

INTRODUCED

1977

STATE OF WYOMING

77LS0-096.01

HOUSE BILL NO. 42

Wyoming river protection system.

Sponsored by: Representative McCARTHY



A BILL

for

1 AN ACT to create W.S. 41-533 through 41-550; and to repeal
2 W.S. 41-1.12 through 41-1.17 relating to the establishment
3 of the Wyoming river protection system; providing for
4 designation, classification and management of primitive,
5 scenic and recreational rivers; creating the Wyoming river
6 protection council and river protection advisory commit-
7 tees; providing for scenic easements; providing for the
8 appropriation of water to maintain minimum flows in rivers
9 and for the contest of appropriations for the protection
10 of rivers; granting rulemaking authority; providing pen-
11 alties; providing for severability; and providing for an
12 effective date.

13 Be It Enacted by the Legislature of the State of Wyoming.

14 Section 1. W.S. 41-533 through 41-550 are created to
15 read:

16

CHAPTER 12

1 WYOMING RIVER PROTECTION SYSTEM

2 41-533. Intent and purpose. The people of Wyoming
3 find that certain rivers of Wyoming possess outstanding
4 and unique scenic, recreational, primitive, ecological,
5 agricultural, botanical, historical, archaeological,
6 geological, water quality, fish and wildlife values and
7 other aesthetic and cultural values of present and future
8 benefit to the people. The people of Wyoming also find
9 that the primary responsibility for maintaining and
10 improving these values of rivers flowing within the state
11 properly belongs to the people of Wyoming. For these pur-
12 poses there is established by the legislature of the state
13 of Wyoming the Wyoming river protection system. Nothing
14 in the Wyoming River Protection System Act shall be used
15 to impede or limit an existing use within a river's envi-
16 ronment to the extent that such use exists at the time a
17 river is accepted into the system.

18 41-534. Definitions.

19 (a) As used in this act:

20 (i) "Cooperating agency" means any agency of
21 the state of Wyoming having powers, functions and duties
22 necessary or useful to the implementation and operation of

1 a feasibility study and a management plan for a scenic or
2 recreational river;

3 (ii) "Council" means the Wyoming river pro-
4 tection council;

5 (iii) "Free flowing river" means a river flow-
6 ing in a substantially natural channel, without any stor-
7 age, diversion or water control structure which interferes
8 with its use and management as a scenic or primitive
9 river;

10 (iv) "Managing agency" means an agency of the
11 state of Wyoming having powers, functions and duties
12 appropriate to the management of a scenic or recreational
13 river;

14 (v) "Related adjacent land" means land bor-
15 dering a scenic or recreational river, not exceeding six
16 hundred (600) feet on each side of the river measured
17 laterally from the normal high water mark, which is vis-
18 ible from the river or on which structures, activities and
19 operations visible from the river are or can be erected or
20 undertaken, and which contains, enhances or compliments
21 the values for which the river was so designated;

22 (vi) "River" means a flowing body of water and

1 includes streams and creeks or any portion or segment
2 thereof, but does not include tributaries unless the same
3 are specifically included by name in the report upon which
4 the designation of a scenic or recreational river is
5 based;

6 (vii) "Road" means a highway, hard surface
7 road, gravel, improved or unimproved dirt road;

8 (viii) "System" means the Wyoming river pro-
9 tection system;

10 (ix) "Water control structure" means a dam,
11 diversion dam, wing dam, headgate, intake, pump,
12 pumphouse, bank or channel modification;

13 (x) "Water division" means a water division
14 created by W.S. 41-54.

15 41-535. Wyoming river protection system; classifi-
16 cation.

17 (a) The Wyoming river protection system shall
18 include primitive rivers and such scenic and recreational
19 rivers and related adjacent lands as may be designated by
20 the legislature or temporarily designated by the council.

21 (b) Rivers included in the system shall be classi-

1 fied as follows:

2 (i) Primitive rivers are free flowing rivers
3 contained within federal wilderness areas, primitive areas
4 and national parks;

5 (ii) Scenic rivers are rivers found by the
6 designating body to be essentially free flowing and to
7 possess, together with the related adjacent land, out-
8 standing values for scenic, primitive, ecological, botan-
9 ical, historical, archaeological, geological, fish and
10 wildlife or recreational purposes;

11 (iii) Recreational rivers are rivers found by
12 the designating body to possess, together with the related
13 adjacent land, superior values for river oriented outdoor
14 recreation and related scenic, fish and wildlife purposes.

