

**STRATEGIC PLAN**

**FOR**

**THE**

**WYOMING STATE ENGINEER'S OFFICE**

**WYOMING STATE BOARD OF CONTROL**

**PLANNING PERIOD: JULY 1, 2006 TO JUNE,  
30, 2010**

**SUBMITTED**

**SEPTEMBER 1, 2005**

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STATE ENGINEER**

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# WYOMING STATE ENGINEER'S OFFICE STRATEGIC PLAN

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## INTRODUCTION

This Strategic Plan encompasses the activities of the Wyoming State Engineer's Office, and the Wyoming State Board of Control for Fiscal Years 2007-08. Agencies are required to complete and update strategic plans as required in W.S. 28-1-115. Both the office of the Wyoming State Engineer and the Board of Control were created by Article 8 of the Wyoming Constitution, charging each with the general supervision of the waters of the State of Wyoming. The State Engineer issues permits for the beneficial use of Wyoming's water resources. The Board of Control consists of the State Engineer and the four Water Division Superintendents. The Board is an independent, quasi-judicial entity, having sole jurisdiction over the final adjudication of water rights and amendments made to those adjudicated rights.

The responsibilities of the State Engineer's Office fall into three basic areas: *Natural Resources, Regulatory, and Public Safety.*

A single, broad goal encompasses the activities of the State Engineer's Office:

**Provide for the proper regulation, administration, management and protection of the waters of the State of Wyoming.**

The State Engineer's Office is primarily a regulatory agency. This includes the issuance of permits prior to construction or development for placing groundwater or surface water to beneficial use and the administration of available water supplies. All impoundments, stream diversions, spring developments, groundwater wells and weather modification efforts are regulated by the State Engineer's Office. In addition to assuring that water is put to beneficial use within the State, the office is also responsible for the administration of Wyoming's obligations under the various interstate Compacts and Court Decrees which have allocated water among Wyoming and the adjacent river basin states (see the map on the following page). As a headwaters state, the State Engineer's Office believes certain leadership obligations rest with us and it is imperative to disseminate the knowledge gained by our location near the headwaters of every major river basin in the West.

# Wyoming River Basin Compacts and Decrees



307-777-6150

## Legend

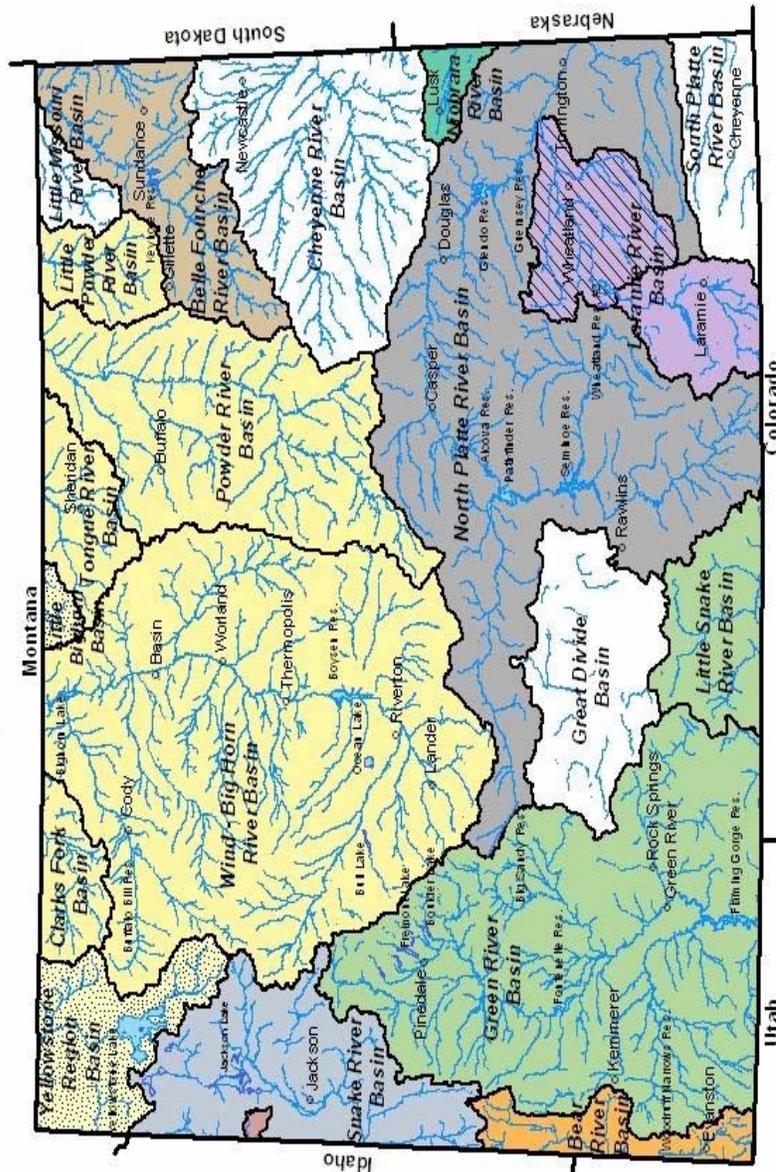
- Cities
- Major Streams
- Lakes/Reservoirs

