

## **STATE ENGINEER'S OFFICE**

### **General Information**

Director: Patrick T. Tyrrell – State Engineer  
Agency Contact: Harry C. LaBonde Jr. – Deputy State Engineer  
122 West 25<sup>th</sup> Street  
Herschler Building, Fourth Floor East  
Cheyenne, Wyoming 82002  
307-777-6150  
[harry.labonde@wyo.gov](mailto:harry.labonde@wyo.gov)

### **Other Office Locations**

#### **Water Division I**

Torrington, Wyoming – Superintendent & Assistant Superintendent  
Douglas, Wyoming  
Wheatland, Wyoming  
Saratoga, Wyoming  
Casper, Wyoming

#### **Water Division II**

Sheridan, Wyoming – Superintendent & Assistant Superintendent  
Sundance, Wyoming  
Casper, Wyoming

#### **Water Division III**

Riverton, Wyoming – Superintendent  
Worland, Wyoming – Assistant Superintendent  
Powell, Wyoming

#### **Water Division IV**

Cokeville, Wyoming – Superintendent & Assistant Superintendent  
Big Piney, Wyoming  
Lyman, Wyoming

### **Constitutional and Statutory References**

#### **Wyoming Constitution**

Article I, Section 31 – Control of water  
Article VIII, Section 1– Water is state property  
Article VIII, Section 2– Board of Control  
Article VIII, Section 3– Priority of appropriation  
Article VIII, Section 4– Water divisions  
Article VIII, Section 5– State engineer

#### **Wyoming Statutes**

Title 9, Article 9 – State engineer  
Title 41 – Water

**Clients Served**

All citizens of the state

**Budget Information**

Fiscal Year 2011 Expenditures	General Fund	\$12,691,000
	Other	<u>468,127</u>
	Total	\$13,159,127

**Employees**

Full-time	128
Part-time	11
Positions vacant due to Hiring Restrictions	<u>1</u>
Total	140

**Reporting Period:** Fiscal Year 2011 (July 1, 2010 to June 30, 2011)

**Wyoming 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.

**Contribution to Wyoming Quality of Life:**

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 throughout the state. These employees are responsible for allocating water by regulating headgates, pumps, stream diversions, reservoirs, etc. in the field.

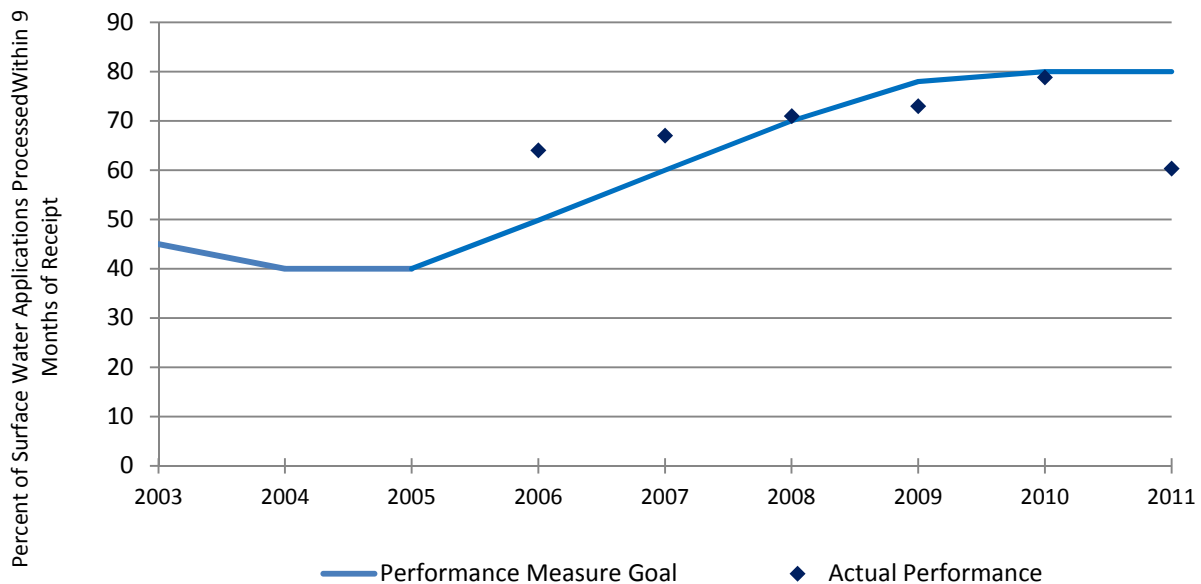
3. Administration of Interstate Compacts and Decrees – Wyoming is party to seven interstate water compacts and three interstate court decrees. These documents define the amounts of water that Wyoming must provide to downstream states. A staff of five employees in Cheyenne maintains contact with adjoining states and federal agencies to assure compliance with various compacts and decrees. Additionally, they monitor federal actions and participate in programs that have the potential to impair Wyoming's ability to use its water. An example of this is the Platte River Recovery and Implementation Program that's purpose is to recover endangered species on the Platte River.

