

## CHAPTER V

### PETITION INFORMATION

Section 1. Initiation. Matters concerning adjudicated appropriations of water, all changes of use, and ground water permits under which water has been put to beneficial use, must be brought before the State Board of Control in the form of petitions. In most cases, it will be necessary for the surveyor, or other party preparing a petition, to secure detailed information from the records of the State Board of Control. Assembly of this information from the Board records will be greatly simplified if the request for information is accompanied by a general statement as to the nature of the proposed petition.

#### Section 2. Required Information.

a. The permit number and name of the original appropriator (generally found in the Tabulation of Adjudicated Water Rights), the proof number, the Order Record citation (book and page), and the Certificate Record (book and page) wherein the appropriation is recorded or, in the case of a decreed right, the specific reference to the decree under which the appropriation was granted, should be included in the petition to properly identify the appropriation involved. This information is available from the office of the State Board of Control.

b. It is the responsibility of the registered engineer or professional land surveyor to accurately portray, by map and written statement, the existing conditions on the ground. The information of record relating to adjudicated water rights may not properly reflect the conditions on the ground. Therefore, care must be exercised in utilizing record information. Where there are discrepancies between the record and the actual situation, these differences should be pointed out to the Board, and, where necessary, a proper request made to correct the record to reflect the true conditions. If there is a question as to when it is necessary to correct the records, it is suggested that an inquiry be directed to the Board, setting out the circumstances and asking how to proceed.

Section 3. Hearing Expenses. In all hearings before the division superintendents or the State Board of Control where oral evidence is to be presented, the petitioner or contestant

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shall provide and pay for a complete transcript of testimony as required by the statute or statutes applicable to the petition involved. In the case of an abandonment petition, the party initiating the abandonment (contestant) shall provide and pay for a complete transcript.

### Section 4. Filing Requirements.

a. A petition filed with the State Board of Control, Cheyenne, Wyoming, must be accompanied by a letter of transmittal designating a person to receive correspondence concerning the petition.

b. A petition must be in the form of a sworn affidavit signed by the petitioner or his authorized agent before a notarial officer or other officer authorized to administer oaths, the original of which must be filed with the Board. Photocopies or fax copies are not acceptable.

c. The petition must be filed with the State Board of Control at least thirty days prior to the date of the meeting of the Board at which the petition is to be considered.

d. The petition of an incorporated or unincorporated ditch company or irrigation district, or other corporation, such as a land and livestock company, must be accompanied by evidence of the authority of the officers or agents to present the petition. Generally, a certified copy of an excerpt of the company or district minutes authorizing such action is sufficient. When a petition involves ditches which are individually owned or in partnership, all parties of interest should join in the petition. If another person is to act in their behalf, the petition must be accompanied by the proper authorization.

e. Powers of attorney, or any other supporting documents shall be of legal form and shall be notarized.

f. The required fee(s) in each case must be received by the Board before final action can be considered on any petition.

Section 5. Maps and Surveys.

a. Petition maps must be on good quality tracing linen or an acceptable equivalent. All maps to be filed in the office of the State Board of Control shall conform with the Regulations and Instructions of the State Engineer's Office. Particular attention shall be accorded the land grid which is used on maps accompanying petitions, which shall agree with the current U.S. Government survey plat as to lotting and other subdivision identification. Sufficient information should be placed on the map to clearly show what is proposed in the petition. This can be done by use of a proper map title, a detailed map legend, proper land ownership and explanatory notes and labels as needed.

b. The same map used for an application for permit to the State Engineer and/or a petition to the State Engineer may accompany a petition to the State Board of Control when it is feasible to show all the required information on one map. In such a situation, the map title shall reflect that the map supports two or more proposals by identifying each in detail. The original shall be filed with the State Engineer, while a paper print may be filed with the State Board of Control.

c. All maps in support of petitions must bear the certificate of a professional engineer or professional land surveyor licensed to practice in Wyoming.

d. Maps shall be prepared from field notes and a survey and shall reflect the true conditions on the ground. The survey may be supplemented by information from aerial photographs and the records of the State Board of Control and State Engineer. However, such supplemental information is not to be substituted for a survey made on the ground. Because most petitions to the State Board of Control deal with lands which are irrigated in whole or in part, the certificate should reflect what lands shown on the map are in fact irrigated. A statement that lands have been irrigated, or could be irrigated, or are irrigable, is not acceptable. The Board must know the true situation on the ground which exists at the time the map is prepared. For example, if part of the lands in the original adjudication lie above a ditch and have not historically been irrigated, or are

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not now being irrigated, the map should portray this situation, which should also be reflected in the certificate. The same type of information is generally required when ground water appropriations are involved.

e. Maps must not be folded.

f. If a special situation arises which does not appear to be compatible with the map requirements outlined above, specific written permission from the ex-officio secretary of the Board should be obtained in order to deviate from these map requirements. Such a permission letter must be transmitted with the petition and map when they are filed.

g. When a delivery system (means of conveyance) becomes so complicated in the view of the division superintendent that it hampers water administration, the division superintendent may require that a petition to describe or change the means of conveyance be filed.

h. All maps which accompany petitions for change of water rights shall:

(1) Show by proper cross-hatching the location within 40-acre subdivisions the lands from which the water right is being removed and/or the lands which are affected by the change. Do not use symbols. If necessary, show two views, one as presently irrigated, and one as proposed to be amended.

(2) Show all ditches, pipelines and other means of conveyance needed to support the petition.

(3) Show by tie from a found corner of the public land survey the location of all points of diversion, wells, pumps, and pivot points for circular sprinklers.

(4) The legend which corresponds with the appropriate cross-hatching shall clearly state the right involved and how it is to be amended.

(5) All landmarks and physical features such as highways, railroads, streams, etc., shall also be shown on the map.

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(6) Indicate the location of points of diversion, reservoir outlets, wells, pumps and pivot points by latitude and longitude.