## Compacts and Decrees

- Amended Bear River Compact, 1878
- Colorado River Compact, 1922
- Upper Colorado River Compact, 1948
- Snake River Compact, 1949
- Yellowstone River Compact, 1950
- Exceptions within the Yellowstone River Compact Area
- Belle Fourche River Compact, 1943
- Upper Niobrara River Compact, 1962
- North Platte River Decree, 1945 (modified 2001)
- Laramie River Decree, 1922
- Roxana Decree, 1941
- No compacts or Decrees
- modified North Platte Decree, 2001



December 2004  
Wyoming State Engineer's Office



Statutes covering dam safety inspections and regulation have also been enacted by the Wyoming Legislature and are administered by the State Engineer. Similarly, the Legislature has directed the State Engineer's Office to review the adequacy of subdivision water supplies for new developments. Both of these functions represent a public safety effort to protect the citizens of this state.

The State Engineer's Office also works closely with other state agencies to better manage the state's water resources. Important cooperative efforts include the following:

- River basin planning – Water Development Commission
- Instream flow water rights – Game and fish Department and Water Development Commission
- Coal Bed Methane Development (CBM) – Department of Environmental Quality
- Coal Bed Methane Development – Oil and Gas Commission

Wyoming's framework for water regulation and administration was created by the Territorial Engineer, Elwood Mead, prior to Wyoming's statehood. This system is based upon the doctrine of prior appropriation. The State Constitution affirmed the importance of water administration, and few changes have been made to the allocation and regulation framework put in place by Mr. Mead. Water rights are considered property rights and are tied to the land for irrigation or where the beneficial use is being applied. The first private water rights in Wyoming have a priority date of 1862. The State Engineer's Office is also responsible for the maintenance of the permanent records associated with the continuance of these property rights.

### **AGENCY MISSION**

The mission of the Wyoming State Engineer's Office and Board of Control is to provide for the general supervision and protection of both inter- and intra-state waters of this state. This includes the appropriation, distribution and application to beneficial use of water as provided under the prior appropriation doctrine, and to maintain the flexibility within that framework to meet the changing needs of the citizens of Wyoming. The State Engineer's Office collects, analyzes, maintains, and provides water related information for ensuring the appropriate management and regulation of Wyoming's water resource.

### **AGENCY VISION**

The State Engineer's Office will maintain its role and reputation as the authoritative voice in water allocation and water administration over the waters of the state. State primacy over water regulation and apportionment

will continue into the future. Water users will continue to enjoy the certainty, predictability and consistency in water management inherent to the prior appropriation doctrine and the specifics of Title 41 statutes. Our long-standing tradition of generally entering into regulation in a specific river system, only after receiving a valid request from a water right holder or when required under compacts or decrees will continue. Wyoming citizens trust our water allocation system and believe water regulation is a proper function of government. Although different demands for our water resources may arise in the future, generally our existing laws have the flexibility to accommodate those new uses. In places where change to law or rule may be needed, those changes will be carefully analyzed to assure those changes protect the rights of individual water right holders and are consistent with our constitutional mandated system.

### **AGENCY PHILOSOPHY**

In administering the waters of the State, the State Engineer Office's personnel will seek to provide the most efficient and courteous service possible to the people we serve and regulate. We will maintain a high level of accuracy and a common sense approach to our regulatory activities. We are proud of the heritage, integrity and efficiency associated with Wyoming's method of water regulation and administration. We will fulfill our Constitutional obligations of protecting and preserving Wyoming's use of its water resources and assuring water distribution and administration are conducted in an accurate, legal, and timely manner. We will strive to obtain the resources necessary to meet these goals.

We commit to our employees to provide the training necessary to understand the complexities of water law, water right permitting and water regulation. The management of the agency will strive to provide consistent decisions and to apply those decisions equitably across all the divisions of the agency. The public has confidence in the water resources data that our employees collect and we strive to maintain that confidence by accurately collecting, analyzing and reporting information on Wyoming's water resources and uses. On an interstate basis, Wyoming is proud of the leadership reputation we have gained over the years of participation in the many river basin organizations in the West. As we participate in each of the major drainages of the West, our broad exposure to issues allows us to meld ideas and success from one basin to another.

## STRATEGIC PLAN 2007-2008 BIENNIUM

### Quality of Life Result

Wyoming's natural resources are managed to maximize the economic, environmental, and social prosperity of current and future generations.

### Agency

Wyoming State Engineer's Office (SEO). The office of State Engineer was created by Article 8, Section 5 of the Wyoming Constitution and stipulates that the State Engineer, "shall have general supervision of the waters of the state and of the officers connected with its distribution."

### Contribution to Wyoming Quality of Life

Article 1, Section 31 of the Wyoming Constitution states,

"Control of water

Water being essential to industrial prosperity, of limited amount, and easy of diversion from its natural channels, its control must be in the state, which, in providing for its use, shall equally guard all the various interests involved."

In this constitutional provision, the state recognizes that water is essential to prosperity and of a limited amount. The role of the State Engineer is to administer a system that allocates the waters of the state based upon the doctrine of prior appropriation (Reference Article 8, Section 3 Wyoming Constitution which states, "Priority of appropriation for beneficial uses shall give the better right.")