These three 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.

### Performance:

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:

**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 last year of performance:

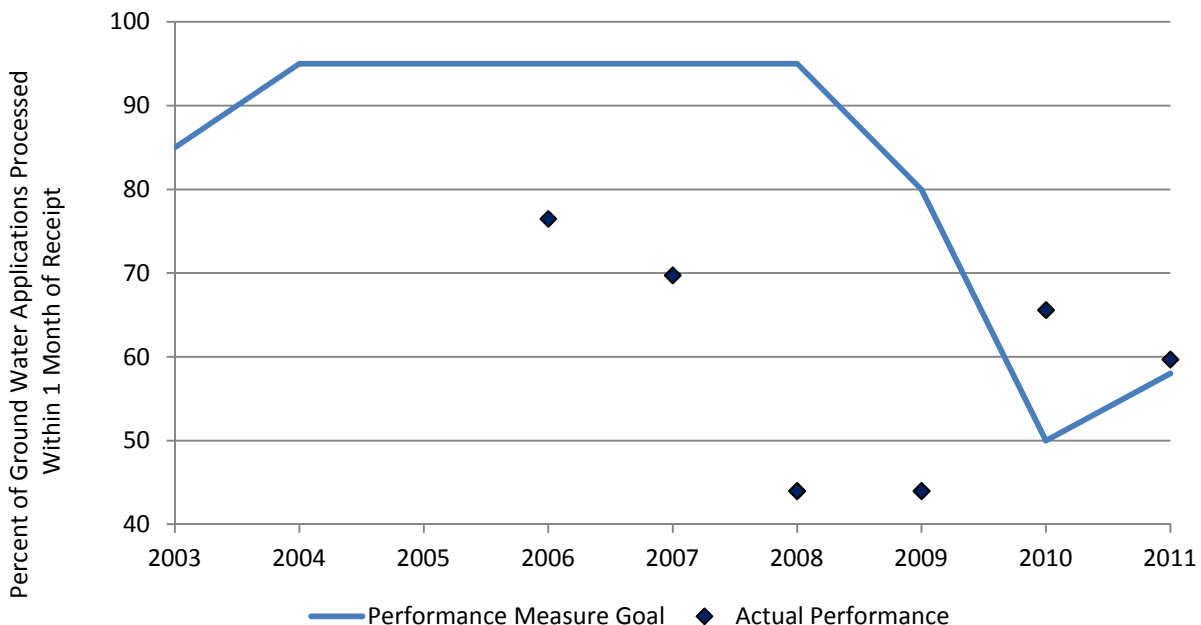
During FY 2011 the Surface Water Division processed (approved or rejected) 446 applications for permit. A total of 269 of these applications were processed in nine months or less from the date of receipt. This equates to a 60.3% performance achievement which decreased from the 78.8% performance achievement from FY 2010.