(7) Delineate ownership boundaries of lands described in the petition, and all other ownership boundaries required by the proposed petition.

i. Computer generated maps are acceptable with an original seal and signature within the certificate of a professional engineer or professional land surveyor.

Section 6. Proposed Subdivision Developments. Wyoming Statute 18-5-306 (a)(xi) provides for the disposition of any water rights appurtenant to the lands involved in a proposed subdivision development prior to its approval by the county officials. If there are no water rights found appurtenant to the lands to be subdivided, the developer should obtain a statement confirming this fact from the office of the State Engineer for submittal to the county officials.

The disposition of each subject water right must be in accordance with one or more of the four (4) procedures outlined below:

a. The subdivider may submit the documentation necessary to relinquish all or part of the water rights as follows:

(1) If the water rights are adjudicated, the developer will submit to the Board a petition for voluntary abandonment. The petition must be accompanied by a statement of ownership certified by the appropriate county clerk or some other acceptable proof of ownership. Other documentation may be required by the Board.

(2) If the water rights are unadjudicated, the developer will submit a written request to the State Engineer for either a cancellation of the entire permit or for the elimination of the lands involved from the permit. Either request must be accompanied by a statement of ownership certified by the appropriate county clerk or some other acceptable proof of ownership.

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b. The subdivider may petition for change in place of use of all or part of the water rights to new lands, or change all or part of the water rights to new uses, and thereby provide for the continued beneficial use of the water. A petition and accompanying map certified by a professional engineer or professional land surveyor licensed to practice in Wyoming will be required (see Section 11, this chapter entitled Authorizing Statutes and Part I, Chapter VIII, of the State Engineer's Regulations and Instructions on the preparation of maps).

c. In addition to disposing of the water rights under proposed roadways and other areas no longer to be irrigated, the subdivider may leave all or part of the water rights on the land and develop a plan for distribution within the subdivision. This plan will be evaluated so it does not introduce or perpetuate errors in the records of the State Engineer's Office.

The developer shall submit a plan, certified by a Professional Engineer or Professional Land Surveyor, to the State Engineer, and a copy to the local irrigation district board, association, or remaining appropriators in the case of an unorganized ditch or pipeline system for distribution of the water right(s) within and through the subdivision.

The Water Distribution Plan must show or satisfy that:

(1) All existing water rights which will remain attached to the lands proposed to be subdivided.

(2) How each water right is to be conveyed from the source to and beyond the lands proposed to be subdivided.

(3) How the water is delivered to the various lots within the proposed subdivision.

(4) How much acreage of each water right is to remain appurtenant to each lot within the proposed subdivision.

(5) The water right items to be shown on the water distribution plan map for each proposed subdivision lot should include:

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(a) Permit number, proof and certificate record (if adjudicated), court decree priority (if applicable, and stream name, name of supply facility, priority date, and source of the water right(s).

(b) Numbers of acres permitted or adjudicated and currently being actively irrigated.

(c) The facility which conveys water from the source stream to the proposed subdivision, should be shown in its entirety, on the location map.

(d) The means of conveyance of the water shall be shown to each lot entitled to water delivery. In addition, culverts to convey the delivery under driveways and streets within the subdivision should be shown.

(e) Contour lines, direction of slopes or other means of showing direction of water flow should be included, if necessary, to assist in the evaluation of the means of delivery and application of water to the lots within the proposed subdivision.

(f) Because property owners are responsible for the drainage of their waste water, depict how waste water is to be managed to insure that it does not damage any adjoining lands nor alter historic return flow patterns. To prevent property damage from irrigation or waste water to properties down-gradient within or below the proposed subdivision it may be necessary to design and show waste ditches or drains to capture waste water or return flow from the upper lots.

(6) Since Wyoming law does not recognize any riparian water rights, lot owners have no right to water flowing past or through the proposed subdivision other than for permitted use(s) specifically appropriated or adjudicated to their lot via the State Engineer's Office or the State Board of Control. A statement to this effect shall be added to the plan.

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(7) Final approval by the State Engineer of the plan to deliver water to the proposed subdivision shall be sent to the appropriate county for notification pursuant to W.S. 18-5-301 through 18-5-318. Copies of the State Engineer's approval along with the map will also be sent to the subdivider, the water division superintendent, and the hydrographer/water commissioner.

(8) Upon final approval of the subdivision by the appropriate county's Board of County Commissioners, a reproducible map of the subdivision plat shall be provided by the county to the State Engineer's Office for incorporation into its records. The approved water distribution plan should be available for inspection through the appropriate county agency.

(9) The subdivider should allow at least ninety (90) days from the time the water distribution plan is submitted to the State Engineer's Office for final approval by the State Engineer. If the Water Distribution Plan is associated with a Petition or Authorization to Detach Water Rights, it is possible that the plan approval by the State Engineer will be delayed until the Board of Control has taken final action on the associated Petition or Authorization to Detach Water Rights at its quarterly meeting.

### d. Authorization to Detach Water Rights

(1) The authority to enter into an Authorization to Detach Water Rights (ADWR) resides in the Board of Control's general rulemaking authority under W.S. 41-4-211, as it relates to the Board of Control's constitutional and statutory responsibilities for water administration and management.



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(a) An accepted ADWR shall constitute authorization for the grantee to request change of use or change of place of use or voluntary abandonment of a water right. If a change of use or change of place of use petition is not filed with the Board of Control within Five (5) years of the date of acceptance of the ADWR, or if such petition is timely filed and not subsequently granted, the water right(s) is deemed to be voluntarily abandoned on the five year anniversary date of the ADWR acceptance, and the State Board of Control will issue an order to that effect.

(b) Once accepted, an ADWR cannot be rescinded unless the county does not approve any subdivision for which the ADWR was sought, financial hardship of the water right holder is demonstrated, or in other circumstances where the Board finds good cause. A request to rescind the ADWR must be filed before the five year anniversary date of the ADWR acceptance.