### Basic Facts

In the 2005-2006 biennium budget, this agency is authorized to employ 120 full time and 20 part-time employees. Authorized biennium funding is as follows:

General Fund	\$19,906,629
Other Funds	<u>\$ 745,288</u>
Total =	\$20,651,917

This agency has three core business functions described as follows:

1. Permitting and Adjudication of Water Rights - prior to using any water in the state, the appropriator is required to obtain a permit. The permit is the first step in acquiring a water right and it defines the conditions of use as well as the priority date. Once a permit has been issued, the permit holder may begin construction

of the facility (well, ditch, reservoir, etc.) and begin beneficial use of Wyoming water.

Upon satisfying the conditions of the permit, the appropriator may file a notice of beneficial use and seek adjudication of the water right by the Board of Control (BOC). The employees involved in permitting and adjudication of water rights are primarily located in the Herschler Building in Cheyenne, Wyoming.

2. Administration and Regulation – Wyoming has an arid climate and most areas of the state experience water shortages at some point during the year. During these times, water is allocated to senior water users based upon the doctrine of prior appropriation and numerous Wyoming Statutes that support this doctrine. This administration and regulation is supervised by the agency’s four Division Superintendents. Each Superintendent is located in one of the four Division offices (Torrington, Sheridan, Riverton, and Cokeville). Each Superintendent has a staff of Hydrographer/ Water Commissioners that are located in 24 offices across the state. These employees are responsible to allocate water by field regulating headgates, pumps, stream diversions, etc.
3. Administration of Interstate Compacts and Decrees – Wyoming is party to seven interstate water compacts and three interstate court decrees. These documents define the amounts of water that Wyoming must provide to downstream states. A staff of four employees in Cheyenne maintains contact with adjoining states and federal agencies to assure compliance with various compacts and decrees. Additionally, they monitor federal actions that might impair Wyoming’s ability to use its water.

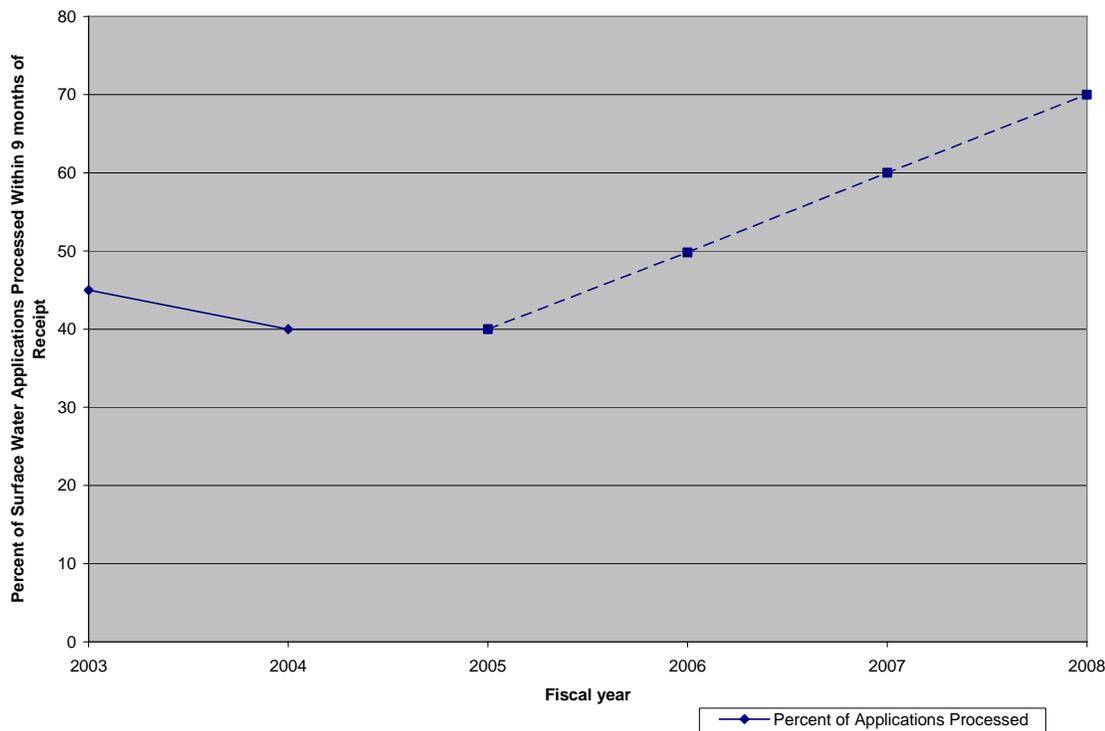
These core business functions serve the entire population of Wyoming in one way or another. Examples of water users in the state include farmers that irrigate lands, the 98 municipalities within the state, homeowners that rely upon well water, and businesses that divert water for industrial use.

### **Performance Measures**

This agency has selected six performance measures with the intent of improving the customer service in both the permitting and field administration operation of the agency. These performance measures are as follows:

1. **Percentage of Surface Water applications for permit that are processed within 9 months or less of receipt.** Processing is complete when a permit has been issued, the application has

been denied, or the application has been reviewed and placed in the pending file awaiting additional information from the applicant.