### What has been accomplished?

The Surface Water Division continues to focus on processing applications in a timely fashion. However, the 2011 performance decreased from recent years and can largely be explained by three factors:

- This division's workload increased due to the oil and gas play taking place in southeastern Wyoming. Personnel time was allocated to issuing temporary water use agreements (TWUA) for the drilling industry which resulted in less time available for permitting operations that are reflected in this performance measure.
- The complete implementation of the agency's electronic workflow management system (ePermit) has proven to be time consuming and cumbersome. The system captures much more data, has a steep learning curve, and has many more checks and balances. All of which have contributed to a reduction in the volume of permits being processed.
- This division has focused on addressing a large backlog of old, "problem" permit applications. These applications are typically greater than five years of age and therefore impact the nine month performance measure.

**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.



**Story behind the last year of performance:**

During FY 2011 the Ground Water Division processed (approved or rejected) 2,519 applications for permit. A total of 1,503 of these applications were processed in one month or less from the date of receipt. This calculates to be a 59.7% performance achievement slightly above the 58% goal set in the strategic plan. It does represent a decrease in achievement of the performance measure from FY 2010 where the performance achievement was 65.6%. This decrease in performance was largely due to three factors:

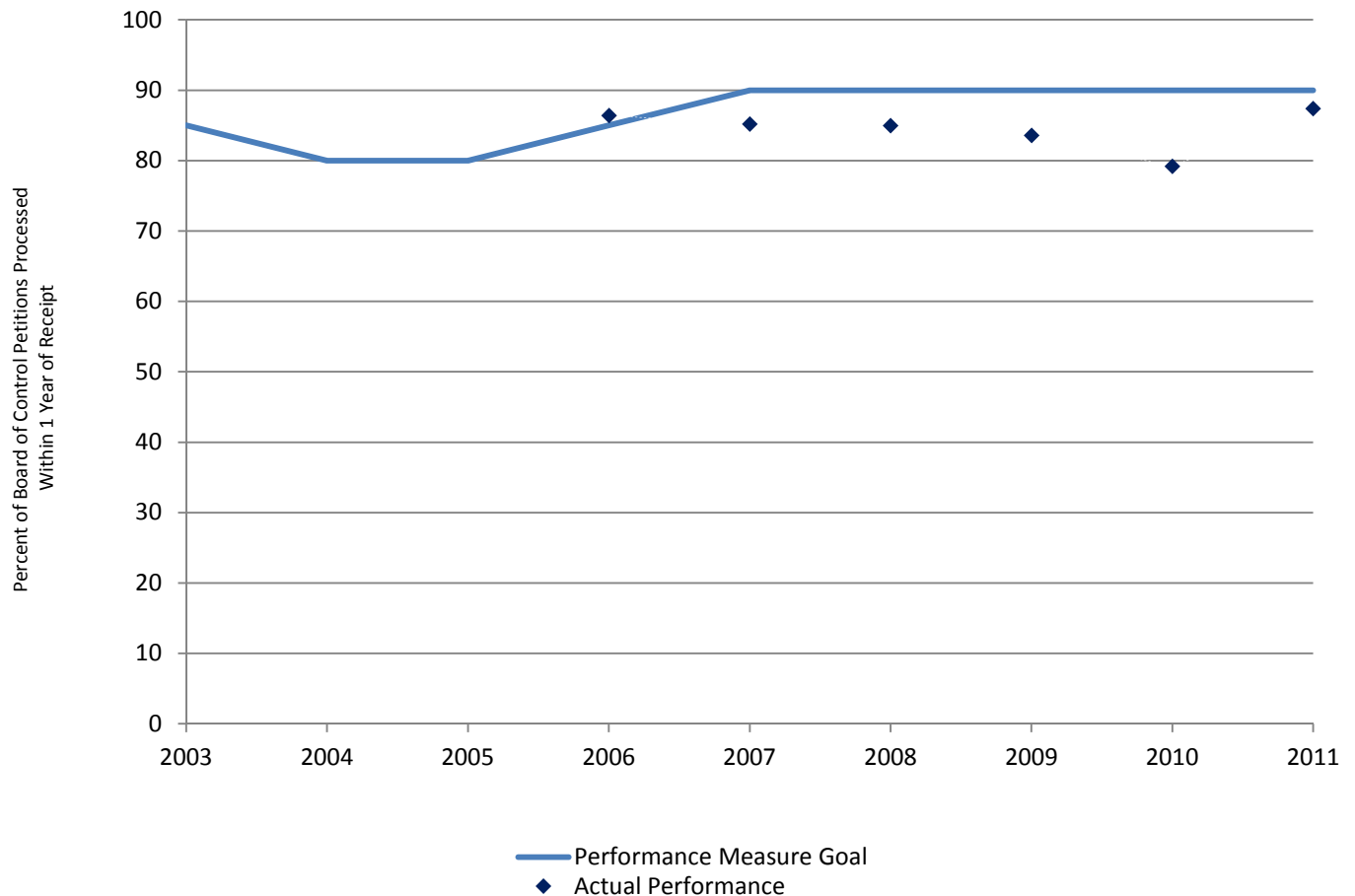
- The new oil and gas development in southeastern Wyoming has required that the division allocate assets to enforce temporary water use agreements for the industry.
- There has been an increase in permit applications, especially from the Laramie County Control Area as a result of oil and gas development in southeast Wyoming.
- The division's use of e-Permit has slowed the processing of permits due to the additional data capture and the safeguards programmed into the system.