(c) The Board will only entertain a petition to place water rights on subdivision lands if it is accompanied by an approved water distribution plan.

### (2) Map Requirements

(a) If an ADWR is filed with a petition or a Water Distribution Plan, then all existing map requirements must be met. The same map requirements apply if an ADWR is not associated with a petition or a Water Distribution Plan, except that a paper map is acceptable. All maps involved with ADWRs must delineate the area of each water right involved to be authorized for detachment, specifying the acreage within each quarter-quarter. The title block must show that it is also the "Map to Accompany the Authorization to Detach Water Rights" when with a petition or Water Distribution Plan.

### (3) Land Ownership

(a) Land ownership by the grantor in the form of a certificate of ownership or a copy of a recorded warranty deed is required for all lands under an ADWR.

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(b) The grantor or their successors are responsible for providing notice, to the purchasers of those lands, of the status of the water rights authorized for detachment and that this water right will be moved or abandoned within five (5) years.

### (4) Historic Use Requirements

(a) Prior to filing a petition and map for a change of place of use or change of use for lands that were previously authorized for detachment by the Board of Control, evidence of recent historical use, within the five (5) years immediately prior to the acceptance of the ADWR or during its pendency, will be needed for submittal with the associated petition. If the water rights are being placed in a subdivision, a Water Distribution Plan will also be required. Until such change or abandonment is granted by the Board of Control, water rights involved in the ADWR remain attached to the lands for the described permitted use. If no petition completing the detachment change in use or change in place of use has been received prior to the end of the five (5) year period, the Board of Control, without further notice to landowners, will enter an order abandoning the water rights on those lands from the records of the Board of Control.

### (5) Fees

(a) See Fees, Wyoming State Engineer's Office, Wyoming State Board of Control, Chapter 1, Section 5(h).

### (6) Form Requirements

(a) The form in Appendix A on page A-28-29 should be completely filled out and signatures of the grantee and grantor on the ADWR must both be notarized. The notarized ADWR forms with accompanying map, fees and current land ownership documentation will be reviewed and considered by the Board of Control.

(7) Consent or Disclaimer

(a) Notarized disclaimer(s) of interest or consent(s) for an ADWR are required where the authorization to detach is only for a portion of an un-defined blanket appropriation or court decree water right, including any appropriation where the acreage within the affected quarter-quarter(s) is undefined. This requirement is intended to show that the other landowner(s) within the affected area are not injured by the apportionment of the appropriation between the landowners as shown in the ADWR and its accompanying map.

Section 7. Consent. When a petition for a change of water rights is filed with the State Board of Control, which requires that consent be obtained from the owners of appropriations of water that might be affected or an organized company representing individual owners, such consent shall be in the form of a notarized statement. See sample Consent form in Appendix A which includes a waiver of further notice. When consent cannot be obtained, the procedure shall be as follows:

a. In accordance with the Wyoming Administrative Procedure Act, the Board, at a regular or special meeting, may order that a hearing be held by the superintendent of the water division in which the appropriation proposed to be changed is located. The date and place of the hearing shall be fixed by the superintendent, who shall notify all parties known to own an interest in any affected appropriations of the time and place of the hearing.

b. Notice shall be given by legal advertisement, by certified mail, or by acknowledged personal service, depending on the type of petition, not less than thirty nor more than sixty days before the date of the hearing.

(1) If personal service is utilized, it shall be made by the superintendent or by the hydrographer commissioner or water commissioner, and acceptance shall be by endorsement on the copy which is retained by the superintendent.

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(2) In cases where personal service cannot be obtained, by certified mail or otherwise, an advertisement, published in at least one issue of a newspaper of general circulation in the county where the appropriation involved is situated, shall meet the requirement of notice of the hearing provided that it name the party requesting the change and set forth the time and place of the hearing and a general description of the petition.

c. The superintendent shall have the power to adjourn hearings from time to time upon reasonable notice to all parties interested, and shall allow parties to produce witnesses and offer such testimony as they may deem necessary to inform the State Board of Control as to the facts concerning the petition.

d. The cost of taking and transcribing the testimony, and of securing the service upon the parties involved shall be borne by the petitioner.

e. These procedures shall be followed with petitions involving change of point of diversion, or change of point of diversion and/or means of conveyance, when one or more appropriators affected by the proposed change neglects or refuses to give the necessary consent to the change.

Section 8. Fees. See the current publication of Fees - Wyoming State Engineer's Office and Wyoming State Board of Control.

Section 9. Funds. The appropriate amount for the county recording fee shall be used by the Secretary of the Board to pay for the recording of a certificate of appropriation or amended certificate of appropriation or order in the office of the county clerk of the county in which the water right is situated, and the remainder of the fee shall be remitted to the State Treasurer for credit to the general fund. If the Board of Control denies the petition, the recording fee shall be returned to the person, association, or corporation submitting the petition. All other fees received by the Board for copies, certified copies of records, tabulations of adjudicated water rights, etc., shall be transmitted to the State Treasurer for credit to the general fund of the State of Wyoming (see W.S. 41-4-514).

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Section 10. Proof of Ownership. The proof of ownership of lands involved in a petition can be in the form of a certificate from the county clerk, but it may be in some other form, such as a copy of land purchase contract or recorded warranty deed. If the lands are being purchased by the petitioner from the owner of record, a consent to the petition by the seller is required. If the ownership is joint in nature, all co-owners must either join as petitioners or consent to the petition. In the case of husband and wife ownership, it is best if both parties sign the petition as petitioners. When all or part of the lands involved are managed by a federal government agency, the petitioner must show some authority to request the proposal in the petition such as a lease, special use permit, etc. In addition, consent to the petition from the government agency must be obtained. If the lands involved are State owned, a consent from the State Land Office is required. Proof of ownership must also be provided for all persons consenting to the petition.

