STRATEGIC PLAN

FOR THE

WYOMING STATE ENGINEER'S OFFICE

AND

WYOMING STATE BOARD OF CONTROL

PLANNING PERIOD: JULY 1, 2010 TO JUNE, 30, 2014

SUBMITTED AUGUST 13, 2009

PATRICK T.TYRRELL STATE ENGINEER

TABLE OF CONTENTS

State Engineer's Office

FY 2011-2014 Strategic Plan

I.	Introduction	1
	Interstate Compact/Decree Map of Wyoming	2
II.	Agency Mission	3
III.	Agency Vision	3
IV.	Agency Philosophy	4
V.	Strategic Plan	5
VI.	Agency Projections for 2013-2014 Biennium	17
App	pendix A - Agency Organizational Charts	19-20

WYOMING STATE ENGINEER'S OFFICE STRATEGIC PLAN

INTRODUCTION

This Strategic Plan's main emphasis is the activities of the Wyoming State Engineer's Office, and the Wyoming State Board of Control for Fiscal Years 2011-12. The plan also provides projections into the subsequent 2013-14 biennium. Agencies are required to complete and update strategic plans as detailed in W.S. 28-1-115. Both the office of the Wyoming State Engineer and the Wyoming 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 consisting of the State Engineer and the four Water Division Superintendents, 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 Management, Regulatory, and Public Safety.*

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

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 of any groundwater or surface water supplies. All impoundments, stream groundwater wells diversions. spring developments. and weather modification efforts are permitted and 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). Wyoming is a headwaters state, and the State Engineer's Office believes certain leadership obligations rest with the state and it is imperative to disseminate the knowledge gained from the experiences of being located near the headwaters of every major river basin in the West.



Statutes covering dam safety inspections and regulation have 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 (CBM) Development Department of Environmental Quality, and Oil and Gas Conservation Commission

Wyoming's framework for water regulation and administration was created by 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 water right in Wyoming has a priority date of 1862. The State Engineer's Office is responsible for the maintenance of the permanent records associated with 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 intrastate 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. In carrying out this mission the State Engineer's Office maintains a water law system which provides security, reliability, and protection to all users of the system under a defined process.

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 changes to law or rule may be needed, those revisions will be carefully analyzed to assure those changes protect the rights of existing individual water right holders and are consistent with our constitutionally mandated system.

AGENCY PHILOSOPHY

In administering the waters of the State, the State Engineer's Office 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 2011-2012 BIENNIUM

Quality of Life Results

Result #6: Wyoming state government is a responsible steward of State assets and effectively responds to the needs of residents and guests.

Result #8: Wyoming's natural resources are managed to maximize the economic, environmental, and social prosperity of current and future generations.

<u>Agency</u>

Wyoming State Engineer's Office (SEO) and Wyoming Board of Control (BOC): The SEO and BOC were created by Article 8 of the Wyoming Constitution which stipulates that they shall have supervision of the waters of the state.

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 in limited supply. The role of the SEO and BOC is to administer a water law system that allocates the waters of the state based upon the doctrine of prior appropriation. Water users are then able to rely on a defined water law system which provides protection and security in a state that has to endure the scarcity of water on an annual basis.

Basic Facts

In the 2009-2010 biennium budget, this agency is authorized to employ 133 full time and 11 part-time employees. Authorized biennium funding is as follows:

General Fund	\$31,118,572
Other Funds	877,583
Total	\$31,996,155

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 Water 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 for allocating water by regulating headgates, pumps, stream diversions, etc. in the field.
- 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 five 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 99 municipalities within the state, homeowners that rely upon well water, and businesses that divert water for industrial use.

<u>Performance Measures</u>

This agency has selected six performance measures with the intent of continuing to improve the customer service in both the permitting and field administration operations of the agency. These six performance measures are a continuation of performance measures 1,2,3,4,5 and, 7 from the agency's 2009-2010 Strategic Plan.

Performance measure 6 from the previous strategic plan has been eliminated. This particular performance measure was initiated in the 2007-2008 Strategic Plan and reads as follows:

• Percentage of Division II Reservoirs that are inspected on a yearly basis and found to be in compliance as a function of total permitted reservoirs in Division II.