#### Story Behind The Performance Measure –

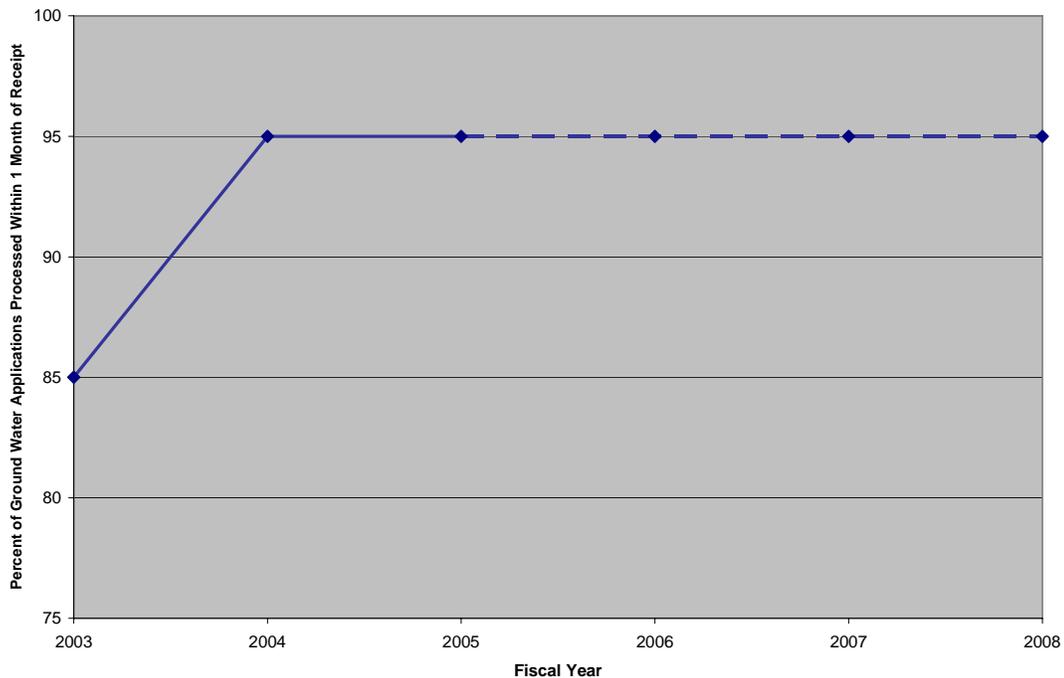
Prior to utilizing surface waters of the State, an appropriator must obtain a permit from the Surface Water Division. This division issues permits for stream diversions, canals, instream flows, reservoirs, and weather modification efforts. The permit allows the applicant to construct the proposed facilities and begin using water for its intended purpose. The Surface Water Division conducts extensive research on new applications in order to assure that new permits do not conflict with or overlap onto existing water rights. This research is time consuming because of the complexity of water rights and the paper records system maintained by the agency. In recent years the large demand to construct small reservoirs in the northeast part of the state has inundated the Surface Water Division. This has led to an increasing backlog of unprocessed water right applications. If this division can process the majority of its applications within 9 months of receipt, then the customers submitting their applications in one calendar year can expect to start construction in the following construction season.

Proposed Performance Improvements –

- Voluntary and mandated overtime hours for Water Management Specialists that process applications
- Add staff positions to increase applications processing
- Fully implement the agency’s IT Initiative to increase the processing efficiencies

**2. Percentage of Ground Water applications for permit that are processed within one (1) month or less of receipt.**

Processing is complete when a permit has been issued, application has been denied, or the application has been reviewed and placed in a pending file awaiting additional information from the applicant. This performance measure includes wells located in control areas. Control areas are areas of special ground water concerns such as declining water tables. The State currently has three control areas and any applications for a new well permit must first be reviewed by the Control Area’s Advisory Board. In most cases, the control area process takes more than the one month performance measure goal to complete. However, the number of control area applications is generally small.



Story Behind the Performance Measure –

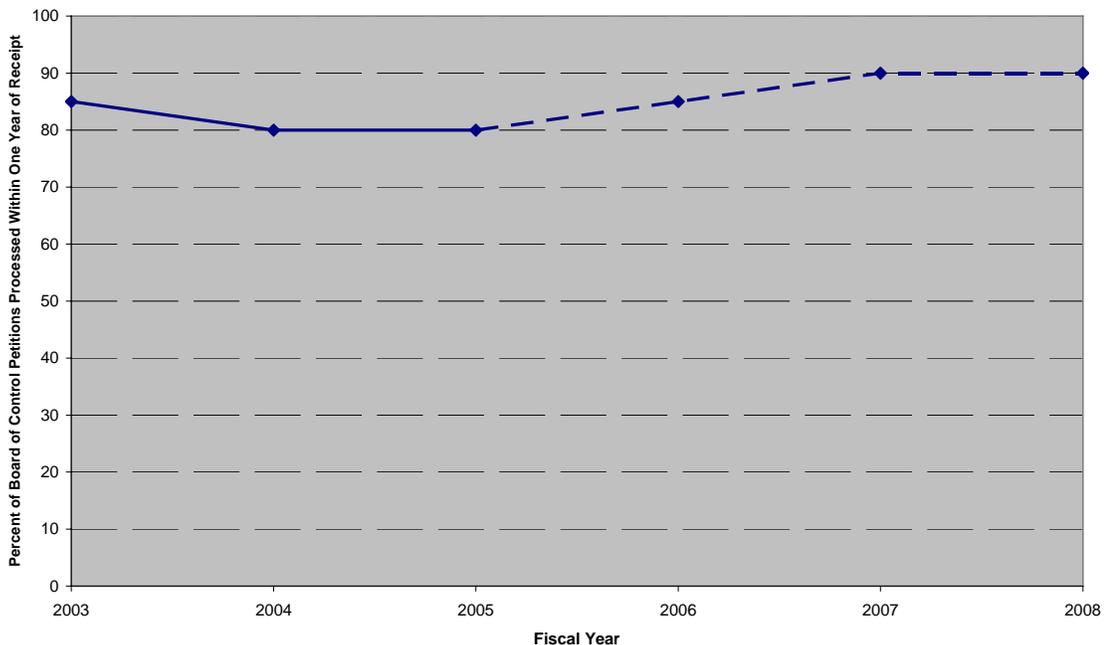
Prior to utilizing ground waters of the State, an appropriator must obtain a permit from the Ground Water Division. This division issues permits for wells and small springs. The permit allows the applicant