15 41-536. Management of scenic rivers.

16 (a) Scenic rivers shall be managed in conformity
17 with the following guidelines:

18 (i) The free flowing nature of the river and
19 the values and features which caused the river to be
20 included in the system shall be protected and where pos-
21 sible enhanced;

1 (ii) Natural, existing or minimum flows of the
2 river, and the use and management of the water as a scenic
3 river, shall be protected, where necessary and desirable,
4 by the employment of the powers and procedures set forth
5 in W.S. 41-545 and 41-546;

6 (iii) A scenic river may be reasonably acces-
7 sible by road, but access roads, trails and easements and
8 their use by the public should be limited so as not to
9 endanger the values of the river by overloading its capac-
10 ity to produce such values or by exceeding the level of
11 optimum use;

12 (iv) No road or railroad that parallels a
13 scenic river should be constructed on related adjacent
14 land, except where such land provides the only feasible
15 route for a transportation need that is of greater public
16 interest than is the management of the land for its scenic
17 river values. No road should be so designed and con-
18 structed that it infringes on the riverbed;

19 (v) Bridges and utility crossings should be
20 located and designed to create the least possible inter-
21 ference with the values for which the river was designated
22 as a scenic river;

23 (vi) No buildings or accommodations for admin-

1 istration or similar purposes shall be constructed within
2 view of the river or its banks, and automobile parking
3 lots, camp grounds and similar facilities shall be located
4 only in areas adequately screened, or be designed to
5 compliment or enhance the values of the river;

6 (vii) Future developments, structures and
7 improvements on related adjacent lands shall be consistent
8 with the appearance and use of the river as a scenic
9 river.

10 41-537. Management of recreational rivers.

11 (a) Recreational rivers shall be managed in conform-
12 ity with the following guidelines:

13 (i) The river oriented recreational values and
14 related scenic, fish and wildlife values shall be pro-
15 tected and wherever possible enhanced;

16 (ii) The minimum flow necessary to maintain
17 such values, and the use and management of the water as a
18 recreational river, should be protected, where necessary
19 and desirable, by employment of the powers and procedures
20 set forth in W.S. 41-545 and 41-546;

21 (iii) Recreational rivers should be readily
22 accessible by road, but no road should be designed or con-

1 structed that will infringe on the bed of the river;

2 (iv) Bridges and utility crossings should be
3 located and designed to create the least possible inter-
4 ference with the values for which the river was designated
5 as a recreational river;

6 (v) Future developments, structures and
7 improvements on related adjacent lands shall be consistent
8 with the appearance and use of the river as a recreational
9 river.

10 ~~41-538. Management of primitive rivers.~~ The manage-
11 ment of all primitive rivers in the state of Wyoming is
12 assigned to the council. The council may cooperate with
13 federal agencies having jurisdiction over the land through
14 which primitive rivers flow, communicate the state's views
15 and desires to such agencies and seek the cooperation of
16 such agencies, coordinate the activities of state agencies
17 relating to the rivers and enter into memoranda of under-
18 standing for the cooperative management of the rivers and
19 regulation of the activities thereon. Every state agency
20 may furnish services, facilities and property to such fed-
21 eral agencies in order to carry out the state's objec-
22 tives, to further the intent and purposes of this act and
23 to enhance, protect and preserve the values of primitive

1 rivers.

2 41-539. Wyoming river protection council.

3 (a) There is hereby established a Wyoming river pro-
4 tection council, consisting of nine (9) members selected
5 and appointed as follows:

6 (i) Two (2) representatives of the inter-
7 departmental water conference, elected by the conference;

8 (ii) One (1) member of the Wyoming state
9 senate, appointed by the president of the senate;

10 (iii) One (1) member of the Wyoming state
11 house of representatives, who shall be of a different
12 political party than that of the representative of the
13 senate, appointed by the speaker of the house; and

14 (iv) Five (5) representatives of the public
15 appointed by the governor. The governor shall appoint one
16 (1) member from each water division and one (1) from the
17 state at large. Members representing the interdepart-
18 mental water conference shall be elected for four (4) year
19 terms, members representing the senate and the house of
20 representatives shall be appointed for two (2) year terms,
21 members representing the public shall be appointed for
22 four (4) year terms. In making the initial appointment of

1 public members, the governor shall designate two (2) mem-
2 bers to serve two (2) year terms, two (2) to serve three
3 (3) year terms, and one (1) to serve a four (4) year term.
4 No member shall serve for more than eight (8) consecutive
5 years.