Section 11. Authorizing Statutes. The following statutes authorize the various petitions enumerated hereunder:

- a. W.S. 41-3-114
  - (1) Change of point of diversion.
  - (2) Change of point of diversion and means of conveyance.
- b. W.S. 41-4-514 -- Correction or amendment of certificate of appropriation.
- c. W.S. 41-3-102 through 41-3-104 -- Change of use and/or change in place of use.
- d. W.S. 41-3-401 through 41-3-402 - Involuntary abandonment.
- e. W.S. 41-4-517 -- Appeal from endorsement of the State Engineer.
- f. W.S. 41-3-917 -- Change in location of well.

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g. W.S. 41-3-612 -- Rotation of water use - (see Appendix A of these Regulations and Instructions).

h. W.S. 41-3-329 -- Change of point of diversion for a reservoir.

Section 12. Change of point of diversion - Surface Water.  
The required contents for a petition for change of point of diversion of surface water are stated in W.S. 41-3-114 (ditch) or 41-3-329 (reservoir). The following information is required:

a. HEADING -- Show ample description and identification of the ditch (or reservoir) and appropriation to be changed.

b. OPENING STATEMENT -- Identify the petitioner; show a mailing address and give a general introduction.

c. BODY --

ITEM 1 -- Show that the petitioner is either the sole or partial owner of the ditch or facility for which a change in point of diversion is to be requested, give the name of the ditch or facility, source of supply, permit number, and priority, and identify any documentary evidence of ownership being furnished with the petition.

ITEM 2 -- Identify the original appropriator, and give the name of the ditch (or reservoir), the proof number, the Order Record Book and page number, the Certificate Record Book and page number, and the priority date of all adjudicated appropriations and all permits in good standing which utilize the point of diversion which is to be changed.

ITEM 3 -- Set forth the change that is desired, describing in detail both the original point of diversion and the proposed new point of diversion (or new reservoir location). Describe the acreage under each appropriation to be changed and give a short statement of the necessary physical work to accomplish the proposed change in point of diversion.

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ITEM 4 -- Give reasons why the proposed change is desirable.

ITEM 5 -- Indicate whether or not there are any intervening diversions between the original and proposed new point of diversion (or new reservoir location). If there are intervening diversions, identify them and indicate their location by subdivision, section, township and range. Show whether or not consents to the proposed change have been obtained from the intervening appropriators. Written consents should be obtained and submitted along with the petition (a sample consent form is included in Appendix A with these Regulations and Instructions). If consents cannot be obtained, a hearing must be held. It is the policy of the Board that a change in point of diversion will be limited to the amount of water available in priority at the original point of diversion.

ITEM 6 -- Identify all intervening tributaries or other sources of supply. If there are none, make a simple statement to this effect.

ITEM 7 -- State whether or not any other appropriator from the same source of supply will be injured in any way.

ITEM 8 -- A map is required and must show the location of the present point of diversion, the proposed new point of diversion, with both locations properly tied to a corner of the public land survey. It also should show the location of all intervening points of diversion.

The location of the new portion of the ditch (or reservoir) also should be shown on the map. The map must show the lands irrigated which are involved in the change.

d. PRAYER -- State, in summary, specifically what is desired to be accomplished by the petition.

e. No fees are required in connection with a petition for change in point of diversion (or change in reservoir location).

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f. A change of point of diversion petition may not be necessary if the new point of diversion for the entire facility is in the same 40 acre subdivision as the record point of diversion, if there are no intervening points of diversion or intervening sources of supply, and if there are no injury concerns.

g. This outline and sample petition in Appendix A of these Regulations and Instructions are intended to apply to the typical petition which might be filed with the State Board of Control. If a proposed petition appears to involve too many appropriations to conveniently list the land descriptions in the petition or to readily show the lands on the map, it is suggested that an inquiry be directed to the Board explaining the situation and asking advice as to how to proceed.

h. An alternate point of diversion may be requested using the same instructions described above.

Section 13. Change of Point of Diversion and/or Means of Conveyance. The required contents of a petition for change of point of diversion and means of conveyance are found in W.S. 41-3-114. The following information is required:

a. HEADING -- Show ample description and identification of the appropriation or appropriations to be changed.

b. OPENING STATEMENT -- Identify the petitioner, show a mailing address and give a general introduction.

c. BODY --

ITEM 1 -- Show that the petitioner owns all of the lands irrigated under the appropriation to be changed. Mention inclusion of documentary proof of ownership.

ITEM 2 -- Describe in detail the appropriations to be changed, showing the name of the original appropriation, permit number, proof number, stream, ditch, priority, Order Record Book and page number, and Certificate Record Book and page number.



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ITEM 3 -- Give a complete legal tie and location of the present point of diversion. Name and describe the ditch into which the proposed change is to be made, giving the legal tie to the location of the point of diversion and indicating the appropriations already involved, or stating whether this is to be an entirely new ditch. Describe the lands under each appropriation for which a change in point of diversion and means of conveyance is proposed. Include a short explanation of the physical arrangement on the ground.

ITEM 4 -- Give reasons why the proposed change is desirable.

ITEM 5 -- State that consents have been obtained from all other appropriators using the two facilities directly involved, i.e., the old and new ditches. Written consents should be obtained and submitted with the petitions. If all appropriations are being transferred out of the ditch of record, then a statement should be made to show what will become of the ditch, such as, "ditch will be abandoned, headgate removed and diversion closed to the passage of water."

ITEM 6 -- Identify intervening headgates and points of diversion, or note the lack thereof. If there are intervening headgates or points of diversion, describe their location by subdivision, section, township and range. Also show whether or not consents to the proposed change have been obtained from the intervening appropriators. Such consents should be obtained and submitted with the petition (a sample consent form in Appendix A accompanying these Regulations and Instructions). If consents cannot be obtained, a hearing must be held.

ITEM 7 -- Identify any intervening tributaries or other sources of supply. If there are none, make a simple statement to that effect.

ITEM 8 -- State whether or not any other appropriator from the same source of supply will be injured in any way.