to construct the proposed water facilities and begin using water for its intended purpose (beneficial use). The Ground Water Division does not perform extensive records searches on new applications, because the drilling of a well does not guarantee the production of water. Instead, the division uses the permit system to place conditions on well operations and to establish a data base in which to address future problems such as interference claims. As such, a one month permit processing goal is viewed to be reasonable and will provide the constituents with certainty in the process.

Proposed Performance Improvements –

- Selectively offer overtime to address backlog issues
- Add staff to address long term needs
- Fully implement the agency’s IT Initiative to increase the processing efficiencies.

3. **Percentage of Board of Control (BOC) petitions that are processed within one (1) year or less of receipt.** Processing is complete when the petition is approved, or the petition has been denied.



Story Behind The Performance –

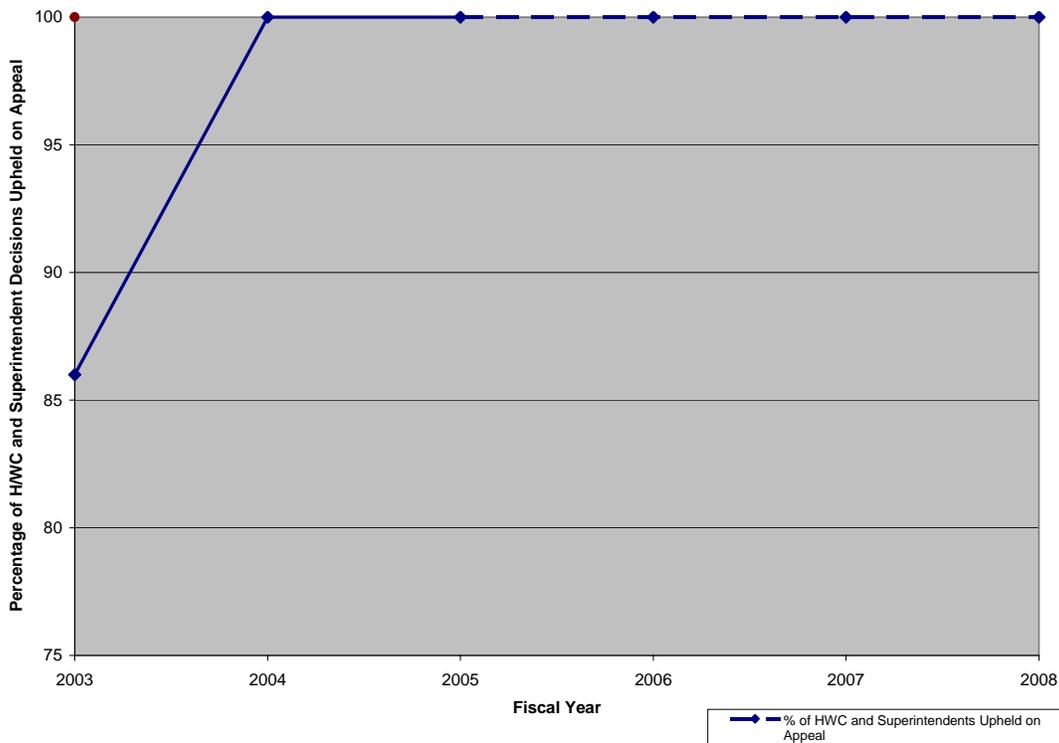
Once an appropriator has been granted a permit, they may use the waters of the State as allowed for in the permit. In order to complete the establishment of a water right, the appropriator is expected to file

a notice of beneficial use statement and seek adjudication of the water right by the Board of Control. Once adjudicated, the water right may be used in compliance with the terms of the original permit. If at some later date the appropriator wishes to change some aspect of the adjudicated water right, they are required to petition the Board of Control. The Board reviews the petition for compliance with State statutes and determines if any other appropriator will be injured by the approval of the petition. Processing of the petition can require extensive staff review and deliberations by the Board of Control. Expeditious review and action is a service that Wyoming water users should expect with regards to their petitions.

Proposed Performance Improvements –

- As the Big Horn River adjudication effort ends, reassign staff to the Board of Control to expedite general reviews.
- Fully implement the IT Initiative to increase processing efficiencies.