The division continues playing catch up with these other instruments as well as focusing on permit applications.

**What has been accomplished?**

The one month performance measure has decreased 5% from 2010 but remains 15% above the 2008-2009 performance levels. Most permits including CBNG are processed within a reasonable one to two month period. Implementation of the agency's IT Initiative in FY 2009 has improved permit processing accuracies but has resulted in slower processing times as employees learn how to use this complex system.

**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 the petition has been denied.



**Story behind the last year of performance:**

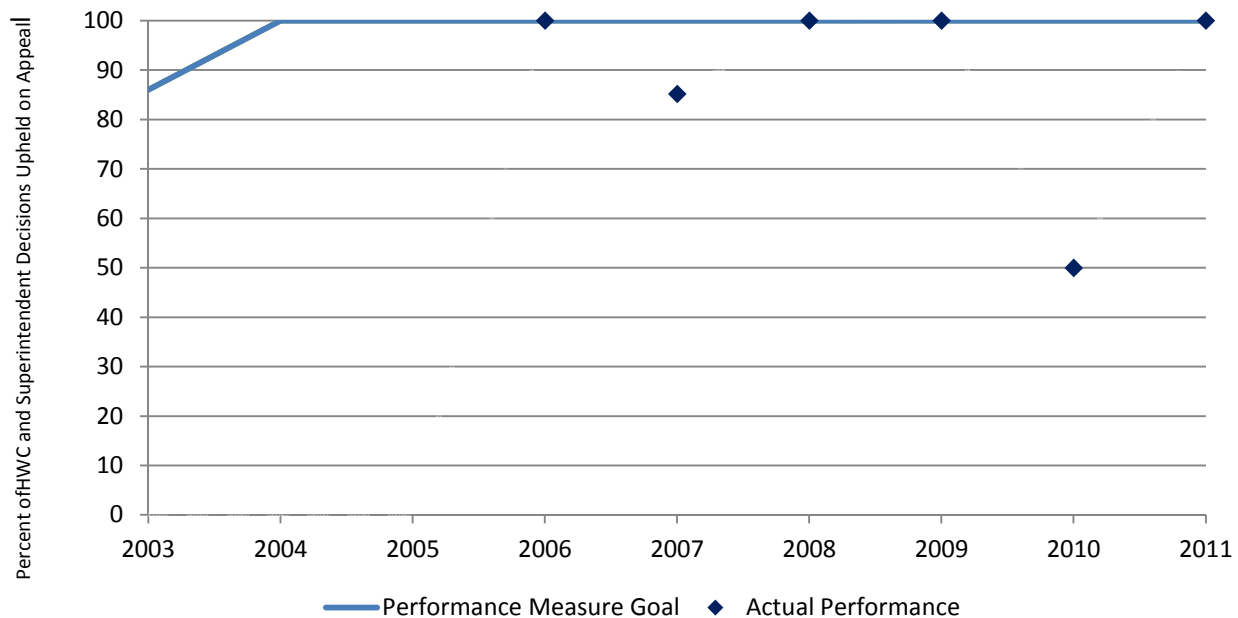
The Board of Control processed (approved or rejected) 182 petitions during FY 2011. A total of 159 of these petitions were processed in one year or less from the date of receipt. This represents a performance measure achievement of 87.4% which is approaching the targeted strategic plan goal of 90%.