This performance measure was created to direct the agency's compliance efforts towards the large number of reservoirs that were being constructed in Water Division II to hold Coal Bed Methane (CBM) discharge water. At the time numerous reservoirs were being built without a valid permit or in violation of their permit conditions. Since 2007 the agency has added two full time field inspectors which has significantly increased the agency's presence in the field. A comparison of FY 2007 results with FY 2009 results shows a dramatic increase in this performance measure as shown below:

		<u>FY2007</u>	<u>FY2009</u>	<u>%Change</u>
•	Number of reservoirs inspected	757	1,457	+92%
•	Number of reservoirs inspected and found to be in compliance	494	1,248	+153%

Additionally, a number of other factors have also reduced the number of CBM water storage reservoirs being built, including:

- Environmental regulations governoring CBM reservoirs have become more stringent.
- As the CBM development has moved west and tapped deeper coal seams, the discharge water quality has decreased, thereby shifting the operator's water management plans away from reservoirs.
- New technology has allowed for better utilization of the discharge water thereby reducing the need for reservoirs.
- The CBM industry has reduced the number of wells being drilled thereby reducing the number of new reservoirs being constructed.

It is viewed by this agency that reservoir compliance issues in Water Division II are now being adequately managed by the inspection staff and the need for this performance measure has passed.

The agency's 2011-2012 performance measures are as follows:

Performance Measure 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, or the application has been rejected. For those applications that have been reviewed and found to be deficient, (needing additional information from the applicant) the tracking of time is suspended until the applicant responds to the agency's request for additional information.



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 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 –

- Fully implement the agency's IT Initiative to increase the processing efficiencies and improve the quality of the water rights database.
- Monitor and maintain the permit application backlog at current levels. If the backlog should increase, implement work schedule changes to address the backlog

Performance Measure 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 or the application has been rejected. For those applications that have been reviewed and found to be deficient (needing additional information from the applicant) the tracking of time is suspended until the applicant responds to the agency's request for additional information. 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 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 to complete. However, the number of control area applications is generally small and should not significantly impact this performance measure.



Story Behind the Performance Measure -

Prior to utilizing groundwater in 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). Each well and/or spring application is accepted, processed, reviewed, and approved on a case-by-case basis and on its own merits. The majority of applications received are either incomplete or defective and require longer processing and review times since these applications either have to be returned to the applicant for additional information or Ground Water Division staff have to contact the appropriator to obtain information that was not provided. Certain uses (e.g., irrigation or industrial use) or applications in certain areas of the state (control areas, North Platte drainage) also require additional review and processing time.

From July 1, 2008 through June 30, 2009, the processing time for all applications increased to 6 to 8 weeks due to several factors, including 1) stringent data entry procedures for the GW Division's e-permit system which requires that each blank be appropriately completed, 2) implementation of a new procedure for scanning and uploading application documents to e-permit as they are received, 3) required review of and research for each application, 4) a vacant position that cannot be immediately filled.

Proposed Performance Improvements –

- Selectively offer overtime to address backlog issues
- Fill all staff positions to address long term needs (currently one open position exists due to a hiring freeze)
- Fully implement the agency's IT Initiative to increase the processing efficiencies and improve the quality of the water rights database.
- Encourage all divisions within the agency to expeditiously utilize epermit. This would eliminate the need to maintain two databases (and the attendant time necessary for duplicative date entry, i.e., maintain Microsoft Access (the old database) and e-permit (the new database)).
- Eliminate all tasks that are not statutorily required of the GW Division.
- Assign GW staff with the sole responsibility of processing Domestic and/or Stock Use permit applications. Historically, this has been done in the past with limited success. Reportedly, staff quickly burn out from doing nothing but processing applications.
- Educate the public and licensed water well contractors on how long it realistically takes to process a permit application.

Performance Measure 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 has been denied by the BOC.



Story Behind The Performance -

Once an appropriator has been granted a permit, they may use the waters of the State as allowed 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 and Certificate of Appropriation. 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 for change. 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.

Performance Measure 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 regulation decisions when drainages are unable to fully 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 Board of Control 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 Superintendent and ultimately to the State Engineer. If the H/WC makes a poor decision, they can be overturned on an appeal. Proposed Performance Improvements –

- Provide additional training to field and legal staff as needed
- Hire and retain qualified field staff
- Supplement field staff where necessary
- Provide seasonal and contract employees with a competitive compensation package so as to retain their services from one irrigation season to the next.

Performance Measure 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 for regulation 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 from the receipt of the request. By tracking response times, the Division Superintendents 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
- Authorize overtime hours for the H/WC staff
- Add personnel if warranted
- Provide seasonal and contract employees with a competitive compensation package so as to retain their services from one irrigation season to the next.

Performance Measure 6

Percentage of water right adjudication files that are completed within two (2) years or less from the date of acceptance.



