



Wyoming

How our state regulates

Mark Twain said it best more than 100 years ago: “Whiskey is for drinkin’; water is for fightin’ over.”

This statement rings true in the arid and semiarid West, where water is the most important natural resource for human existence. Since territorial days, Wyoming has sought to assign use of its surface water in a civil and fair way to people and be beneficial to its land.

Even though water may flow past your property, it might belong to someone else. Under Wyoming water law, the state retains ownership and control of water in streams through the state Board of Control, a branch of the State Engineer’s Office (SEO). This water is appropriated or distributed under the “doctrine of prior appropriations,” based on the date the water was first put to “beneficial use” on a particular parcel of land. Lands on which water was first used have “senior rights” and still get their appropriations first; more “junior rights” are appropriated in chronological order. Water rights in Wyoming date back to the late 1860s – before statehood. An excellent “must read” publication, *Wyoming Water Law – A Summary*, can be downloaded at <http://ces.uwyo.edu/PUBS/b849r.pdf>.

These rights for “beneficial use” are permanently attached to the land and may not be bought or sold, as in Colorado; this keeps

Wyoming water in the state serving our people, wildlife, livestock, and agricultural lands and precludes the sale of water to out-of-state interests like big metropolitan areas. Reservoirs, like stream diversions, are also assigned appropriation rights by year.

Wyoming water rights are also governed by U.S. Supreme Court decrees and interstate compacts, which may take precedent over individual rights. For example, the Laramie River Decree of 1922 dictates that 20,000 acre-feet of water from the Laramie River are diverted to the Colorado Front Range before the river leaves Colorado, leaving less for appropriation in Wyoming.

Beneficial uses of water that are “consumptive” (water is physically diverted from the stream) are defined in the Wyoming Constitution: drinking water for “man or beast,” municipal use, industrial use, and irrigation.

As interest in stream ecology has grown, “in-stream flow” for given segments of streams has also been recognized as a beneficial use as the Wyoming economy has changed.

In-stream flow simply means that leaving water in a stream for fisheries is a valid and legal use of water. In-stream flow rights are different in that only the state may hold those rights. If a landowner wants to leave water in a stream,

Water 101

our most important natural resource

he or she can choose to not divert water but must recognize that the water is subject to appropriation by other water rights.

Water rights not put to beneficial use for five consecutive years may be subject to an abandonment process, which frees the water to subsequent filings or priority appropriation.

Water diversion from streams is typically controlled by structures called head gates, which are sliding panels that can be raised or lowered to allow water to pass into irrigation diversions. The amount the gate is opened controls the amount of water diverted – head gates are seldom calibrated; weirs or flumes below head gates that measure water are calibrated by the SEO and frequently checked.

Weirs and flumes are man-made water passages of known dimensions placed in canals to monitor flow. Weirs and flumes are calibrated so the depth of water flowing through the structure corresponds to streamflow rate in cubic feet per second (cfs). In Wyoming water law, one cfs of irrigation water may be appropriated for every 70 acres of irrigated land – once again tying the water right to a specific piece of property.

On paper, water rights consist of a source (ditch or stream), name of holder, a priority date, designated use, cfs appropriated, and the number of acres irrigated or acre-



This wetland in the western Laramie Valley is a result of an 1883 water right. In addition to supporting cattle grazing, this irrigated meadow is home to the endangered Wyoming toad, numerous waterfowl species, and other wildlife. The shallow groundwater from irrigation also supplies a drinking water well for a children's educational camp.

feet (volume) stored in a reservoir. Comprehensive lists of water rights may be obtained from the SEO.

In the Laramie River example, the most senior surface water rights are dated 1868. If any water is flowing at all, the holder of those rights will receive water. Once the 1868 right-holders are getting their appropriations, the next, more junior, right holder (1875 in this case) will receive his or her appropriation.

Most water rights in the Laramie River system are dated pre-1900. Someone holding a 1908 water right,

for example, may never receive his or her appropriation in a dry year. Priority dates for who may take appropriations can change daily. In some areas, the SEO maintains local telephone hotlines with up-to-date recordings that report stream flows and priority dates from early spring through fall.

Even though water rights are often owned by individual irrigators, neighbors and communities commonly benefit as well. Flood irrigation for the past 130 years in Wyoming has created wetland

habitat, ponds, and lakes that would not otherwise exist. Irrigation waters recharge shallow aquifers and supply domestic wells with quality drinking water that might not otherwise be available.

So, the next time you splash through a puddle from an irrigated meadow on a hot summer day, remember that, if it were not for Wyoming water law, you might not have a wildlife refuge, a fishing pond, or a well.

Water rights have evolved, and there are exceptions to the information discussed. Contact the SEO at (307) 777-6150 for detailed information.

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Web Resources

Wyoming's Water Resources, B-969R, UW Cooperative Extension Service, <http://ces.uwyo.edu/PUBS/B-969R.pdf>.

A History of Water Law, Water Rights & Water Development in Wyoming, 1868-2002, Wyoming Water Development Commission and Wyoming State Engineer's Office: <http://wwdc.state.wy.us/waterlawhistory.html>

Wyoming Water Rights Database link, Wyoming State Engineer's Office: <http://seo.state.wy.us/wrdb/index.aspx>

Contact Information

State Engineer's Office: (307) 777-6150 or <http://seo.state.wy.us>

Definitions and Conversions

VOLUME

Acre-foot: amount of water to cover one acre of surface area to a depth of one foot = 43,560 cubic feet

1 acre-foot = approximately 325,850 gallons

FLOW RATE

Cubic feet per second or cfs = about 2 acre-feet per day or about 450 gallons per minute

Under Wyoming law, irrigators are allowed one cfs per 70 acres for the duration of the time their water rights have priority.