

Part 1 State to Develop the Bear River

73-26-101 Short title.

This chapter is known as the "Bear River Development Act."

Enacted by Chapter 251, 1991 General Session

73-26-102 Findings.

- (1) The Legislature finds that:
 - (a) the Board of Water Resources has significant filings for water of the Bear River that could be developed;
 - (b) the continued growth and prosperity of communities in the Bear River Basin and the Wasatch Front will be enhanced by the development and utilization of the Bear River, one of the last major sources of developable water in the state; and
 - (c) Bear River water developed by the state should be apportioned in an equitable manner taking into consideration:
 - (i) the increasing water needs of the state's growing urban population; and
 - (ii) preservation of future supplies for areas:
 - (A) where the water originates; or
 - (B) that are adjacent to the water and can be conveniently supplied by it.
- (2) Therefore, it is the purpose of this chapter to:
 - (a) direct the Division of Water Resources to develop the surface waters of the Bear River and its tributaries covered by filings of the board, filings acquired from the Bureau of Reclamation, or new filings, as approved by the state engineer;
 - (b) allocate the developed waters among various regions and entities; and
 - (c) provide protection for existing rights.
- (3) Nothing in this chapter shall:
 - (a) cover groundwater; or
 - (b) be construed to prevent any person from developing:
 - (i) groundwater pursuant to state law; or
 - (ii) the surface waters of the Bear River or its tributaries at any site including sites studied by the state.

Enacted by Chapter 251, 1991 General Session

73-26-103 Definitions.

As used in this chapter:

- (1) "Board" means the Board of Water Resources.
- (2)
 - (a) "Construction costs" means all costs related to the development of a project, except the costs of environmental mitigation.
 - (b) Construction costs include:
 - (i) planning;
 - (ii) engineering and legal work;
 - (iii) permitting;
 - (iv) acquisition of land and rights-of-way;

- (v) rebuilding and relocation of highways or other facilities affected by the project;
 - (vi) compensation for impairment of existing water rights;
 - (vii) construction of the dam, reservoir, and associated facilities; and
 - (viii) expenses of the division related to the project.
- (3) "Developed waters" means surface water developed by projects authorized under this chapter.
- (4) "Division" means the Division of Water Resources.
- (5) "Environmental mitigation costs" means costs that may be required by federal, state, or local governmental agencies for project environmental permitting, including:
- (a) planning;
 - (b) environmental and engineering studies;
 - (c) permitting;
 - (d) acquisition of land and rights-of-way; and
 - (e) operation, maintenance, and repair of facilities associated with project environmental mitigation.
- (6) "Preconstruction costs" means any of the following costs incurred before project construction begins:
- (a) planning;
 - (b) design;
 - (c) engineering studies;
 - (d) legal work;
 - (e) permitting;
 - (f) acquisition of land and rights-of-way;
 - (g) compensation for impairment of existing water rights;
 - (h) environmental studies; or
 - (i) any combination of Subsections (6)(a) through (h).
- (7) "Project costs" include preconstruction costs, construction costs, environmental mitigation costs, and costs of operation, maintenance, repair, and replacement.

Amended by Chapter 84, 2006 General Session

73-26-104 Bear River development projects.

- (1) The division shall:
- (a) develop the surface waters of the Bear River and its tributaries through the planning and construction of reservoirs and associated facilities as authorized and funded by the Legislature;
 - (b) own and operate the facilities constructed; and
 - (c) market the developed waters.
- (2) Potential projects include:
- (a) Hyrum Dam;
 - (b) Avon;
 - (c) Mill Creek;
 - (d) Oneida Narrows;
 - (e) North Eden Creek;
 - (f) Washakie; and
 - (g) an interconnection from the Corinne area to Willard Reservoir.
- (3) The division may develop sites other than those listed in Subsection (2) if those projects are authorized and funded by the Legislature.
- (4) The purchase of real property does not constitute water development.

Amended by Chapter 84, 2006 General Session

73-26-105 Transmission and treatment facilities.

Entities purchasing developed water shall develop any facilities necessary for the transmission or treatment of the water.

Enacted by Chapter 251, 1991 General Session

73-26-106 Participation of the federal government and other states.

- (1) The division may allow the federal government or the states of Idaho or Wyoming to participate in a project authorized under this chapter for the purpose of developing their water rights.
- (2) Any participating entity shall pay for all project costs represented by its share of the project.

Enacted by Chapter 251, 1991 General Session

73-26-107 Development of hydropower generating works -- Power offered to public utilities or municipalities.

- (1) In association with a project authorized under this chapter, the division may:
 - (a) construct and own hydroelectric generating works and incidental electrical facilities for the purposes stated in Subsection (2); or
 - (b) enter into an agreement with a public utility or municipality for the development and operation of hydroelectric generating works and incidental electrical facilities.
- (2) Power and energy derived from any hydroelectric generating works owned by the division, except for power and energy needed for project operations, must be offered to public utilities or municipalities in the state for distribution to electric consumers.

Enacted by Chapter 251, 1991 General Session