**What has been accomplished?**

The Board of Control performance was significantly above the previous years performance level of 79.2%. This division continues to operate very close to their performance goal while processing some extremely complex and controversial water right petitions. Additionally, the development and implementation of e-Permit has taken time away from the actual processing of petitions. It is

understood that as staff becomes more familiar with e-Permit that the processing effectiveness will improve.

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



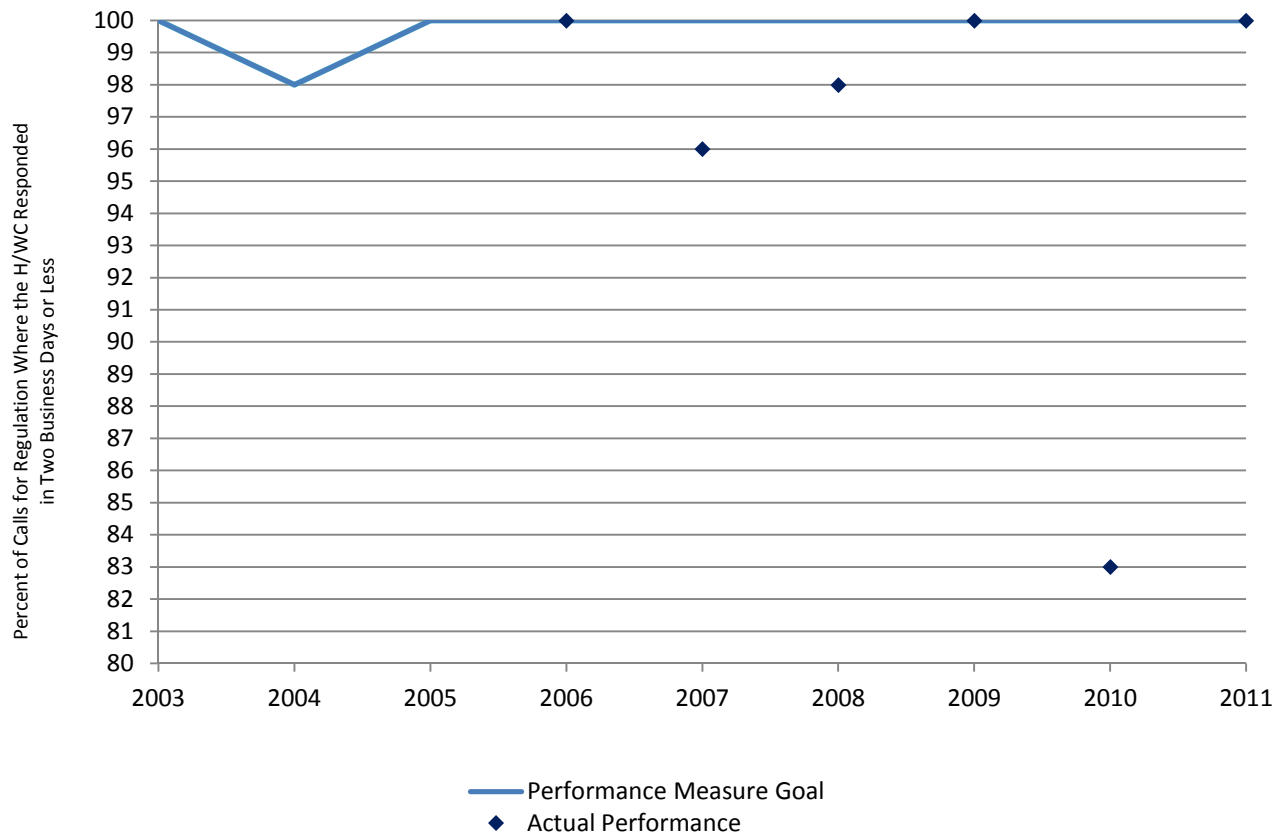
**Story behind the last year of performance:**