6 (b) The council shall meet on the fourth Monday
7 following the election and appointment of all its members
8 and shall select a chairman, a vice chairman and a secre-
9 tary.

10 (c) Nonlegislative members of the council shall be
11 reimbursed for their actual and necessary expenses incur-
12 red through services on the council on the same basis and
13 at the same rate as state employees, and members of the
14 legislature serving on the council shall be paid legis-
15 lative salary, mileage and per diem.

16 (d) All funds appropriated to or acquired by the
17 council shall be budgeted by the council and administered
18 through the Wyoming water planning program. The council
19 may assign to any managing or cooperating agency any funds
20 under its direction or control for the purposes of carry-
21 ing out its duties under and accomplishing the purposes of
22 this act.

23 41-540. River protection advisory committees.

1 (a) A river protection advisory committee is estab-
2 lished in each of the water divisions. Each committee
3 shall consist of the public member of the council
4 appointed by the governor to represent the water division,
5 who shall act as chairman, and four (4) members selected
6 by a majority vote of all the county commissioners of all
7 the counties located wholly or partly within the water
8 division. At least one (1) of the persons so selected
9 shall be a landowner holding lands bordering on a river in
10 the water division. The term of each member other than
11 the chairman shall be four (4) years, provided that in the
12 initial selection the commissioners shall elect one (1)
13 member for a two (2) year term, two (2) members for three
14 (3) year terms and one (1) member for a four (4) year
15 term. No member shall serve for more than eight (8) con-
16 secutive years.

17 (b) All members of a committee shall be reimbursed
18 for their actual and necessary expenses incurred through
19 services on the committee on the same basis and at the
20 same rate as state employees.

21 41-541. Procedures for designation of rivers.

22 (a) As soon as practicable after the first meeting
23 of the council, and after such consultation with and

1 advice and recommendations from the river protection advi-
2 sory committees, members of the public, and appropriate
3 state and federal agencies and officials as the council
4 may deem necessary the council shall prepare a list of
5 rivers to be studied to determine the feasibility of
6 including them in the system and shall nominate a managing
7 agency for each river placed on the list.

8 (b) After consultation with the state engineer, the
9 council shall establish an order of precedence for the
10 conduct of the studies and a time schedule for the comple-
11 tion of each study. The council may at any subsequent
12 meeting add to or delete from the list any river, or
13 amend or change the order of precedence or the time sched-
14 ule.

15 (c) The state engineer, in accordance with the
16 established order of precedence and the time schedule,
17 shall conduct studies of the feasibility of including each
18 river on the list into the system after consultation with
19 the game and fish commission, the recreation commission,
20 the state land board, the department of environmental
21 quality and the office of land use administration. The
22 study shall:

23 (i) Identify the river proposed to be included

1 in the system, the features and values to be protected and
2 the proposed classification of the river;

3 (ii) The present and foreseeable future uses
4 of the river and of related adjacent land, and the extent
5 to which such uses are compatible and consistent with the
6 management of the river as a scenic or recreational river;

7 (iii) The flow of water at particular points
8 on or in particular stretches of the river necessary to
9 protect, preserve and enhance the values of the river; and

10 (iv) The existence of any federal, state,
11 county or local zoning, land use or water plan in effect
12 or in the process of preparation, and the extent to which
13 the management of the river as a scenic or recreational
14 river is compatible and consistent with such zoning or
15 plans.