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ITEM 9 -- A map is required and shall show the location of the stream, both ditches and the land irrigated thereunder as they affect the appropriation of water to be changed, as well as the location of any intervening points of diversion and sources of supply.

d. PRAYER - State what is desired to be accomplished by the petition.

e. No fees are required in connection with a petition for change of point of diversion and/or means of conveyance.

f. This outline and the sample petition in Appendix A of these Regulations and Instructions are intended to apply to the typical petition which might be filed with the Board. If there is any question as to the applicability of these requirements to a specific petition because of the number or type of appropriations involved, etc., an inquiry should be directed to the Board explaining the situation and asking advice as to how to proceed.

g. This type of petition may also be used to propose a partial change of point of diversion and/or means of conveyance of a portion of an appropriation. For example, a portion of an appropriation is to be changed to another ditch or pump for irrigation through a sprinkler system while the remainder of the appropriation remains under the ditch of record.

h. A petition for change of point of diversion and/or means of conveyance shall be allowed only when the change will not adversely affect any existing right in good standing at the time the change is made.

i. It shall be a part of the Order of the Board, where a complete change of point of diversion and means of conveyance is made, that the old point of diversion shall be completely and permanently closed to the satisfaction of the Division superintendent at the time the new point of diversion is put into operation.

j. An alternate point of diversion and/or means of conveyance may be requested using the same instructions described above.

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Section 14. Correction or Amendment of Certificate of Appropriation. The authorization for this petition and provisions pertaining to hearing, costs, endorsement on the records, and other matters are found in W.S. 41-4-514 through W.S. 41-4-517. The following information is required:

a. HEADING -- Show sufficient description and identification of the appropriation or appropriations to be amended.

b. OPENING STATEMENT -- Identify the petitioner, and give a mailing address and a general introduction.

c. BODY --

ITEM 1 -- Indicate whether the petitioner is the sole or part owner of the appropriation and of all or part of the lands described in the appropriation. Mention inclusion of proof of ownership.

ITEM 2 -- Describe in complete detail the appropriation which will be affected by the petition by showing the name of the original appropriator, proof number, stream, ditch, permit number, priority, Order Record Book and page number, and Certificate Record Book and page number.

ITEM 3 -- Delineate the lands under the appropriation by legal subdivision which are currently irrigated or proposed to be irrigated.

ITEM 4 -- Give sufficient reason for the change requested. Mention briefly the occurrence of error or other circumstances and history that might justify the requested correction or amendment.

ITEM 5 -- Fees are required for a petition of this type, unless it is clearly evident the error to be corrected was originally by the Board (see Board Fee Schedule).

ITEM 6 -- State conclusively whether or not any other appropriators from the same source of supply will be injured in any way.

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ITEM 7 -- State that the required map accompanies the petition. The map must show the location of the ditch and the lands irrigated therefrom. The lands proposed to be excluded and the lands proposed to be included must be shown on the same map by different cross-hatching.

d. PRAYER -- Set forth, in summary, specifically what is desired to be accomplished by the petition.

e. If an error in the original appropriation is to be corrected and the proposed change concerns lands now owned by another, the owner's written consent should accompany the petition. If consent cannot be obtained, a hearing may be required.

f. A petition may also be filed when lands with attached adjudicated water rights have become seeped or otherwise unfit for the production of crops by irrigation, and it is the desire of the appropriator to amend the land description in the certificate of appropriation by excluding these lands and substituting other suitable lands of equal or less area in lieu thereof. The amended area may not exceed the area actually irrigated under the original right.

g. A hearing may be required for all petitions where the redescription of the appropriation includes lands not in the original description of the appropriation, except in the case of simple clerical error.

h. This type of petition is also used to redescribe territorial "blanket descriptions" and court decree rights so as to reflect on the record the actual situation on the ground. Typically, this type of petition must be filed before lands can be sold, since the buyer wants to know exactly where the water rights are located. This type of petition may also be necessary in situations involving a change to a preferred use.

i. Petitions may not be approved which would activate a water right, which has not been exercised for at least five years when water has been available for use.

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j. Petitions to correct or amend the description of ground water appropriations must be accompanied by copies of the pumping power records for at least the five-year period prior to the petition filing date (see sample petition in Appendix A of these Regulations and Instructions).

Section 15. Change of Use. The definition of and order of preferred uses and the procedure for a change from a lower to a higher ranking use are set out in W.S. 41-3-102 through W.S. 41-3-104. Other changes of use not involving a change to a preferred use can also be made. The following information is required:

a. HEADING -- Show sufficient description and identification of the appropriation to be changed.

b. OPENING STATEMENT -- Identify the petitioner and give a mailing address and a general introduction.

c. BODY -

ITEM 1 -- Show either: (a) that the lands from which the appropriation is to be detached are owned by the petitioner and provide the necessary attached proof of ownership; or (b) that consent has been given from the owner of the lands for the water right to detach the appropriation as provided by W.S. 41-3-104.

ITEM 2 -- Describe in detail the record as it identifies the appropriation to be changed. Describe the lands involved by legal subdivision.

ITEM 3 -- Describe in detail the change desired. It is required that the appropriation to be changed has previously been and is presently being applied to beneficial use. A statement to this effect should be made. Also set forth in detail any change of point of diversion and/or means of conveyance that may be required to make the appropriation available for the proposed new use.

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ITEM 4 -- Any consents of the other appropriators using the same facility should be documented. If consents are not available, it should be so stated.

ITEM 5 -- Identify any intervening headgates between the original point of diversion and the proposed new point of diversion. Show that consents from the various appropriators using these facilities have been obtained. If consents cannot be obtained, it should be so stated.

Item 6 -- One important item in this petition not found in others is a comparison of the proposed use with the historic use of the water right being changed. This comparison could be in the form of a consumptive use report or study made on return flows, both historic and under the proposed use. If a water right has been exercised historically during only a part of the year, the State Board of Control shall limit the new use to that same period of time. The petitioner would have to apply for a current priority right to cover the time not covered by the historic use. The Board's decision is made after a close study of all the evidence, including any obtained at the hearing as prescribed in W.S. 41-3-104.

