

ORIGINAL SENATE
FILE NO. SF0066

ENROLLED ACT NO. 21, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2024 BUDGET SESSION

AN ACT relating to water; clarifying that water rights are not lost in an exchange as specified; clarifying the applicable source of water in an exchange; and providing for an effective date.

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

Section 1. W.S. 41-3-106(a), (d) and (e) is amended to read:

41-3-106. Procedure to exchange water; delivery of water under exchanges; approval of state engineer; enforcement of exchanges.

(a) Any appropriator owning a valid water right in and to the use of the ground, surface or reservoir waters of the state, where the source of the appropriation is at times insufficient to fully satisfy such appropriation, or better conservation and utilization of the state's water can be accomplished, or the appropriator can develop appropriable water but cannot economically convey it to its point of use, may petition the state engineer for an order allowing an exchange and the use of stored, direct flow, or ground water from another source or from another appropriation from the same source. If such an appropriator arranges by agreement with another appropriator for the delivery and use of either stored, direct flow, or ground water, ~~from another source,~~ the exchange agreement shall accompany the petition.

(d) It is the policy of the state to encourage exchanges. The state engineer shall not issue an exchange order if ~~it appears that the proposed exchange would adversely affect the rights of~~ other appropriators will be injuriously affected thereby, or if the proposed exchange

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would, in the opinion of the state engineer, be too difficult to administer or would be adverse to the public interest. The state engineer shall cause to be published, at the petitioner's expense, once a week for at least two (2) consecutive weeks in a newspaper of general circulation in each county where the water rights subject to the exchange petition are located, a notice of the filing of the exchange petition which identifies the place where the exchange petition is available for public inspection. The last date of publication shall occur not less than thirty (30) days before the state engineer enters the order to grant the exchange. All exchanges are subject to the requirements of beneficial use and equality of water exchanged, and no exchange will be allowed unless a sufficient quantity of makeup water is introduced to replace the water diverted and withdrawn under the exchange. In making the determination of equality and sufficiency of the makeup water introduced, the state engineer may consider relative consumptive uses and transmission losses.

(e) Any water made available to an appropriator by reason of any exchange agreement shall be delivered for the use of the appropriator in accordance with the order allowing the exchange, and its use is without prejudice to, but in enjoyment of, the rights of all appropriators under their original appropriations. No loss, abandonment or impairment of any water rights involved in the exchange shall occur or attach as a result of the exchange, except as may be provided in the order allowing the exchange. Upon termination of the exchange, the rights of all appropriators under their original appropriations shall automatically be reinvested with all the rights, privileges and uses, and purposes theretofore held and enjoyed.

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Section 2. This act is effective July 1, 2024.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk