

HOUSE BILL NO. HB0012

Irrigation districts-change of place of use.

Sponsored by: Joint Agriculture, State and Public Lands
and Water Resources Interim Committee

A BILL

for

1 AN ACT relating to water; defining historic use of
2 irrigation water; providing for the transfer of irrigation
3 water to other lands when lands within an irrigation
4 district are taken out of agricultural production, as
5 specified; extending the time to petition for the change of
6 place of use; and providing for an effective date.

7

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

9

10 **Section 1.** W.S. 41-3-104(a) (intro), by creating a new
11 paragraph (iv) and by creating a new subsection (c) and
12 41-3-108(a) and (c) are amended to read:

13

14 **41-3-104. Procedure to change use or place of use.**

15

1 (a) When an owner of a water right wishes to change a
2 water right from its present use to another use, or from
3 the place of use under the existing right to a new place of
4 use, he shall file a petition requesting permission to make
5 such a change. The petition shall set forth all pertinent
6 facts about the existing use and the proposed change in
7 use, or, where a change in place of use is requested, all
8 pertinent information about the existing place of use and
9 the proposed place of use. The board may require that an
10 advertised public hearing or hearings be held at the
11 petitioner's expense. The petitioner shall provide a
12 transcript of the public hearing to the board. The change
13 in use, or change in place of use, may be allowed, provided
14 that the quantity of water transferred by the granting of
15 the petition shall not exceed the amount of water
16 historically diverted under the existing use, nor exceed
17 the historic rate of diversion under the existing use, nor
18 increase the historic amount consumptively used under the
19 existing use, nor decrease the historic amount of return
20 flow, nor in any manner injure other existing lawful
21 appropriators. As used in this subsection, "historically
22 diverted," "historic rate of diversion," "historic amount"
23 or "historic amount consumptively used" shall be based upon
24 the date the water right was established, to the extent the

1 information is available. The board of control shall
2 consider all facts it believes pertinent to the transfer
3 which may include the following:

4
5 (iv) The impact of the loss of irrigated acres
6 on any interstate water use or any interstate compact.

7
8 (c) When lands within an irrigation district are taken
9 out of agricultural production as the necessary result of
10 acquisitions, including but not limited to, railroad
11 roadbed construction, highway construction, county roads,
12 city streets, subdivision development, farmstead
13 development, mining or petroleum extraction operations or
14 industrial site acquisitions or lands taken by proceedings
15 in eminent domain or which have become impracticable to
16 irrigate by reason of any of the foregoing conditions, the
17 owner may petition to the board of control to change the
18 location of the irrigation right to other lands within the
19 irrigation district provided the conditions required in
20 subsection (a) of this section are met. Historical use and
21 consumptive use shall be liberally construed to provide
22 beneficial use of the water right.

23

1 **41-3-108. Lands taken out of agricultural production**
2 **or lands taken by eminent domain; retention of priority.**

3
4 (a) Where lands are taken out of agricultural
5 production as the necessary result of acquisitions, ~~for~~
6 including but not limited to, railroad roadbed
7 construction, highway construction, county roads, city
8 streets, subdivision development, farmstead development,
9 mining or petroleum extraction operations or industrial
10 site acquisitions or lands taken by proceedings in eminent
11 domain or which have become impracticable to irrigate by
12 reason of any of the foregoing conditions, the owner of an
13 affected water right may transfer the water right to other
14 lands held by the owner. The petition for the change in
15 use, or change in place of use shall be properly filed
16 within five (5) years of the date the land went out of
17 production because of any of the conditions specified
18 herein or by June 30, 2016, whichever is later. Failure to
19 file the petition within five (5) years or by June 30,
20 2016, whichever is later, results in forfeiture of the
21 right except as otherwise provided.

22
23 (c) ~~For a period of five (5) years after the~~
24 ~~effective date of this act~~ No later than June 30, 2016, any

1 appropriator whose land has been out of production for more
2 than five (5) years may petition the board requesting
3 transfer of the water rights involved. The granting or
4 denial of a petition under these circumstances is within
5 the discretion of the board. The decision of the board may
6 be appealed to the district court. The board may hold
7 public hearings in connection with a petition being
8 considered pursuant to this section. All costs in
9 conjunction with the hearing shall be borne by the
10 petitioner.

11

12 **Section 2.** This act is effective July 1, 2011.

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(END)