ITEM 7 -- State whether or not any other appropriator from the same source of supply will be injured in any way.

ITEM 8 -- State that the required map accompanies the petition. The map shall show the location of the affected ditch and stream, or well, the location of the land in each 40 acre subdivision affected by the proposed change and its area, the location of the pipeline or other means of conveyance by which the water right is to be changed, and the location of the point of new use, and any intervening ditches or commonly used facilities.

ITEM 9 -- A fee is required for each appropriation for which the change is sought (see Board Fee Schedule).

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d. PRAYER -- State what is desired to be accomplished by the petition.

e. A description by 40-acre subdivision is required to identify the lands from which it is proposed to detach the appropriation for a change of use. For a territorial appropriation, where the record describes several 40-acre subdivisions by a blanket description, it may be necessary to petition the State Board of Control for an amended certificate of appropriation or change of place of use to show the areas as irrigated and the 40-acre subdivisions from which the water right or appropriation is to be detached and changed to a new use. The 40-acre subdivisions shall be clearly shown on the map by distinctive cross-hatching. It must be clearly shown that the appropriation is an actual appropriation of water that is being applied to beneficial use on specific lands.

f. The Board will look with disfavor on petitions for change of use for which recent historic use cannot be documented. Documentation such actual diversion or pumping records is necessary to establish the historic rate of diversion or pumping, the period of use, and the amount of water actually consumed. If no records are available to the petitioner, the petition must indicate the manner by which historic use will be demonstrated to the Board. If the proposed change of use also involves a change of point of diversion and means of conveyance of great distance, the petition shall be accompanied by a conveyance loss study which utilizes a methodology acceptable to the Board. The Board may also request that studies be prepared on return flow lag times, the pattern of return flows, the geology and soils in the affected areas, and on other pertinent subjects. Advance inquiry should be made to the Board's Cheyenne office to determine what studies might be recommended.

g. All required information and additionally requested documentation and studies must be provided to the Board before a hearing is scheduled. The Board's staff and any other affected persons need to have sufficient time to review the information, documents, and studies prior to the Board taking any action on a petition for change of use (see sample petition in Appendix A of these Regulations and Instructions).

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Section 16. Change of Place of Use. The authorization for this petition and provisions are found in W.S. 41-3-104. The following information is required:

a. HEADING - Show sufficient description and identification of the appropriation or appropriations to be changed.

b. OPENING STATEMENT - Identify the petitioner, and give a mailing address and a general introduction.

c. BODY

Item 1 - Indicate whether the petitioner is the sole or part owner of the appropriation and all or part of the lands described in the appropriation, and has provided the necessary proof of ownership.

Item 2 - Describe in complete detail the appropriation which will be affected by the petition by showing the name of the original appropriator, proof number, stream, ditch, permit number, and Certificate Record Book and page number.

ITEM 3 - Delineate the lands under the appropriation by 40-acre subdivision which are actually irrigated or proposed to be irrigated.

ITEM 4 - Give sufficient reason for the requested change.

ITEM 5 - Fees are required for a petition of this type (see Board Fee Schedule).

ITEM 6 - State conclusively whether or not any other appropriations from the same source of supply will be injured in any way.

ITEM 7 - State that the required map accompanies the petition. The map shall show the location of the ditch and the lands irrigated therefrom. The lands proposed to be excluded and the lands proposed to be included shall be shown on the same map by different cross-hatching.



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d. PRAYER - State what is desired to be accomplished by the petition.

e. If the proposed change concerns lands now owned by another, the owner's written consent should accompany the petition. If consents cannot be obtained, a hearing may be held.

f. A petition may also be filed when lands with attached adjudicated water rights have become seeped or otherwise unfit for production of crops by irrigation, and it is the desire of the appropriator to change the land description in the certificate of appropriation by excluding these lands and substituting other suitable lands of equal or less area in lieu thereof. The amended area may not exceed the area actually irrigated under the original water right.

g. A hearing may be required for petitions where the re-description of the appropriation includes lands not in the original description of the appropriation, except in the case of simple clerical error.

h. This type of petition is also used to re-describe territorial "blanket descriptions" and court decree water rights so as to reflect on the record the actual diversion on the ground. Typically, this type of petition must be filed before lands can be sold, since the buyer wants to know exactly where the water rights are located. This type of petition may also be necessary in situations involving a change to a preferred use.

i. Petitions may not be approved which would activate a water right, which has not been exercised for at least five years when water has been available for use.

j. Petitions to change the place of use of ground water appropriations must be accompanied by copies of the pumping power or other records for at least five years prior to the petition filing date.

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Section 17. Involuntary Abandonment. An involuntary abandonment is the forfeiture of a water right which has not been exercised for at least the five successive years past when water was available to satisfy the water right. Years during which a water supply was not available are not included. A petition for involuntary abandonment may be brought before the State Board of Control by any appropriator whose water right might be benefited by a declaration of abandonment of an existing water right or whose water right might be injured by the reactivation of an unused water right. Standing is determined by demonstrating that the petitioner holds a valid adjudicated water right or permit to appropriate water from the same source of supply which is equal to or junior in date of priority to the water right for which abandonment is sought, or a surplus water right if the water right sought to be abandoned has a priority date of March 1, 1945, or earlier. A petition for involuntary abandonment requires a fee (see Board Fee Schedule) for each appropriation for which abandonment is sought. Statutory authority for this type of petition and matters related is found in W.S. 41-3-401, and the contested case procedures set out in these regulations. The State Engineer may also initiate abandonment proceedings under certain conditions as stated in W.S. 41-3-402. A petition for declaration of abandonment must be supported by complete documentation which shows the ownership of each challenged appropriation, and the appropriation(s) upon which the petitioner relies for standing so that the Board's staff may provide notice to all persons known to have any interest in the proceedings. The petitioner is required to specifically list the lands served by each challenged appropriation, and to name all persons known or believed to have any ownership interest. The Board's staff may be contacted for assistance in describing adjudicated appropriations to be placed in contest, and the State Engineer's Office may be contacted for assistance in describing unadjudicated permits to appropriate water. The respective county records and all other readily available public records should be searched by the petitioner to obtain the names and addresses of the owners. As a minimum, the petition should reference the appropriations' names shown on the records of the Board and provide current ownership information. If the petitioner desires to use surplus water for standing, it must be clearly described in the petition how the standing is determined. The petition should be substantially in the form indicated below and must contain the following information:

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a. HEADING -- Sufficiently describe and identify the appropriation(s) for which a declaration of abandonment is sought.

b. OPENING STATEMENT -- Identify the contestant(s), and show a mailing address, and give a general introduction.

c. BODY --

ITEM 1 -- Show that the contestant(s) is the owner(s) of the appropriation for which standing is claimed. Identify the appropriation by the name of the original appropriator, the name of the ditch, the source of supply, the permit number, and the priority. Also describe the lands under the appropriation. Indicate that proof of ownership from the county clerk or other acceptable documentation accompanies the petition.

ITEM 2 -- Set forth the present ownership and completely describe the appropriation for which a declaration of abandonment is sought, showing the name of the original appropriator, proof number, stream, ditch, permit number, and priority. State that proof of ownership from the county clerk or other acceptable documentation accompanies the petition.

ITEM 3 -- State and fully describe the factual basis upon which the petitioner claims standing.

ITEM 4 -- State that water has not been applied to beneficial use for at least five successive years last past when water was available for use. The five years need not to be consecutive if there were intervening years when water was not available. However, the specific five years at issue must be specified in the petition.

ITEM 5 -- State and fully describe how the petitioner's water right(s) will be benefited by the abandonment, or how the petitioner's water right(s) will be injured by the reactivation of the water right for which abandonment is sought.

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d. PRAYER -- Follow the format set out in the sample petition in Appendix A of these Regulations and Instructions.

e. If the petition seeks abandonment of only portions of an appropriation, the Board may require a map or maps be submitted. Where less than full 40-acre subdivisions are sought for abandonment, map(s) shall be submitted showing the situation as it currently exists on the ground, including a description of the portion of each 40-acre subdivision for which the water rights are sought to be abandoned.

f. The division superintendent shall notify the holder of the water right(s) sought to be abandoned by certified mail that a hearing will be held. The hearing shall be conducted pursuant to all applicable provisions of the Wyoming Administrative Procedure Act. All notices shall advise interested parties of the time, place and purpose of the hearing. The parties initiating abandonment actions are designated as contestants. Water right holders or other persons with interest in the water right(s) sought to be abandoned are designated as contestees. Where notice by certified mail cannot be accomplished, an advertisement published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the abandonment is alleged to have occurred, naming the parties in the case and setting the time, place and purpose of the hearing is sufficient. The costs of advertising shall be paid by the contestant.

g. A transcript shall be made of the hearing and delivered to the Cheyenne Board office. The contestants shall pay for the costs of establishing the record of the proceedings. At the conclusion of the hearing, a report of the division superintendent shall be transmitted to the Board by the division superintendent. As soon thereafter as may be possible, the Board shall vote to declare the water right(s) in question abandoned, either in whole or in part, or vote to deny the petition.

Section 18. Voluntary Abandonment. A voluntary abandonment of a water right is a deliberate relinquishment by its owner, which is accomplished by petition to the State Board of Control. The following information is required:

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a. HEADING -- Sufficiently identify the appropriation to be voluntarily abandoned.

b. OPENING STATEMENT -- Identify the petitioner, and show a mailing address and give a general introduction.

c. BODY --

ITEM 1 -- Show that the petitioner is the sole owner of the appropriation and the adjudicated lands of record, which are to be abandoned. Mention inclusion of proof of ownership from the county clerk or other acceptable documentation. Describe the appropriation in detail and show the name of the original appropriator, proof number, stream, ditch, permit number, and priority. Describe the lands of record by 40-acre subdivision under the appropriation.

ITEM 2 -- State that water under the appropriation is not presently being applied to beneficial use upon the adjudicated lands and that it will not be diverted or used in the future. Provide a reason why this has taken place.

d. PRAYER -- Declare the intention to abandon the appropriation, and request a proper Order of the Board.

e. No fees are required for a petition for voluntary abandonment.

f. If the water right(s) to be voluntarily abandon concern only portions of any appropriation(s), the Board requires that a map or maps be submitted showing the location of the portion of each 40-acre subdivision for which water right(s) is sought to be abandoned (see sample petition in Appendix A of these Regulations and Instructions).

Section 19. Automatic Abandonment. In accordance with W.S. 41-3-107, water rights on irrigated lands inundated by reservoirs will be automatically abandoned after five years of completion of construction of the reservoir. Change of use or change of place of use of the inundated water right(s) may be pursued by proper petition filed within the five-year period.

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Section 20. Appeal from Endorsement. An appeal to the State Board of Control from an endorsement of the State Engineer on an application for permit to appropriate water or on a permit is authorized by W.S. 41-4-517. Such an appeal should include the following:

a. HEADING -- Identify the application or permit in question by the name of the proposed facility and by temporary filing number or permit number.

b. OPENING STATEMENT -- Identify the applicant and their mailing address and give a general introduction.

c. BODY --

ITEM 1 -- State that an application was filed or a permit issued, and show the date of filing and name of the facility, and give the temporary filing number or permit number. Show the nature of the challenged endorsement and the reasons stated in the endorsement.

ITEM 2 -- State the reasons for appeal.

d. PRAYER -- The prayer should ask for a hearing by the State Board of Control and a reversal or modification of the State Engineer's action (see sample appeal in Appendix A accompanying these Regulations and Instructions).