16 (d) The nominated managing agency shall prepare for
17 inclusion in the study a tentative plan for the management
18 of the river in a manner designed to protect, enhance and
19 preserve the values for which the river was designated as
20 a part of the system and to enable the public to realize
21 and enjoy those values. The plan shall conform to the
22 guidelines set out in W.S. 41-536 and 41-537 and shall be
23 developed after consultation with landowners holding lands

1 bordering on selected rivers and contain:

2 (i) A description of the related adjacent land
3 proposed to be included in the system;

4 (ii) A description of existing and proposed
5 access roads, trails, camping, parking and sanitary
6 facilities;

7 (iii) Estimates of the personnel and facili-
8 ties required for the administration of the river;

9 (iv) Identification of land, access easements
10 and scenic easements required for management of the river;

11 (v) A determination of the flow of water
12 required;

13 (vi) Requirements for agreements, zoning regu-
14 lations and land use plans for the management of related
15 adjacent land owned by the state, the United States or
16 private persons in a manner that will contribute to the
17 purposes for which the river was designated and permit to
18 the greatest possible extent compatible agricultural and
19 other uses of the land;

20 (vii) Plans and proposals for acquiring and
21 obtaining the needed interests and cooperation;

1 (viii) Proposed regulations governing the use
2 by the public of the river, the related adjacent land and
3 the facilities of the system;

4 (ix) Estimates of the funds required to accom-
5 plish the plans and manage the river, and identification
6 of the proposed sources of such funds; and

7 (x) The functions and duties to be assigned to
8 or performed by cooperating agencies.

9 (e) In the preparation of the study and the tenta-
10 tive management plan the state engineer and the nominated
11 managing agency shall seek the cooperation and services of
12 state and federal agencies, use data and information in
13 the records and files of any state agency, and assign,
14 delegate or contract portions of the study to any other
15 state agency or person. Every state agency is directed to
16 cooperate fully with the state engineer and the nominated
17 managing agency in the preparation of the study and to use
18 personnel, funds and facilities available for functions,
19 powers and programs of such agencies which would be fur-
20 thered by, relate to, affect or be affected by a desig-
21 nation of the river as a scenic or recreational river.

22 (f) The state engineer shall transmit each study to

1 the council upon its completion. The council, on the
2 basis of the study and on such other information or evi-
3 dence as it deems pertinent, shall make preliminary find-
4 ings as to the values of the river and related adjacent
5 land which would justify inclusion of the river in the
6 system, the feasibility and desirability of including the
7 river within the system, the classification which should
8 be given to the river, and the adequacy and desirability
9 of the tentative management plan. The council may modify
10 or change the description of the river or the related
11 adjacent land stated in the study, and may modify or
12 change the tentative management plan. If the council
13 finds on the basis of the study that the inclusion of the
14 river into the system is or may be feasible and desirable,
15 it shall hold a public hearing in the water division in
16 which the river flows, before it or before a committee of
17 its members appointed by the chairman. Notice of the
18 hearing shall be published in a newspaper having general
19 circulation throughout the state once each week for two
20 (2) successive weeks at least thirty (30) days prior to
21 the hearing and in a newspaper having general circulation
22 in the water division once each week for two (2) succes-
23 sive weeks at least fourteen (14) days prior to the hear-
24 ing. The notice shall contain a description of the river
25 and the classification proposed and shall state that the

1 study of the state engineer, including the tentative man-
2 agement plan, and the findings of the council relating
3 thereto may be inspected and copied at the office of the
4 state engineer and at a place within the water division
5 specified in the notice. The notice shall be served by
6 regular mail upon the members of the river protection
7 advisory committee for the water division in which the
8 river is located.

9 (g) Upon the conclusion of the hearing the council
10 shall adopt or modify its preliminary findings and adopt a
11 recommendation as to the desirability of including the
12 river in the system, and shall prepare a report which
13 includes the council's findings and recommendations. The
14 study of the state engineer, the record of the hearing and
15 any written statements submitted at the hearing shall be
16 appended to the report.

17 (h) If the council determines, that the inclusion of
18 the river in the system is desirable, it shall submit its
19 report and recommendations to the legislature.

20 (j) Upon enactment by the legislature of an act
21 designating a river as a scenic or recreational river such
22 river and the related adjacent land shall become a part of
23 the system and subject to the provisions of this act,

1 except as such enactment may include special limitations
2 on or additional provisions for the management of the
3 designated river and related adjacent land. The enactment
4 shall assign the management of the river to a managing
5 agency.

6 41-542. Temporary designation.