**4. Percentage of Hydrographer/Water Commissioner (H/WC) and Division Superintendent decisions that are upheld on appeal.**



Story Behind The Performance Measure –

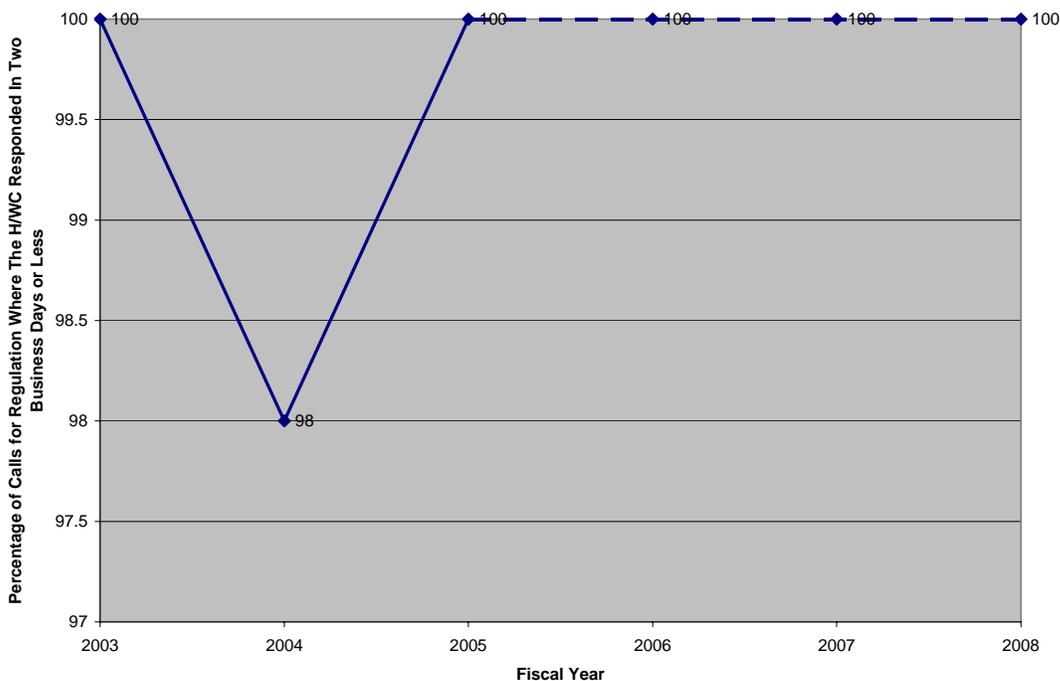
Each year the agency’s field staff are required to make hundreds of water regulations decisions when drainages are unable to supply all water demands. These decisions are often controversial when a junior

appropriator is shutoff due to lack of water. It is imperative that field decisions be in compliance with the State's complex water right statutes. In order for this to occur, the field staff must be professional and well educated in the field of water rights. W.S. 41-3-603 provides for an appeal process whereby any person who may be injured by a decision of a H/WC can appeal the decision to the Division Superintendent, and from his decision may appeal to the State Engineer, and from his decision may appeal to district court. If the State Engineer's Office is providing knowledgeable and well trained field personnel, the H/WC will make good decisions. Any decision they make may be appealed to the Division Superintendents and to the State Engineer. If the H/WC makes poor decisions, they can be overturned on an appeal.

Proposed Performance Improvements –

- Provide additional training to field staff as needed
- Hire qualified field staff
- Supplement field staff where necessary

**5. Percentage of calls for stream regulation where the Hydrographer/Water Commissioner (H/WC) responds in two business days or less as a function of total calls for regulation.**



Story Behind The Performance Measure –

As streams recede from their runoff peaks, less water is available for diversions. When there is insufficient water in a stream system to

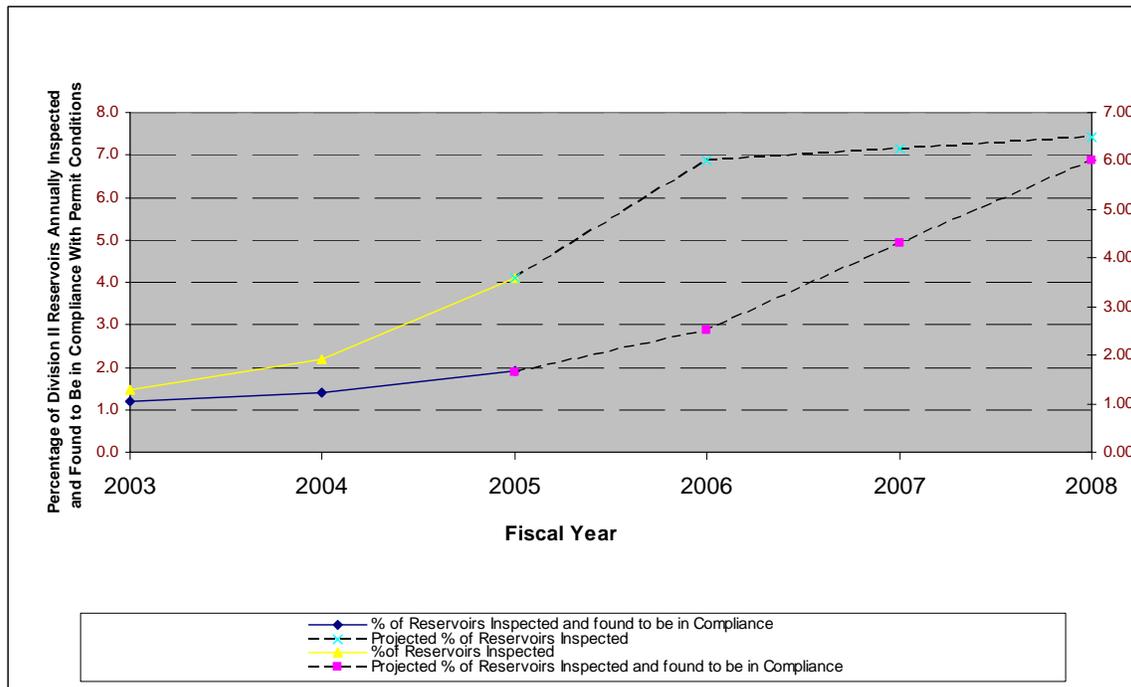
satisfy senior water rights, the appropriator may place a call with the local H/WC. The H/WC then begins to regulate off, junior water right diversions until the calling party's water right has been satisfied. Based upon the doctrine of prior appropriation, the newest water rights are regulated off first and senior water rights are allowed to continue to divert.