Section 21. Change of Location of Well. Authorization for this type of petition is found in W.S. 41-3-917. Petitions affecting adjudicated ground water rights or unadjudicated ground water rights where beneficial use has been received will follow the sample format as those for surface water rights with some exceptions based on what is requested by the petitioner. When a petition is submitted to the Board to change a well location, it must be accompanied by copies of all water production records for at least 5 years past to the extent available. A change may be allowed for the amount of water the well is actually capable of producing, but not in excess of the adjudicated right. A condition of approval on any change of location of a well shall be that no injury will occur to any other appropriator. The new well location must be indicated in

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the records of the Board by a new survey tie certified to by a licensed professional engineer or professional land surveyor. A new map is not required except as may be necessary to show the new location. A new well located within 100 feet of the original adjudicated well may be described by non-certified distance and bearing from the original well. This information will be provided by the petitioner to the Board on the required Statement of Completion Form (U.W. 6) for the new relocated well. The old well shall be properly abandoned and re-sealed unless it's re-permitted for beneficial use. The following information is required:

a. HEADING -- Sufficiently identify the appropriation to be changed.

b. OPENING STATEMENT -- Identify the petitioner and their mailing address and give a general introduction.

c. BODY -

ITEM 1 -- Show that the petitioner is the present owner of the ground water appropriation involved in the petition, and identify the proof of ownership being furnished with the petition.

ITEM 2 -- Describe the appropriation listing the name of the well, permit number (or statement of claim or well registration number), proof number, Order Record Book and page number, Certificate Record Book and page, and priority date. If the appropriation is for irrigation, the irrigated acreage must be described.

ITEM 3 -- Set forth the change that is desired by describing in detail both the location of the original well and the proposed new location of the well.

ITEM 4 -- Describe the reason for the proposed change.

ITEM 5 -- Indicate that the new well will be in the same ground water basin and the same aquifer. The original well depth and the proposed depth of the new relocated well must be provided. If the well is in a ground water control area, note that the recommendation of the Control Area Advisory Board will be provided.

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ITEM 6 -- Maps are required in most instances. However, a letter certificate from a licensed professional engineer or professional land surveyor is sufficient, provided that the letter certificate indicates a tie, by distance and direction, has been made to the new site. A new well location within 100 feet of the original adjudicated well may be described by non-certified distance and bearing from the original well. This information will be provided by the petitioner to the Board on the required Statement of Completion Form (U.W. 6) for the relocated well. A correction can then be added to the proof of beneficial use of ground water map in the Board's records.

ITEM 7 -- No fees are required for a petition for change of location of a well.

ITEM 8 -- Unless re-permitted for another use, state that the old well will be properly abandoned and sealed in accordance with the State Engineer's Regulations and Instructions. Abandonment and sealing of the old well will be completed within one year of the completion of the relocated new well and a Statement of Completion Form (U.W. 6) will be filed with the Board providing the details of abandonment and sealing.

ITEM 9 - A Statement of Completion Form (U.W. 6) will be submitted to the Board within thirty days after completion of the new well.

d. PRAYER -- State specifically what is desired to be accomplished by the petition (see sample petition in Appendix A accompanying these Regulations and Instructions).

Section 22. Temporary Changes of Point of Diversion or Point of Withdrawal. The division superintendents are authorized to issue temporary changes of points of diversion or changes of location for ground water wells for short periods of time up to a maximum of one water use season. The affected surface or ground water right must be a valid appropriation. If a well is located in a ground water control area, the division superintendent may approve the temporary change. For these



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wells, prior to approving a permanent change of well location, the Board will obtain the recommendation of the control area advisory board. The approval for a temporary change shall not be given if the change would result in injury to any other appropriator. The approval of the temporary change does not guarantee that the State Board of Control will approve a permanent change. If a permanent change is to be requested, a proper petition must be filed with the Board during the period of the temporary change. A request for a temporary change must be made on the appropriate form and must be approved in writing by the appropriate division superintendent prior to being made. No increase in water use by a temporary change shall be allowed. The division superintendent will forward copies of all temporary change requests and approvals to the Board's Cheyenne office (see sample form in Appendix A accompanying these Regulations and Instructions).

Section 23. Rotation of Water Use. A rotation of water use does not require a petition to the State Board of Control. This section merely explains the Board's policy and establishes a uniform practice.

a. When the source of supply is under priority administration and the owner or owners of two or more water rights can achieve greater efficiencies of use by rotating applications of the total supply available to several different water rights, they are allowed to do so under authority of W.S. 41-3-612, and according to the following conditions:

(1) All appropriations involved must be in priority and entitled to water during the entire rotation period;

(2) An actual rotation of water use for the lands under each appropriation is required, and each rotation period will not exceed ten days unless a longer period is agreed to by the hydrographer commissioner or water commissioner.

(3) The proposed rotation must not result in injury to any other appropriators;

(4) The rotation proposed is limited to one season;

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(5) A "Notice of Intention to Rotate" must be filed with the appropriate hydrographer commissioner or water commissioner on a form provided for that purpose by the hydrographer commissioner or water commissioner;

(6) Written approval to the proposed rotation must be obtained from the appropriate hydrographer commissioner or water commissioner prior to commencement of any rotation and such approval shall be endorsed on the rotation form.

b. Requests to rotate must be delivered to the appropriate hydrographer commissioner or water commissioner on a facsimile of the appropriate form or in some other written form acceptable to the hydrographer commissioner or water commissioner which provides the same information (see sample form in Appendix A accompanying these Regulations and Instructions).

Section 24. Request for Regulation. Any holder of a water right may request that the source of supply for their water rights be regulated by the state water administrators as authorized by law and in accordance with established priorities (see W.S. 41-3-503, W.S. 41-3-504, W.S. 41-3-604 and W.S. 41-3-111). Requests for regulation shall be in writing. An appropriate form may be used, or a letter which contains essentially the same information may also be used (see sample form in Appendix A accompanying these Regulations and Instructions).