

Wyoming State Engineer's Office

Legislative Summary

2005 Wyoming Legislature

“The Wyoming State Engineer’s Office had a successful legislative session in 2005. The revisions to our penalty statutes give an additional tool to our field administration staff and to the courts as we face yet another year of drought conditions. Water theft penalizes the senior water right holder who is in compliance with the law and this year’s change to our penalty statutes will hopefully dissuade the illegal use of water in the state. The electronic permitting bill that passed the legislature will allow the State Engineer’s Office to make better use of technology and enable us to more efficiently serve the water users of this state. This bill removed impediments to our ability to conduct business electronically. If you have any questions about these law changes, please don’t hesitate to contact me or members of my staff across the state.”

*Pat Tyrrell
Wyoming State Engineer*

SF 28 Water Rights—Penalties

- a. Prior to the passage of this bill, the penalties for water-law related infractions were woefully out of date. The existing fines did not exceed a one-time amount of \$100 to \$500, were put in statute decades ago, and did not reflect the seriousness of the violation, especially since there is no restitution for senior water rights who may be deprived of their water by willful water theft. SF 0028 resolves much of this by increasing the amount of fines judges can consider up to \$1,250, and allows for each day of continued willful illegal activity to be considered a separate violation. It is hoped that these fine increases, which can be invoked if necessary, primarily serve as a stronger deterrent to such violations.
- b. The bill also makes the use or possession of water *already legally denied* an infraction for which penalties could be sought if necessary. It is important to remember that especially in the case of theft of water denied during regulation, the act is really one that takes water away from a senior appropriator who is lawfully entitled to that water and who may suffer significant injury by the loss of that water.
- c. The bill includes some parts of water law for which violations had no prescribed penalty. Primarily, this is for construction of smaller reservoirs without a permit. However, those owners of small reservoirs which are not permitted have a 45-day grace period after receipt of written notice within which to submit an acceptable application to the State Engineer’s Office before any penalty can even be considered. The applications to which the 45-

day grace period applies are typically very simple and do not need the appropriator to hire a surveyor or engineer.

- d. No penalty under this bill can be considered until written notice is received by the offending party. Even then, it is not the State Engineer who assesses penalties. That is for the courts to do – this just gives them a bigger toolbox.
- e. Our regulatory system has been, and will continue to be, one that “seeks compliance first.” These enhanced penalties will not mean that the State Engineer’s Office will approach enforcement of violations differently than in the past.
- f. Remember that all violations must be **willful**. The State Engineer’s Office has never sought penalties for casual or uninformed violations, but for offenders who have been informed of their illegal actions, where compliance has been sought, and where the seeking of penalties is a final recourse. As is currently the practice, offenders still retain the right to dispute any State Engineer’s Office positions if a penalty is sought.

HB 02 Water Permits—Electronic permitting

- a. Current statutes for the Board of Registration for Engineers and Surveyors (Title 33) and the State Engineer’s Office (Title 41) require that all maps, plats, plans, or designs be submitted as hardcopy originals (no electronic submittals).
- b. The purpose of HB 0002 is to allow agencies such as the State Engineer’s Office to accept electronic submittals of maps, plats, plans, and designs. The submittal of hardcopy originals remains in the statutes as a viable submittal form.
- c. The legislation allows agencies to accept electronic submittals but does not mandate such acceptance. Agencies will have to develop formal rules and standards before electronic submittals can become a viable business method.
- d. Current business processes such as recording receipt of permit applications and returning deficient permit applications may now be done electronically.

SF 02 Water Resources Library—Repeal

A statute mandating the State Engineer’s Office maintain a water resources library has been on the books for a number of years. In this day of searches on the web, the housing of all water information in a single geographic area is less important than in days gone by. Both the Wyoming State Library and the Water Resources Data Systems (WRDS) program at the University of Wyoming have impressive water resource collections and it was no longer cost effective for the State Engineers Office to also maintain a similar set of information. This act simply repealed the earlier law mandating the State Engineer to maintain a water library.

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