During FY 2011, one appropriator appealed the water administration decision of a Hydrographer/Water Commissioner (H/WC). Appeals of H/WC decisions are decided by the Division Superintendent and in this case, the H/WC decision was upheld. If the appropriator is not satisfied with the decision of the Superintendent, they may appeal to the State Engineer. In FY 2011 no appeals of Division Superintendent decisions were made. As such, one decision was upheld from a total of one H/WC decision. The calculated performance achievement is 100%.

**What has been accomplished?**

In normal years, the agency expects to receive three or four appeals from water appropriators. FY 2011 was a quiet year for appeals probably due to the good water years in 2009, 2010 and 2011. However, the agency's staff of H/WC continue to make sound water administration decisions in compliance with Wyoming water law.

**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 last year of performance:**

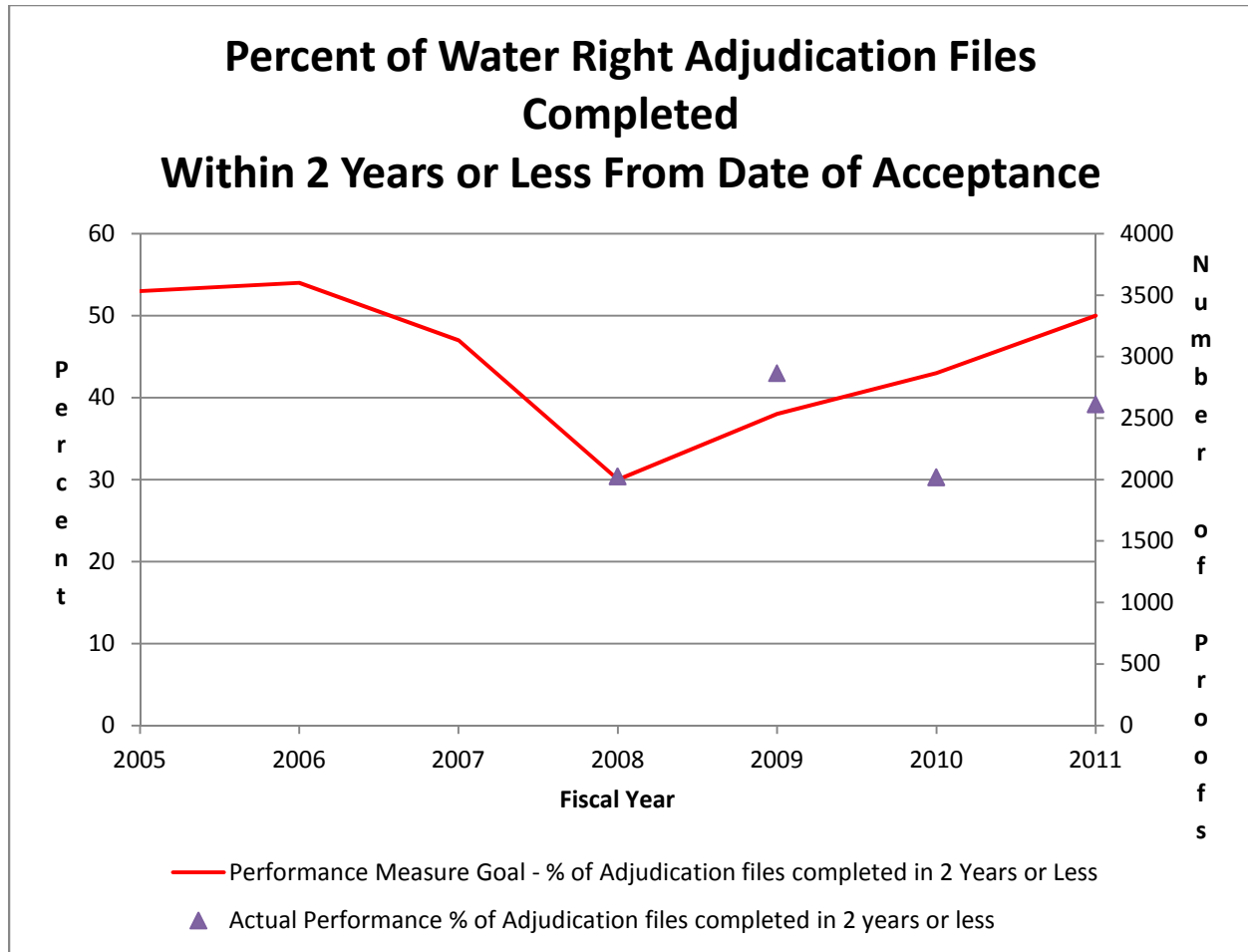
When streams recede from runoff peaks, less water is available for diversions. When an appropriator with a senior water right is not receiving their full allocation of water, they may place a call for regulation with the local Hydrographer/Water Commissioner (H/WC). The goal of all H/WCs is to respond to all calls for regulation in two business days or less. In FY 2011 a total of 31 calls for regulation were received across all four water divisions. In all 31 of these calls, the response time met the “two business days or less” standard, yielding a 100% performance achievement.

