to examine these maps or plats and to ascertain if they agree with the description contained in the application, and when found to

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agree, or made to agree, to approve the same, file one (1) copy in his office and return the other, approved, to the party filing them. These maps or plats may be received and maintained by the state engineer in an electronic format.

41-4-509. Maps and plats; additional information; longitudinal profiles of ditches.

In case of ditches or canals carrying more than fifty (50) cubic feet of water per second, the engineer may require, in addition to the maps or plats above described, the following: a longitudinal profile of the ditch showing the bottom and proposed water line; the horizontal scale of this line shall not be less than one (1) inch to one thousand (1,000) feet, and the vertical scale not less than one (1) inch to twenty (20) feet. If submitted electronically, the file shall be capable of reproduction at these scales.

41-4-510. Maps and plats; additional information; cross section plans; plans of obstructions; reservoir specifications; field notes.

The engineer may require, in addition to the maps and plats above described, a plan showing cross sections at a sufficient number of points to show the different forms which the ditch, when completed, will take, and showing what proportion of the water is to be conveyed in excavation and what proportion to be conveyed in fill. These plans shall be drawn, or be capable of being drawn and printed if submitted electronically, on a horizontal and vertical scale of one (1) inch to twenty (20) feet. Plans of any dams, cribs, embankments or other proposed work to obstruct any river, stream, lake or pond, or other source of water supply, shall be drawn on a longitudinal scale of not less than one (1) inch to two hundred (200)

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feet, and for cross sections on a scale of not less than one (1) inch to twenty (20) feet; and shall show what material is intended to be used and placed in such work. Timber, brush, stone or other material except earth used in such works shall be shown in detail on a plan, the scale of which shall not be less than one (1) inch to four (4) feet. The maps of all proposed reservoirs shall show the surface of the ground under water, and a sufficient number of lines of level shall be shown so that the contents of the reservoir or basin may be approximately determined. If the levels shall be shown by contour lines they shall be on a scale sufficiently large to show vertical levels not exceeding five (5) feet, and with all such reservoir plans there shall be furnished a plan, on a scale of not less than one (1) inch to four (4) feet, showing the method of providing a wasteway for such reservoir, and method of drawing off the water from such reservoir or basin. If the state engineer deems it necessary he may require the submission of complete plans and specifications for his approval. He may also require the filing of field notes of canal and reservoir surveys.

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Section 3. This act is effective July 1, 2005.

(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