7 (a) The council may at any time, after such con-
8 sultation with and advice and recommendations from the
9 local river protection advisory committee, members of the
10 public, and appropriate state and federal agencies and
11 officials as the council may deem necessary, temporarily
12 designate a river as a scenic or recreational river. Such
13 temporary designation shall be placed upon a river only if
14 the council makes a provisional determination that the
15 river possesses the values of a scenic or recreational
16 river and that those values may be destroyed, impaired or
17 interfered with during the pendency of procedures set
18 forth in W.S. 41-541, unless temporary restrictions are
19 imposed.

20 (b) The council, concurrently with such temporary
21 designation, may adopt an order imposing temporary
22 restrictions on the construction of water control struc-
23 tures or bank or channel alterations in or adjacent to the

1 river and on the construction of structures, developments,
2 improvements, roads or railroads upon related adjacent
3 land identified or described in the order.

4 (c) The designation and the order shall be published
5 in each county in which a portion of the designated river
6 is located, in a newspaper having general circulation in
7 such county, and in a newspaper having general circulation
8 throughout the state. All publications shall be made
9 within the same week, and the designation and order are
10 effective on the date of the first of such publications.
11 Each publication shall contain a notice of the hearing or
12 hearings required by subsection (d) of this section.

13 (d) Within one (1) month after the effective date of
14 the designation and the order, the council shall conduct a
15 hearing in the county seat of each county in which a por-
16 tion of the designated river is located. Notice of each
17 hearing shall be published once in a newspaper having gen-
18 eral circulation in the county, at least one (1) week
19 prior to the date set for the hearing.

20 (e) Upon the conclusion of the hearing or hearings
21 the council may adopt, rescind or modify its provisional
22 determination, the designation of the river and the order
23 imposing restrictions. Any designation or order so

1 adopted or modified expires at the end of one (1) year
2 after the effective date of the original designation and
3 order, or at the termination of the next general session
4 of the legislature, whichever occurs last.

5 (f) During the existence of a temporary designation
6 of a scenic or recreational river no management plan for
7 the river shall be put into effect and no action shall be
8 taken by the council or the managing agency other than the
9 carrying out of the procedures of W.S. 41-541.

10 41-543. Scenic easements. The owner, trustee or
11 lessee of any land in Wyoming may create by voluntary gift
12 or sale a scenic easement in perpetuity or for a term of
13 years in favor of the state of Wyoming. A scenic easement
14 means a right, whether stated in form of a restriction,
15 easement, dedication, covenant or condition in a deed,
16 will or other instrument, to retain the land predominantly
17 in its natural, existing, scenic, open or wooded condi-
18 tion, and to control the construction of improvements, the
19 alteration of the contour or character of the land, and
20 the carrying out of activities on the land, for the pur-
21 pose of protecting and preserving the values of rivers for
22 which they are or may be designated, as scenic or recrea-
23 tional rivers. No scenic easement shall be unenforceable
24 on account of lack of privity of estate or contract or

1 lack of benefit to particular land or on account of its
2 assignability or assignment to any other governmental
3 body.

4 41-544. Powers and duties of agencies.

5 (a) The council and each managing agency shall seek
6 the cooperation of and coordinate the activities of county
7 commissioners, planning and zoning boards, the state land
8 department, the state highway department, the United
9 States forest service, the United States bureau of land
10 management and other public and private persons or orga-
11 nizations owning or having control of related adjacent
12 land or having the power to locate and construct roads,
13 structures, developments and activities on land, or to
14 zone, plan or control the use and management of land and
15 the activities and structures thereon, for the purposes of
16 implementing and enforcing the management plan, accom-
17 plishing the purposes of this act and protecting and
18 enhancing the values for which the river was designated as
19 a scenic or recreational river.

20 (b) The council, each managing agency, and any co-
21 operating agency may adopt rules and regulations governing
22 fishing, hunting, boating, floating, camping, the use of
23 facilities, access roads and trails and the use by the

1 public of the river and the related adjacent land under
2 the control of such agency. Such rules and regulations
3 shall be adopted in accordance with the Wyoming Adminis-
4 trative Procedure Act.