Story Behind The Performance Measure –

Once a permit to appropriate waters of the State (surface and groundwater) has been issued, the permittee is allowed to construct the necessary diversion facilities and to begin beneficially using the water. Diversion facilities include stream diversion dams, ditches, reservoir dams, spring boxes and ground water wells. The permit process represents the first phase of establishing a water right. The second and final phase of this process is to adjudicate the water right. The adjudication process is generally described as follows:

- 1. Permittee files a notice of completion to beneficial use for ditches, or a notice of completion of construction for reservoirs, or a statement of completion (with map) for wells and springs with the State Engineer's Office (SEO).
- 2. The agency generates a proof of appropriation (proof).
 - Board of Control (BOC) generates surface water proofs.
 - Ground Water Division (GWD) generates ground water proofs.
- 3. The agency inspects the project and lands described in the permit (taking proof) and prepares an inspection report.
 - BOC personnel inspect surface water proofs.
 - SEO GWD personnel inspect ground water proofs.
- 4. The agency advertises the proof of appropriation at least thirty (30) days prior to regular meeting of the BOC and allows protests to be filed against the proposed adjudications.
- 5. The BOC considers the proof along with any protests received and renders a final determination on the adjudication.
- 6. If the proof is adjudicated, a Certificate of Appropriation is issued by the BOC and recorded at the county in which the water right is located. The original certificate is then forwarded to the owner (permittee).

During recent years, the agency has directed its limited resources to meet the demands of the 2000-2007 drought as well as the development of the coal bed methane (CBM) industry. The result is that traditional work tasks such as the processing of adjudication files have been slowed resulting in a significant growth in the adjudication proof backlog as well as an increase in the average age of the adjudication proofs in the system. The GW Division's backlog is partially attributable to the fact that they both conduct their own field inspections for adjudication of water rights and prepare their own proofs for submittal to the BOC. To-date, the GW Division has had great success in obtaining compliance from newer water right holders based on constant

communication with the appropriators and their surveyors, and have implemented a field program where they are addressing "problem" adjudications – those where the appropriator is not being cooperative, oftentimes resulting in proofs that are 20 to 30 years old. For the period of June 30, 2004 to June 30, 2009, the agency proof backlog increased 48% from 2411 to 3560. Additionally, the agency has a number of outstanding proofs dating back to the 1980s and 1990s.

The agency believes that when a permittee files a notice of completion to beneficial use (request to adjudicate their water right) that a reasonable expectation should be to complete this process in two years or less.

Proposed Performance Improvements –

- Selectively offer overtime to address backlog issues.
- Add staff or upgrade current positions to address long term needs.
- Reassign staff, if available, to address backlog issues.
- Complete additional training and development of current staff to cover additional inspection duties.

AGENCY PROJECTIONS FOR 2013-2014 BIENNIUM

This Strategic Plan for the State Engineer's Office outlines the activities that will take place during the 2011-12 biennium. In looking on the horizon toward the following biennium (2013-14), the major accomplishments we intend to achieve in addition to our overall mission of water administration include:

- Resolution of the Montana v. Wyoming litigation.
- Full data conversion of water rights into the agency's geographic information system, including automation of publishing diversion data in Hydrographers Annual Reports, and Tabulations of Adjudicated Water Rights.
- Continued management of CBM development as the industry moves into southwestern Wyoming.
- Strengthen Interstate Stream relationships.
- Development of a statewide water management strategy for groundwater.
- Provide the groundwater regulatory framework for the development of carbon sequestration projects in the state.
- Fully scan all agency paper, mylar, and microfilm records so they are accessible in electronic form.

The State Engineer's Office maintains a statewide goal for the Geographic Information System (GIS) to graphically display all water rights, and allow access to related scanned documents. Work for the statewide GIS and records scanning is scheduled to continue in the 2013-14 biennium.

CBM development will continue across the state as energy demand is expected to recover from the 2009 downturn. 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.

Even though 2008 and 2009 were good water years, the drought of 2000-2007 has shown us that downstream states will continue to look at Wyoming as a source of water during times of drought. Other basins of concern include the Colorado River and Big Horn 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. In situations where a downstream state refuses to negotiate, such as Montana's lawsuit on the Powder and Tongue River systems, Wyoming will vigorously defend its right to use water. However, as this 2007 lawsuit progresses, we believe that settlement discussions may present opportunities to resolve this dispute. Wyoming believes that drought, not water management, is the root cause of the Montana v. Wyoming conflict.

As the need to sequest carbon from the environment progresses, the SEO intends to actively participate in the regulatory management of these types of projects in order to protect the State's groundwater resources. Many of the targeted injection zones contain water that will be displaced and water production wells may be required to keep carbon dioxide injection pressures manageable. The SEO will use its regulatory authority to assist the industry while assuring that the water resources are protected for future use in the State.