During the peak growing season, availability of water is critical to crop production and yields. If a senior irrigator runs short of water, time is of the essence and prompt H/WC response to a call for regulation is critical. As such the agency has adopted a standard of responding to all calls for regulation within two business days. By tracking response times, the Division Superintendent can assess where additional resources may be needed in times of water shortages.

Proposed Performance Improvements –

- Shift personnel to water short drainages
- Automate stream gaging equipment to eliminate manual readings and the associated travel time
- Add personnel if warranted

**6. Percentage of Division II reservoirs that are inspected on a yearly basis and found to be in compliance with permit conditions as a function of total permitted reservoirs in Division II.**



Story Behind the Performance Measure – State Water Division II encompasses northeastern Wyoming and includes the drainages of the Tongue, Powder, Little Powder, Little Missouri, Belle Fourche, and Cheyenne Rivers. This area has significant coal reserves and has been experiencing extensive Coal Bed Natural Gas (CBNG) development in the last seven years. Due to the fact that the water produced as part of the CBNG development in this area is of very good quality, the water can generally be discharged to the surface environment. One of the most common water management programs utilized by CBNG developers is to store the produced water in reservoirs. This has led to rehabilitation of existing stock reservoirs and construction of many new reservoirs. As of June, 2005, a total of 12,792 reservoirs have been permitted in Division II. As CBNG development proceeded in this basin, a significant number of reservoirs have been upgraded and/or constructed without State Engineer’s Office permits or not in compliance with permit conditions. As such, increased reservoir inspections in Division II have become a priority for this agency. By having reservoirs in compliance with permit conditions, the State Engineer’s Office will be able to more effectively manage water uses in the basin and mitigate the conflicts between historic water uses and the new CBNG reservoirs.

In tracking this performance measure it is important to understand that this agency does not intend to annually inspect every reservoir in the division. The agency intends to focus on CBNG reservoirs. Inspecting a statistically significant number of the Division’s reservoirs (5-6%) in a given year will give a good indication of the overall permit compliance. However, the most important aspect of this performance measure is the difference between inspected reservoirs (top graph) and inspected reservoirs in compliance (bottom graph). To the extent that this agency can reduce this separation difference between the two graphs, it will demonstrate the success of this inspection program. See Calculated Compliance Rate in the following example:

	<u>Actual</u> <u>F.Y. 2005</u>	<u>Projected</u> <u>FY 2008</u>
% of Reservoirs Inspected	3.6%	6.5%
% of Reservoirs Inspected and found to be in compliance	1.9%	6.0%
Calculated Compliance Rate	52.8%	92.3%

Proposed Performance Improvements –

- Voluntary and mandated overtime hours for field inspectors.
- Add field inspection staff specifically to inspect reservoirs.
- Continue the agency’s budget allocation to retain consulting firms to perform reservoir inspections.
- Redirect the efforts of the existing Division II Hydrographer/Water Commissioner staff to perform more reservoir inspections.

## **AGENCY PROJECTIONS FOR 2009-2010 BIENNIUM**

This Strategic Plan for the State Engineer's Office outlines the activities that will take place during the 2007-08 biennium. In looking on the horizon toward the following biennium (2009-10), the major accomplishments we intend to achieve in addition to our overall mission of water administration include:

- Completion of the Big Horn River adjudication effort.
- Full implementation of the agency's IT Initiative.
- Continued management of CBNG development as the industry moves into southwestern Wyoming.
- Strengthen Interstate Stream relationships.

It is anticipated that the bulk of the agency's efforts to complete the Big Horn adjudication will be completed in the 2007-08 biennium. However, lingering issues before Fifth Judicial District Court may continue and this agency will be available to assist the court as necessary.