**What has been accomplished?**

The dedicated H/WC in the agency continue to place an emphasis on customer service and a rapid response to calls for regulation. The water year included in this reporting period was a wet year. As such the number of calls for regulation were down but the H/WC staff of the agency are to be congratulated on their response times for this performance measure.



**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 last year of performance:**

Once a permit to appropriate waters of the State (surface and ground water) 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 generally involves a notice by the appropriator followed by a field inspection to assure compliance with the issued permit. If everything is in order, the Board of Control will adjudicate the water right at one of their regular meetings.

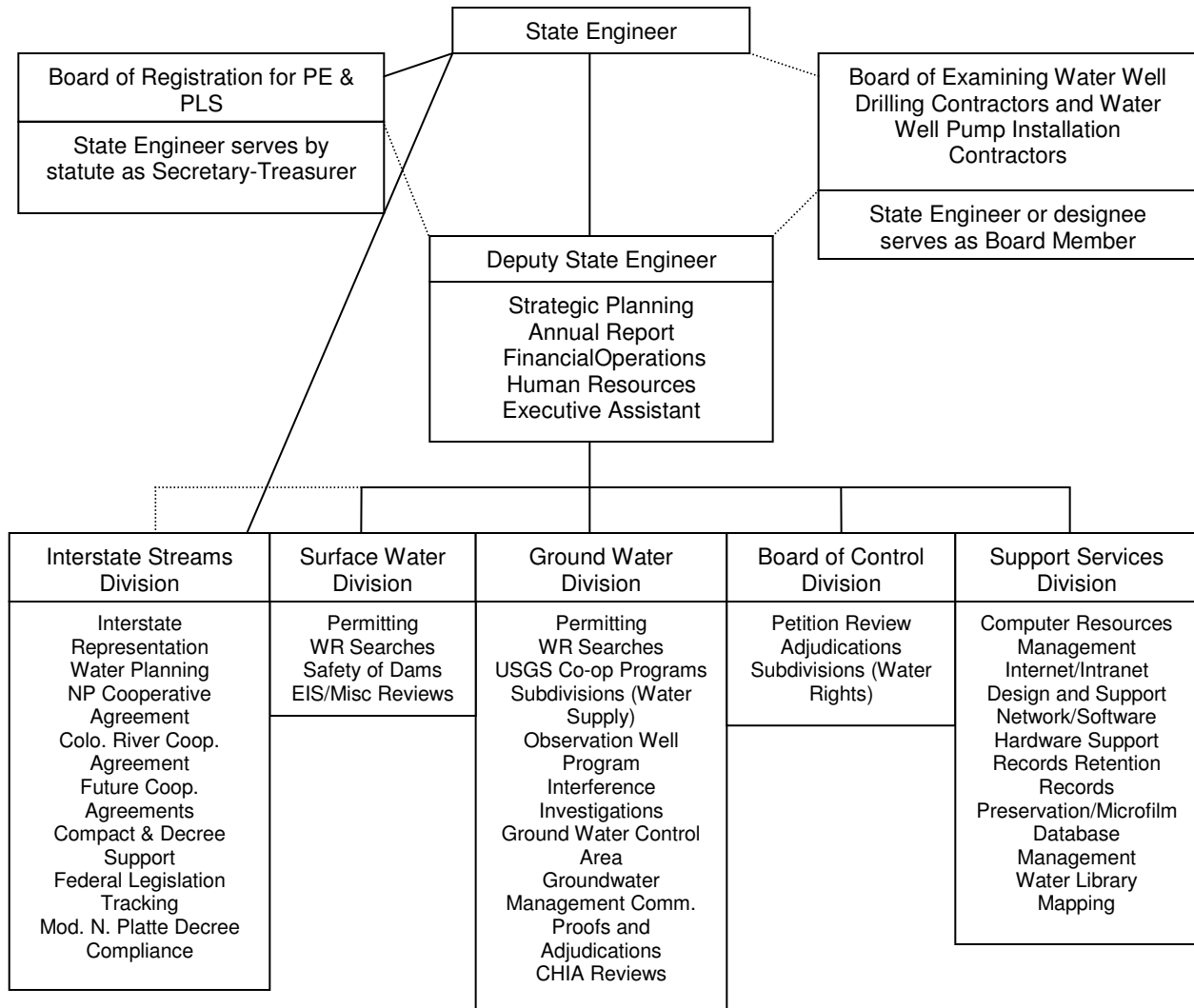
During recent years, the agency has directed its limited resources to meet the demands of the 2000-2007 drought as well as the development of the coal bed natural gas (CBNG) industry. The result has been that traditional work tasks such as the processing of adjudication files have been slowed

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.

**What has been accomplished?**

For FY 2011 the agency processed 521 adjudication files of which 204 or 39.2% were completed in two years or less from date of receipt. This is an increase from the 30.3% that was recorded in FY 2010 and results from the concentrated effort to complete adjudication files in the backlog. As the agency continues to focus on this performance measure and addresses the backlog, it is anticipated that the backlog will continue to drop and the on-time performance will improve.