5 (c) Any agency of the state of Wyoming is authorized
6 and directed, in the performance of its duties and func-
7 tions as a managing agency or cooperating agency, to use
8 its personnel, funds and facilities to perform functions,
9 powers and programs of such agencies that would be fur-
10 thered by, relate to or affect or be affected by the man-
11 agement of a scenic or recreational river or that would
12 further relate to or accomplish a management plan for a
13 scenic or recreational river.

14 41-545. Appropriation of water.

15 (a) The council may appropriate in trust for the
16 people of the state of Wyoming any unappropriated water
17 flowing in a designated scenic or recreational river, in
18 order to maintain a minimum flow at a specified point on
19 or in a specified portion of the river.

20 (b) The governor may appropriate in trust for the
21 people of the state of Wyoming any unappropriated water of
22 any natural stream, in order to maintain a minimum flow at
23 a specified point on or in a specified portion of the

1 stream.

2 (c) The requirements of W.S. 41-201, 41-206 and
3 41-207 relating to construction of works, maps, plats and
4 plans do not apply to any application filed or permit
5 issued pursuant to subsections (a) and (b) of this
6 section.

7 (d) The use in the stream bed without diversion of
8 water so appropriated under subsections (a) and (b) of
9 this section, for the purposes of preserving, enhancing,
10 protecting and enjoying scenic, primitive, ecological,
11 botanical, historical, archaeological, geological, fish
12 and wildlife or recreational values is hereby declared to
13 be a beneficial use.

14 41-546. Contest of appropriations and petitions.
15 Whenever an application is filed with the state engineer
16 for a permit for the appropriation, storage or impoundment
17 of the water of a natural stream or for the alteration of
18 a stream channel, or whenever a petition is filed with the
19 state engineer or the board of control for a change in use
20 or change in the point of diversion and means of convey-
21 ance, and such appropriation, storage, impoundment, alter-
22 ation or change of the works or water control structures
23 to be constructed if the application or petition is

1 granted will or may interfere with scenic, primitive,
2 ecological, botanical, historical, geological, archaeolog-
3 ical, fish and wildlife or recreational values or inter-
4 fere with the management of a scenic or recreational river
5 according to a management plan, the state engineer shall
6 notify the council and the council may appear before the
7 state engineer or the board of control by a representative
8 appointed by it to protest the granting of the permit or
9 order sought on the ground that the proposed appropria-
10 tion, storage, impoundment, alteration or change would
11 tend to be detrimental to the public interest or would
12 cause injury to the use by the people of the state of the
13 water of the state for such purposes.

14 41-547. Grounds for denial of application or peti-
15 tions. The state engineer shall deny any application or
16 petition pending approval or which hereafter be applied
17 for, affecting any river under study or any river desig-
18 nated under the act which application or petition would,
19 if granted, have an effect contrary to the purposes of
20 this act.

21 41-548. Acquisition of property and funds.

22 (a) The council or any managing or cooperating
23 agency may acquire by gift, devise, agreement, lease or

1 purchase the title to or use of any land, real property,
2 scenic easement access road or easement, water right,
3 building, structure or improvement necessary or desirable
4 for the carrying out of the provisions of this act or of
5 any management plan.

6 (b) The council or any managing or cooperating
7 agency may accept any grant, gift, bequest, donation or
8 assignment of funds from any person or federal or state
9 agency for the purpose of carrying out the provisions of
10 this act or of any management plan.

11 41-549. Violations; enforcement.

12 (a) Any person who violates any regulation or order
13 of the council, a managing agency or any cooperating
14 agency adopted pursuant to W.S. 41-542(b) and (e) or
15 41-544(b) of this act is guilty of a misdemeanor and shall
16 be punished by a fine of not more than five hundred
17 dollars (\$500.00). If any violation consists of the con-
18 duct of a continuing operation or activity or the commis-
19 sion of successive or repeated acts a separate offense is
20 committed on each day on which the violation, conduct,
21 activity or act continues or occurs.

22 (b) The council is authorized to bring a civil
23 action in the name of the state of Wyoming to enjoin the

1 violation of any regulation or order of the council, a
2 managing agency or any cooperating agency adopted pursuant
3 to W.S. 41-542(b) and (e) or 41-544(b) of this act, or to
4 enforce the terms of any scenic easement owned by the
5 state of Wyoming.

6 41-550. Savings and limitations.