The agency will be proceeding to full implementation of IT Initiative in the 2007-08 biennium. This effort will convert the agency's permitting processes from a paper-based system to a fully electronic work-flow management system. Once operational, it is expected that staff will request additional enhancements to the system. One such continuation will be a statewide Geographic Information System (GIS) to graphically display all water rights. Work for the statewide GIS is scheduled to begin in the 2009-10 biennium.

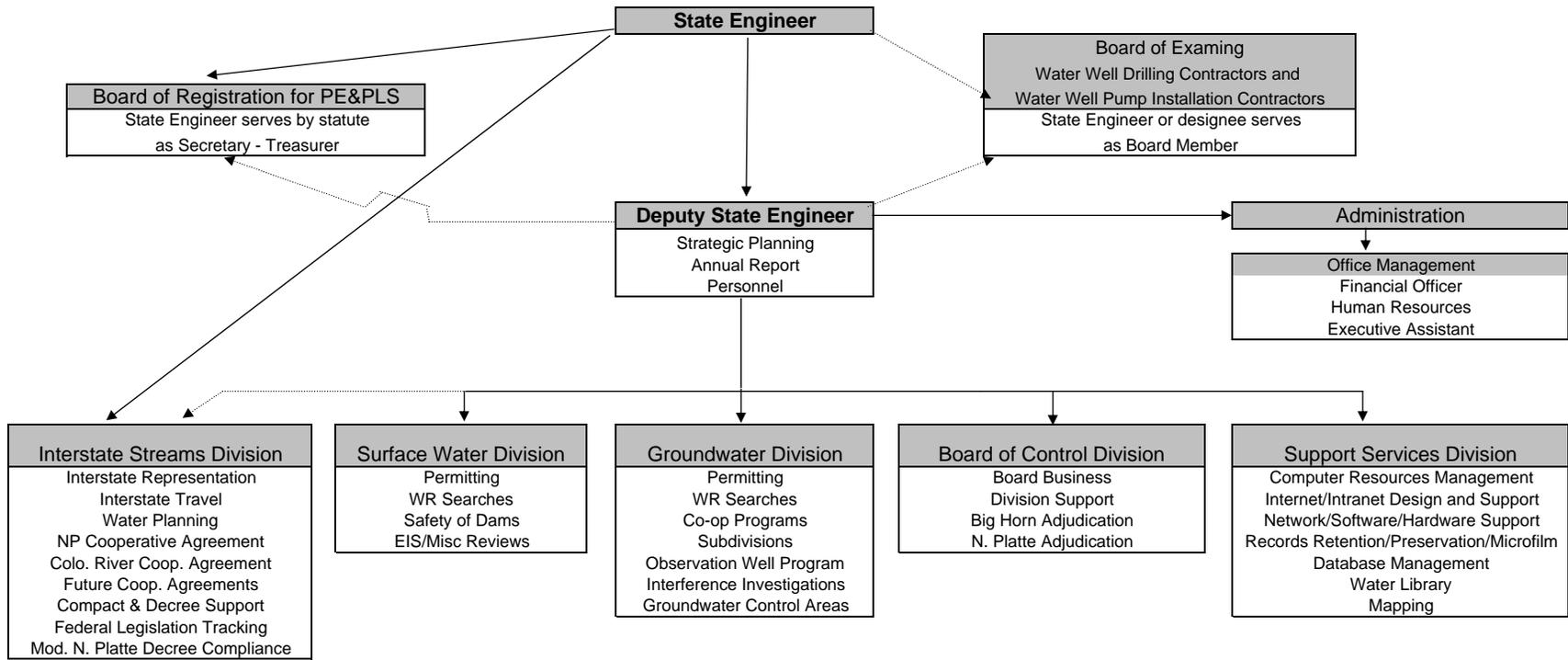
CBNG development will continue across the state as energy demand is expected to remain strong. As the development matures in the Powder River Basin, it will seek out other areas, such as southwestern Wyoming for full-scale development. Due to differing water quality, the water management plans will change but the agency will continue to manage the water quantity issues that face the state.

The drought of 2000-2005 has shown us that downstream states will continue to look at Wyoming as a source of water during times of drought. Basins of concern include the Colorado River and Yellowstone River. As no one protects Wyoming's interest like Wyoming, it is critical that we continue to adequately participate in river basin compact commissions and other river basin or regional organizations. There is a growing trend toward negotiated or facilitated settlements of water resources issues. While these negotiations are preferable over litigation from a monetary standpoint, they are just as time intensive for the State Engineer and the interstate streams staff. Federal intrusion into the state's prerogatives in the allocation of water will also likely continue and should be vigorously resisted. We will remain an

active partner in developing multi-jurisdictional solutions to try to find water supplies for contemporary uses without injury to our existing water right holders. We expect these issues to expand as pressures such as increasing populations in downstream states and issues like the Endangered Species Act and Clean Water Act add demands for Wyoming's water resources.

APPENDIX A  
ORGANIZATIONAL CHARTS

Wyoming State Engineer's Office  
2004 Programmatic Organizational Chart



—————> Primary Reporting Relationship (performance evaluations, workload determination, leave slips, etc.)  
 - - - - -> Secondary Reporting Relationship (general agency information dissemination, personnel grievances, etc. - Deputy must be kept informed of important issues routinely, especially in the absence of the State Engineer)

# ORGANIZATIONAL CHART - STATE BOARD OF CONTROL