WYOMING STATE ENGINEER'S OFFICE  
2011 PROGRAMMATIC ORGANIZATIONAL CHART



<div style="border-bottom: 1px solid black; width: 100px; margin: 0 auto;"></div>	Primary Reporting Relationship (performance evaluations, workload determination, leave slips, etc.)
<div style="border-top: 1px dotted black; width: 100px; margin: 0 auto;"></div>	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.

BOARD OF CONTROL  
2011 ORGANIZATIONAL CHART

GOVERNOR

STATE BOARD OF CONTROL  
STATE ENGINEER AND WATER REGULATION DIVISION MANAGERS  
(SUPERINTENDENTS)

Water Division I  
Superintendent

Water Administration &  
Regulation  
Adjudication Inspections  
North Platte River Decree  
Upper Niobrara River  
Compact  
Colorado River Compact  
Upper Colorado River Basin  
Compact  
Laramie River Decree

Water Division II  
Superintendent

Water Administration &  
Regulation  
Adjudication Inspections  
Yellowstone River Compact  
Belle Fourche River  
Compact

Water Division III  
Superintendent

Water Administration &  
Regulation  
Adjudication Inspections  
Yellowstone River Compact  
Wind River Indian  
Reservoir Court Decrees

Water Division IV  
Superintendent

Water Administration &  
Regulation  
Adjudication Inspections  
Bear River Compact  
Colorado River Compact  
Upper Colorado River Basin  
Compact  
Snake River Compact  
Roxana Canal Decree