7 (a) Nothing in this act shall operate or be con-
8 strued to impair, diminish or divest any existing appro-
9 priation of water acquired under the laws of the state of
10 Wyoming or interfere with the diversion of water from a
11 natural stream pursuant to such appropriation.

12 (b) No land, real property, scenic easement, access
13 road or easement, water right, building, structure or
14 improvement shall be acquired by eminent domain for the
15 purposes of this act.

16 (c) No scenic easement, except as expressly provided
17 in the instrument creating it, shall affect any use of the
18 land exercised prior to the creation of the easement or
19 the right to all uses of the land not restricted by the
20 easement, nor be construed to give any right of public
21 access to the land.

22 (d) Nothing in this act, in any designation of a

1 scenic or recreational river or in any management plan
2 shall affect any building, structure or improvement on any
3 land or any use of land or any operation or activity con-
4 ducted thereon, without the consent of the owner, lessee,
5 or occupant of such land.

6 (e) Nothing in this act, in any designation of a
7 scenic or recreational river or in any management plan
8 shall be construed to limit the rights of the owner,
9 lessee or occupant of agricultural land to determine the
10 annual agricultural use of the surface of the land.

11 Section 2. If any provision of this act or its
12 application to any person or circumstance is held invalid,
13 the invalidity does not affect other provisions or appli-
14 cations of the act which can be given effect without the
15 invalid provision or application, and to this end the
16 provisions of this act are severable.

17 Section 3. W.S. 41-1.12 through 41-1.17 are
18 repealed.

19 Section 4. This act is effective May 27, 1977.

20 (END)

FISCAL NOTE

Fiscal Note No. 49
 Requester Representative McCarthy

L.S.O. 096	Draft L1
Bill No.	Jt. Res. No.

Part I. Fiscal Data:

SHORT TITLE OF BILL: Wyoming river protection system.	STATUTORY REFERENCE Nos. W.S. 41-533 thru 41-550	NAME OF FUND General Fund and Other Funds
AGENCY TITLE: State Engineer & Other State Agencies		
SOURCE OF APPROPRIATION/REVENUE General Fund and Other funds		New Program () Change in Existing Program (x) Local Government Impact ()

If more than one appropriation is involved, show overall effect below, but show breakdown by appropriation and fiscal year on a separate page. Round to nearest hundred dollars.

EFFECT OF PROPOSAL	FISCAL PERIODS		
	BIENNIAL INCREASE OR (-) DECREASE		
	First Biennial	Second Biennial	Third Biennial
Salaries & Number of Personnel	\$		
Supporting Expenses			
Permanent Property			
Aids to Localities			
Other			
ESTIMATED TOTAL COST	\$ Unknown	Unknown	Unknown
GENERAL FUND	See Discussion		
FEDERAL FUND			
OTHER			
ESTIMATED TOTAL REVENUE	\$		

Part II. Explain in a clear and concise manner what effect this measure will have on the costs and revenues of state government. Specify the source of funds for appropriations. Include effect on the current biennium and also the long-range fiscal effect, if any. Show how you arrived at the estimate. Use attached sheet and any additional sheets which you may need.

It is impossible to assess the fiscal impact of this bill. It is obvious that additional costs will be incurred by the state as a result of the requirements for involvement of state agencies to conduct feasibility studies, the reimbursement of river protection council members, the requirement for publishing public hearing notices and conducting public hearings.

It is also impossible to determine what funds will be used to finance the activities called for in this bill. In all probability, though, the major means of support will be state general fund monies.

Date <u>11/19/76</u>	Agency <u>J. H. Gill</u>	Authorized Representative
Date	Legislative Auditor Clearance	<u>HB 42</u>

FISCAL NOTE WORKSHEET

Fiscal Note No. 49

RESPONDING AGENCY TITLE

Concerning _____

SF NO.

HB NO.

DATE SUBMITTED

Some revenue is likely to be recovered from fines as prescribed in 41-549. It is unclear, however, as to what jurisdiction will receive these fines.

Section 41-540(b) provides for reimbursement of water district committee members, but it does not indicate whether the state or the counties are to reimburse these people.

Further, there is no provision for an appropriation and it is not clear how expenditures can be made by the council without funds which have been appropriated for use by the council.

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